

DEPOT SERVICES, FIELD SUPPORT, AND PART(S) SUPPLY MASTER AGREEMENT

AGREEMENT No. CIT012-21-MSA-6LM-04-C

BETWEEN:

City of Santa Clara
1500 Warburton Avenue
Santa Clara, California 95050
(the "Customer")

and

TransCanada Turbines Inc.
("TCT" or "Contractor")

☐ East Coast Office
6420 Deere Road- Suite 1
Syracuse, NY 13206
Phone: (315) 668-8285

☒ West Coast Office
4308 Resnik Court – Suite 208
Bakersfield CA 93313
Phone: (661) 836-4070
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☐ 11221 Cutten Rd. – Bldg 4
Houston TX 77066
Phone: (281) 880-2900
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TRANSCANADA TURBINES INC.

DEPOT SERVICES, FIELD SUPPORT, AND PART(S) SUPPLY MASTER AGREEMENT

This Depot Service, Field Support and Part(s) Supply Master Agreement is effective this ____ day of April 2021 (the “Effective Date”).

TCT and the Customer may be referred to individually as the “Party” or collectively as the “Parties”.

WHEREAS the Customer is an industrial owner/operator of certain General Electric (“GE”) gas turbines and requires a service provider to repair and overhaul their fleet of gas turbines;

WHEREAS TCT is a Service Company authorized to repair and overhaul GE industrial gas turbines;

WHEREAS the Customer and TCT desire to enter into this Agreement for the purposes of setting out the terms and conditions under which TCT will perform certain services relating to the repair and overhaul of the Customer’s GE gas turbines. Such services are further outlined in Exhibit A attached and incorporated by reference;

NOW THEREFORE in consideration of the premises and mutual covenants contained herein, the Parties agree as follows:

1. DEFINITIONS

- 1.1. In this Agreement, including the Recitals and Schedules hereto, in addition to any terms defined elsewhere herein, the following terms have the meanings ascribed under this article:
 - 1.1.1. “Agreement” shall mean this document for the provision of services by TCT.
 - 1.1.2. “Claim” or “Claims” means all claims, damages, liabilities, losses, demands, liens, encumbrances, causes of action of any kind, obligations, costs, judgments, interest, and awards (including, without limitation, legal counsel fees and costs of litigation if awarded as part of the judgment in favor of the Person asserting the Claim), whether created by law, contract, tort, negligence, voluntary settlement, or otherwise, arising out of, related to, or in any way connected with this Agreement or the performance of the Services under this Agreement.
 - 1.1.3. “Customer” means the Customer and references thereto shall include: (i) the Customer’s affiliates and subsidiaries; (ii) the Customer’s other contractors; (iii) the Customer’s co-venturers, co-owners, owners, partners, joint venturers, co-lessees, co-working interest owners, and their respective affiliates; and (iv) the agents, representatives, servants, directors, officers, assigns, managers, members, shareholders, owners, and employees of all of the foregoing.
 - 1.1.4. “Depot Services” means any services to be performed at TCT’s depot facilities located in North America.
 - 1.1.5. “Engine” means an industrial gas generator GE LM2500, LM2500+ and/or LM6000 and the subassembly or parts, or any combination of Engine, subassembly or parts.
 - 1.1.6. “Field Service Technicians” means TCT’s qualified employees providing Services to the Customer pursuant to this Agreement.
 - 1.1.7. “Field Support Services” means all repairs and maintenance which can feasibly be undertaken by TCT’s Field Service Technicians at Customer’s field site and requested by

the Customer to be undertaken at the Customer's field site. The services may also include materials/Parts supplied by TCT to the Customer for its Engine pursuant to this Agreement.

- 1.1.8. "Incoterms 2010" means the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce Publication, "Incoterms" 2010 Revision, as amended from time to time.
- 1.1.9. "Instrument and Controls Technician" means a Field Service Technician specializing in gas turbine on & off engine instrumentation, fuel governing, and gas turbine control system interface.
- 1.1.10. "Mechanical Technician" means a Field Service Technician specializing in the mechanical inspection and repair of gas turbine engine components, excluding any electrical or instrumentation.
- 1.1.11. "OEM" means the original equipment manufacturer of an Engine.
- 1.1.12. "Part" or "Parts" means any Part or component comprising the Engine or the Engine package and acquired from the OEM, from a source approved by the OEM or by TCT, and includes reconditioned serviceable Parts.
- 1.1.13. "Parties" means TCT and the Customer and "Party" means either one of them.
- 1.1.14. "Parts Supply" means the provision of Parts including materials, supplies, components and any Services necessarily incidental thereto, by TCT to the Customer.
- 1.1.15. "Person" means any individual or entity, including, without limitation, any corporation, limited liability company, partnership (general or limited), joint venture, association, joint stock company, trust, unincorporated organization or government (including any board, political subdivision or other body thereof).
- 1.1.16. "Proposal" means a written quotation submitted by TCT for the performance of Services on a lump sum or unit price basis to the Customer.
- 1.1.17. "Purchase Order" means the Customer's written document confirming its acceptance of the Services to be undertaken by TCT strictly pursuant to the terms and conditions of this Agreement.
- 1.1.18. "Services" means all Field Support Services and Parts Supply to be carried out and/or performed by TCT pursuant to this Agreement.
- 1.1.19. "TCT" means TransCanada Turbines Ltd or TransCanada Turbines Inc.
- 1.1.20. "Work Authorization Form" means the document depicted in Exhibit E which will be executed to authorize each specific set of work activity to be performed under this Agreement.
- 1.2. Except as otherwise provided in any Schedule or agreed to in writing by the Parties, if any term or condition, express or implied, of any Schedule conflicts or is at variance with any term or condition in the body of this Agreement, such term or condition in the body of this Agreement shall prevail.
- 1.3. Except as otherwise provided in this Agreement, the Parties may substitute revised Schedules to this Agreement at any time by agreeing to, signing and attaching a dated copy to this Agreement, which revised Schedules shall be the applicable Schedules from such date as they claim to be effective.

2. RELATIONSHIP OF PARTIES

- 2.1. This Agreement neither obligates a Party to deal exclusively with the other Party nor prevents a Party or any of its affiliates from competing with the other Party or any of its affiliates.
- 2.2. The Parties acknowledge that the Services shall not, at any time, consist of any construction services, information technology services, or any services of a professional nature including, without limitation, any engineering, architectural, accounting, legal or management services.
- 2.3. Neither Party:
 - 2.3.1. is an agent, employee, contractor, vendor, representative or partner of the other Party;
 - 2.3.2. shall owe a fiduciary duty to the other Party; or
 - 2.3.3. is capable, nor shall it hold itself out as capable, of binding any other Party to any obligation or liability without the prior written consent of the other Party.

3. GENERAL PROCEDURE

- 3.1. The Customer shall provide a written request to TCT for the Services it desires TCT to perform.
- 3.2. TCT shall provide a Proposal to the Customer for the Services TCT is willing to provide to the Customer. TCT's Proposals shall properly describe the Services to be performed, the location, schedule and price. Proposals shall outline services or supplies to be provided by Customer and reasonably estimate any third party or reimbursable costs such as, but not limited to, travel or Parts to be procured on behalf of Customer. Proposals shall reference this Agreement number CIT012-21-MSA-6LM-04-C and a copy of such Proposal shall be attached to the Purchase Order the Customer provided.
- 3.3. All prices shall use the terms and rates in this Agreement and be quoted in USD (United States Dollars) unless otherwise specified in writing.
- 3.4. Upon the Customer acceptance of TCT's Proposal, the Customer and TCT will execute a Work Authorization in substantially the same format as Exhibit E – Work Authorization Form. Upon execution of a Work Authorization, Customer will issue TCT with a Purchase Order for the Services, referencing both this Agreement and TCT's Proposal.
- 3.5. Except in emergency, TCT shall not begin any work unless a Purchase Order (PO) has been issued by the Customer for that particular work.
- 3.6. An emergency service shall be defined as an unforeseen event, circumstance, or combination thereof that the Customer reasonably determines to require immediate action, presents an immediate danger to public health and safety, and/or imperils the SVP LM6000 or associated equipment. Emergency work must be approved verbally (in the field), by telephone (then by email), or e-mail by the following authorized individuals: Assistant Director, Chief Electric Utility Operating Officer, and Chief Electric Utility Officer. TCT shall provide a proposal within two (2) business days so that such changes can be documented in a Change to Purchase Order within four (4) business days.
- 3.7. TCT is responsible for notifying Customer in a timely manner when the quoted cost may change.

TCT shall provide reason for the change specific to each purchase order.

- 3.8. If TCT identifies issues that would result in anticipated costs that exceed the current Purchase Order, a change to the purchase order shall be required in advance of performing work that will exceed the current authorization. In the event that issues are identified that can be most efficiently and economically resolved while on-site or, for services at Depot, by working continuously, changes may be approved by e-mail by the following authorized individuals: Assistant Director, Chief Electric Utility Operating Officer, and Chief Electric Utility Officer. TCT shall provide an updated proposal within two (2) business days so that such changes can be documented in a Change to Purchase Order within four (4) business days.
- 3.9. TCT shall not be entitled to any payment above the maximum compensation unless an amendment to this Agreement is executed.

4. SUPPLY OF PARTS PROCEDURE

- 4.1. The provisions of this Article 4 shall apply to any Parts Supply requested by the Customer for which a Parts Supply Purchase Order is received by TCT.
- 4.2. TCT shall prepare and pack the Parts in accordance with normal commercial practice, as determined by TCT, taking into consideration the nature of the Parts and, at the discretion of TCT, any reasonable packing requests from the Customer.
- 4.3. To the extent that it is reasonable, in the opinion of TCT, TCT will package products in accordance with the Customer's reasonable written instructions as to markings to be placed on invoices, correspondence, and the exterior of shipping containers.
- 4.4. TCT will deliver all Parts in accordance with the Incoterm as stated in TCT's Proposal and as specified in Customer's Purchase Order.

5. FIELD SERVICE PROCEDURE

- 5.1. The provisions of this Article 5 shall apply to any Field Support Services requested by the Customer for which a Field Support Services Purchase Order is received by TCT.
- 5.2. The Customer shall submit all requests for Field Support Services in writing specifying at a minimum, the number of personnel required, the length of time for which and location where the Services are to be provided and a description of the scope of the Services required. Unless an Instrument and Controls Technician is specifically requested, TCT's proposal shall assume that the Customer requests the Field Support Services be completed by a Mechanical Technician. TCT shall provide the Customer with a Proposal based on the information received with such request.
- 5.3. The Customer shall issue a Purchase Order to the TCT entity performing the Services. The Purchase Order will confirm the Services to be undertaken in accordance with the relevant TCT Proposal.
- 5.4. TCT shall provide the Customer with a written report of the Services performed within twenty-one (21) working days following completion of each Field Inspection. This report shall be in TCT's standard format. The Customer shall acknowledge such report by signing and returning a copy thereof.

- 5.5. Any additional work identified during routine or unscheduled inspections will be notified in the report and corrective action shall be determined by mutual agreement between the Parties. Any such additional work completed, whether on an emergency basis or otherwise, shall be subject to the terms and conditions of this Agreement. TCT may, but shall not be required to perform such additional work, even if it is required on an urgent or emergency basis. Emergency work completed by TCT shall not give rise to compensation, remedies or constitute a breach of this Agreement or any Purchase Orders.
- 5.6. The Customer shall ensure that TCT's Field Service Technician(s) will have access to a suitable and safe work environment. TCT field service technicians shall have the right and responsibility to stop work that places undue risks on themselves, other TCT staff, contractors, the environment, property and/or equipment in accordance with local legislation and industry best practices. All affected personnel will be notified of the "stop work action" and made safe from harm until the identified hazard has been mitigated.

6. VARIATIONS

- 6.1. The Customer shall have the right, from time to time during the performance of the Services, to direct TCT, by notice in writing, to add to, alter, omit, or otherwise vary any of the Services. In the event that TCT, in its sole discretion, allows such variations, TCT shall provide the Customer with a written quotation regarding the addition to or deduction of any costs and/or proposed completion date. The Customer shall respond in writing to the written quotation and shall indicate whether TCT is authorized to proceed with the variations. Until the Customer confirms acceptance and authorization of the quotation in writing, such instructions shall be deemed not given.
- 6.2. The terms and conditions of this Agreement shall continue to govern any of the Services pursuant to this Article 6. Should any term, condition or warranty contained within a variation or Purchase Order conflict with the terms of this Agreement, then this Agreement shall prevail unless otherwise agreed to in writing between the Parties.

7. PREVAILING WAGES.

- 7.1. Labor Code Compliance is detailed in Exhibit "D" attached and incorporated by reference. TCT must conform to the provisions of Labor Code sections 1720 through 1815, and all applicable provisions of California Code of Regulations found in Title 8, Chapter 8, Subchapter 3, Articles 1-7. TCT agrees to include prevailing wage requirements in its contracts for the Project.
- 7.2. Requirements in Subcontracts. TCT shall require subcontractors engaged in performing work on Customer facilities or at Customer sites subject to the provisions of Labor Code sections 1720 through 1815 include prevailing wage requirements in all subcontracts funded by this Agreement. Subcontracts shall include all prevailing wage requirements set forth in TCT's contracts.

8. INVOICING AND TERMS OF PAYMENTS

- 8.1. Payment shall be made in USD (United States Dollars) through a bank specified by TCT at the remittance location specified on TCT's invoice.
- 8.2. The Customer shall pay TCT for all Services performed in accordance with the invoice prepared by TCT based on the rates and prices set out in Schedule "A", attached hereto.

- 8.3. Parts Supply: Within thirty (30) days of delivery of the Parts pursuant to a Parts Supply Purchase Order, TCT shall submit an invoice to the Customer and, the Customer shall pay the invoice within thirty (30) days of receiving such invoice.
- 8.4. Field Support Services: Upon completion of each Field Support Services Purchase Order, TCT shall submit one (1) invoice for compensation for all Field Support Services performed pursuant to such Purchase Order. TCT shall provide supporting documentation with each invoice including submittal of certified payroll using LCP Tracker or such other system as designed by Customer.
- 8.5. In no event shall Contractor invoice City for any labor in advance of performing such Service. Any Milestone payments shall exclude any labor.
- 8.6. Repair and Overhaul Services: The payment terms for Repair and Overhaul Services will be agreed by the Parties and specified in the applicable Purchase Order.
- 8.7. If the Customer fails to fulfill any condition of the terms of payment, TCT may:
 - 8.7.1. withhold deliveries and suspend performance of any Service; or
 - 8.7.2. continue performance if TCT deems it reasonable to do so;

9. TAXES AND OTHER CHARGES

- 9.1. All amounts payable are exclusive of all federal, provincial, local, municipal or other excise, sales, use, value-added, stamp, property or similar taxes and fees and all export or import fees, customs duties, tariffs or consular fees, now in force or enacted in the future (collectively, "Taxes"). Where applicable, all such Taxes and fees shall be paid by the Customer unless the Customer provides a certificate of exemption or similar document exempting a payment from a particular tax. Regardless of the foregoing, TCT must comply with Santa Clara City Code section 3.40.060, as that section may be amended from time to time or renumbered, which requires that any person who transacts or carries on any business in the City of Santa Clara pay business license tax to the City. A business tax certificate may be obtained by completing the Business Tax Affidavit Form and paying the applicable fee at the Santa Clara City Hall Municipal Services Division. The business license tax is not reimbursed by Customer.
- 9.2. The Customer agrees to pay promptly when due, and to indemnify and hold harmless TCT and any of success or permitted assign of the foregoing on a full indemnity basis from, all licensing fees, registration fees and all Taxes however or wherever imposed (whether imposed upon TCT, all or part of the Engines or otherwise), by any authority, board, commission, department, division, organ, instrumentality, court or agency, or any other such entity (whether having a distinct legal personality or not) of any nation, province, state or other political jurisdiction thereof, exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government and any association, organization or institution of which any of the foregoing is a member, and in all cases, to whose jurisdiction such Person is subject or in whose activities any of the foregoing is a participant.

10. TERM AND TERMINATION

- 10.1. The term of this Agreement shall be for five (5) years from the Effective Date unless terminated by either Party pursuant to the terms of this Agreement.

- 10.2. After the Initial Term, the Customer reserves the right, to request an extension to the term of this Agreement for up to five (5) additional one-year terms. Customer shall provide TCT with no less than thirty (30) days prior written notice of its intention to exercise its option to extend the term of this Agreement in a format substantially similar to Exhibit F - Notice of Exercise of Option to Extend Agreement Form attached and incorporated by reference.
- 10.3. Either Party shall have the right to terminate this Agreement subject to the terms of this Agreement after giving fourteen (14) days' notice should the other (the Defaulting Party):
- 10.3.1. be in material breach of its obligations under this Agreement, or
 - 10.3.2. become practically insolvent, or being a limited company, go into liquidation whether voluntarily or compulsorily, or if an administrator or administrative receiver of the whole or part of the Customer's assets is appointed, or
 - 10.3.3. ceases or threatens to cease to carry on its business, or
 - 10.3.4. makes any agreement with creditors compounding debts.
- 10.4. Where the defaulting party is TCT and TCT fails to commence, or having commenced, fails to remedy, the breach within fourteen (14) days from date of the notice, Customer may, by notice in writing, without prejudice to its other rights under this Agreement, immediately terminate this Agreement. Customer shall make payment to TCT in accordance with the provisions of Article 10.
- 10.5. Where the defaulting party is Customer and Customer fails to commence, or having commenced, fails to remedy, the breach within fourteen (14) days from the date of the notice, TCT may, by notice in writing, without prejudice to its other rights under this Agreement, immediately terminate this Agreement. Customer shall make payment to TCT in accordance with the provisions of Article 10.
- 10.6. Default in Payment: If Customer fails to fulfill any condition of its payment obligations, TCT may:
- 10.6.1. Suspend performance and if the payment default is not cured in ten (10) business days after notice thereof, adjust the Project Completion Date by a period equal to such suspension;
 - 10.6.2. Require that, upon invoice, Customer pay the costs incurred by TCT as a result of Customer's non-fulfillment of any payment obligations herein, including the cost of money as calculated with reference to the prime rate plus 2% as published in the Wall Street Journal (interest shall not be charged until Customer has failed to cure its payment default within ten (10) business days after notice thereof;
 - 10.6.3. If TCT suspends its performance hereunder in accordance with this Agreement, be entitled to an extension of time for performance of its obligations equaling the period of such suspension; and/or
 - 10.6.4. If Customer does not rectify such non-fulfillment promptly within thirty (30) days after receiving TCT's written notice, TCT may at its option deem this Agreement to be terminated by Customer. Upon presentation of invoice and remedies set forth in this Section, Customer shall pay TCT the reasonable costs of termination. This shall constitute TCT's sole and exclusive remedies for Customer's failure to fulfill a condition

of payment.

11. COMPENSATION AND PAYMENT TO TCT

- 11.1. Customer does not guarantee any minimum or maximum compensation under this Agreement.
- 11.2. In consideration for TCT's complete performance of the services outlined in each Purchase Order, TCT shall invoice Customer and Customer shall pay TCT for all Services rendered by TCT in accordance with the rate per hour for labor and cost per unit for materials as outlined in Exhibit B entitled "Fee Schedule" attached and incorporated by reference and as set forth in each Work Authorization Form executed by the Parties.
- 11.3. Where applicable, Customer may require a Final System Acceptance Certificate in substantially the same format as Exhibit E-1 attached before issuing final payment. Such requirement shall be documented in the corresponding Work Authorization executed between the Parties.
- 11.4. The payments made by Customer under this Agreement will be the amounts charged for Services provided and billed by Contractor, subject to verification by City, pursuant to the hourly rates set forth in the Fee Schedule supplied in writing by Contractor and maintained on file with City at the time the Services are provided.
- 11.5. If there are any disputed charges on the invoice Customer shall pay TCT any undisputed amount within thirty (30) days after invoice receipt including submittal of approved certified payroll using LCP tracker or such other system as defined by City. Customer will notify TCT in writing the reason for any disputed charges prior to withholding payment and will work with TCT to rectify any disputed amounts for payment within a reasonable period of time.

12. REPRESENTATIVES

- 12.1. Both Parties shall appoint a representative (the representative of TCT being the "TCT Representative" and the representative of the Customer being the "Customer Representative" and together the "Parties' Representatives") and all notices, authorizations, approvals and communications shall be considered delivered and effective upon receipt only when given in writing and delivered personally, by registered mail (postage prepaid), prepaid courier or faxed to the representatives:

TCT Representative:
Name: Darcy Simonelli
Phone: [403-420-4231](tel:403-420-4231)
Fax: 403-420-4300
Email:
darcy_simonelli@tcturbines.com

Customer Representative:
Name: Chris Karwick
Phone: 408-615-6554
Fax: 408-244-2990
Email: CKarwick@svpower.com

- 12.2. The Customer Representative shall notify TCT of all information, instruction and decisions of the Customer made under the provisions of this Agreement.
- 12.3. Either Party's Representative may delegate any of his/her responsibilities to any nominated deputy. Such delegation shall be subject to prior written notification to the other Party. Information, instructions and decisions from any nominated deputy shall be as if from each Party's Representative.

13. WARRANTY

- 13.1. TCT warrants that the Services performed or provided by TCT under this Agreement will comply with industry standard, custom and practice. All Parts sold hereunder shall be free from defects in material, workmanship and title.
- 13.2. This warranty is personal to the Customer and cannot be assigned without the prior written consent of TCT, which consent shall not be unreasonably withheld. Warranty claims shall only be considered by TCT in respect to defects which become apparent and are notified by the Customer in writing to TCT before the expiry of the following warranty periods:

Depot Services

Calendar Time: 12 months from completion of Depot
Support Services

Running Time: 8,000 hours

Field Support Services

Calendar Time: 12 months from completion of Field
Support Services

Running Time: 8,000 hours

Whichever of the above limitations occurs first.

Parts:

Calendar Time: 12 months from date of delivery

- 13.3. Any warranty claim made shall be made in writing and delivered to TCT as soon as practical following discovery of the defect, and in any event, not later than thirty (30) days following discovery of the defect.
- 13.4. If TCT re-performs any Service, then the provisions of this Article shall apply to the Service re-performed, provided, however, the foregoing shall not serve to extend any warranty beyond twenty-four (24) months from completion of the original Services performed by TCT.
- 13.5. Notwithstanding the foregoing, TCT assumes no warranty:
- 13.5.1. for Parts supplied by the Customer;
- 13.5.2. for any Services performed despite TCT's and/or its subcontractor's recommendation to the contrary including without limitation, the use of any specific subcontractor for the performance of certain Services; or
- 13.5.3. if the Customer is in default of any payment obligations owed to TCT.

- 13.6. The warranties contained in this Article 13 shall be subject to the following continuing conditions:
- 13.6.1. The Engine and all Parts were properly installed by personnel that are qualified by the OEM to perform such work;
 - 13.6.2. failure of a Part due to ordinary wear and tear, erosion, corrosion, temperature, pressure or other conditions in excess of or contrary to agreed OEM specifications is not covered by this warranty;
 - 13.6.3. The Engine has been operated, maintained and updated in accordance with the OEM's guidelines and standards;
 - 13.6.4. The Engine has been used under normal operating conditions, has not been subjected to misuse, neglect or accident and has not subsequently been repaired or altered, except by TCT (unless otherwise agreed in writing between both Parties); and
- 13.7. The Customer shall provide, in a timely manner, information as requested by TCT to facilitate the warranty investigation. If the Customer fails to furnish TCT with the records, data, and documentation prior to TCT assessing a warranty claim, then the eligibility of the warranty claim shall be at TCT's sole discretion. The Customer acknowledges and agrees that the warranty settlement is contingent on TCT receiving all information and investigation results from the Customer.
- 13.8. Where the Customer asserts a warranty claim according to this Article, and as a result of the investigation, it is established that TCT is not liable for the defects claimed, the costs of investigation as well as any other costs and expenses, including shipping, connected with such claim shall be borne by the Customer and due net thirty (30) days upon receipt of the respective invoice therefore.
- 13.9. THE WARRANTIES CONTAINED IN THIS ARTICLE 13 ARE EXCLUSIVE AND IN LIEU OF ANY AND ALL OTHER WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY (INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE OR AS OTHERWISE PROVIDED UNDER ANY APPLICABLE LEGISLATION, WHETHER DOMESTIC OR INTERNATIONAL), AND THE CUSTOMER HEREBY WAIVES ANY RIGHT TO ANY SUCH REMEDIES.
- 13.10. IN NO EVENT SHALL TCT BE RESPONSIBLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES INCURRED BY the Customer IN RESPECT OF ANY DEFECT OR FAILURE COVERED BY THE WARRANTY SET OUT ABOVE.
- 13.11. THE LIABILITY OF TCT CONNECTED WITH OR RESULTING FROM THE WARRANTIES CONTAINED IN THIS ARTICLE 13 SHALL BE LIMITED TO REPAIR AND/OR REPLACEMENT BY TCT OR ITS DESIGNEE OF THE PART OR PARTS WHOSE FAILURE GIVES RISE TO A CLAIM UNDER THESE WARRANTIES. UPON THE EXPIRATION OF THE SHORTEST PERIOD DESCRIBED THEREIN, ALL SUCH LIABILITY SHALL TERMINATE.

14. INDEMNIFICATION

- 14.1. TO THE MAXIMUM EXTENT PERMITTED BY LAW, TCT SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS the Customer TO THE EXTENT OF THE LIMITATION ON LIABILITY FROM ALL CLAIMS, CAUSES OF ACTION, LOSSES, LIABILITIES, AND EXPENSES (INCLUDING REASONABLE ATTORNEY'S

FEES) FOR PERSONAL LOSS, INJURY, OR DEATH TO PERSONS (INCLUDING BUT NOT LIMITED TO TCT'S EMPLOYEES) AND LOSS, DAMAGE TO OR DESTRUCTION OF THE CUSTOMER'S PROPERTY OR THE PROPERTY OF ANY OTHER PERSON OR ENTITY (INCLUDING BUT NOT LIMITED TO TCT PROPERTY) TO THE EXTENT ARISING OUT OF ANY NEGLIGENT, WILFUL OR INTENTIONAL ACT OR OMISSION OF TCT IN CONNECTION WITH THE PERFORMANCE OF THE SERVICES. NOTHING HEREIN SHALL BE CONSTRUED AS MAKING TCT SOLELY LIABLE FOR ANY INJURY, DEATH, LOSS, DAMAGE, OR DESTRUCTION TO THE EXTENT ARISING OUT OF ANY NEGLIGENT ACT OR OMISSION OF the CUSTOMER.

- 14.2. TO THE MAXIMUM EXTENT PERMITTED BY LAW, the Customer SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS TCT FROM ALL CLAIMS, CAUSES OF ACTION, LOSSES, LIABILITIES, AND EXPENSES (INCLUDING REASONABLE ATTORNEY'S FEES) FOR PERSONAL LOSS, INJURY, OR DEATH TO PERSONS (INCLUDING BUT NOT LIMITED TO the CUSTOMER'S EMPLOYEES) AND LOSS, DAMAGE TO OR DESTRUCTION OF TCT'S PROPERTY OR THE PROPERTY OF ANY OTHER PERSON OR ENTITY (INCLUDING BUT NOT LIMITED TO the CUSTOMER'S PROPERTY) TO THE EXTENT ARISING OUT OF ANY NEGLIGENT, WILFUL OR INTENTIONAL ACT OR OMISSION OF the Customer IN CONNECTION WITH PERFORMANCE OF THE SERVICES. NOTHING HEREIN SHALL BE CONSTRUED AS MAKING THE CUSTOMER SOLELY LIABLE FOR ANY INJURY, DEATH, LOSS, DAMAGE OR DESTRUCTION TO THE EXTENT ARISING OUT OF ANY NEGLIGENT ACT OR OMISSION OF TCT.
- 14.3. TCT SHALL NOT BE LIABLE FOR ANY CLAIMS, LOSSES, DAMAGES, OR EXPENSES ARISING FROM ITS FAILURE TO DISCOVER OR REPAIR LATENT DEFECTS OR DEFECTS INHERENT IN THE DESIGN OF ENGINE OR PARTS SERVICED, UNLESS SUCH DISCOVERY, REPAIR, AND THE MEANS TO EFFECT SUCH ARE SPECIFIED AND AGREED IN WRITING BY THE PARTIES, EXCEPT AS EXPRESSLY PROVIDED IN THIS ARTICLE 14.
- 14.4. TCT SHALL NOT BE LIABLE UNDER THIS AGREEMENT FOR ANY CLAIMS, LOSSES, DAMAGES, OR EXPENSES ARISING FROM ANY ADVICE, RECOMMENDATIONS, OR ASSISTANCE PROVIDED TO the Customer, BUT NOT OTHERWISE REQUIRED BY THIS AGREEMENT.
- 14.5. The Customer agrees that the remedy provided under this Article 14 is the Customer's sole and exclusive remedy against TCT in connection with the Services provided hereunder and to the extent permitted by law, the Customer shall file no other Claim, demand, action or remedy against TCT and the Customer warrants that it shall not take any steps to pursue any such Claim, action or demand against TCT.

15. TITLE TRANSFER, RISK OF LOSS, SHIPMENT AND STORAGE

- 15.1. Passage of Title and Risk of Loss. Title to Parts, components or materials to be shipped shall pass to Customer when TCT or shipper arrives at Customer's location for final delivery. Risk of loss shall pass to Customer upon delivery pursuant to this Section 15.
- 15.2. If repair Services are to be performed on Customer's Engine at TCT's facility, TCT shall be responsible for, and shall retain risk of loss of, such equipment at all times until redelivery of the Engine to the Customer site.

16. CONFIDENTIALITY AND OWNERSHIP OF PATENTS AND OTHER PROPRIETARY RIGHTS.

- 16.1. The Customer and TCT shall identify all intellectual property, or proprietary information that it is

providing for the purpose of this Agreement at the time that such intellectual property, or proprietary information is provided. Neither the Customer nor TCT shall have the right to use the Confidential Information other than for the purposes of this Agreement, whether directly or indirectly, any intellectual property, or proprietary information owned by the other party. Any failure by either Party to identify such rights shall not in any respect affect the rights of either Party under this Article 16. Notwithstanding the foregoing, TCT acknowledges that Customer is a public agency subject to the requirements of the California Public Records Act. If Customer receives a request for information that TCT deems confidential, Customer shall notify TCT as soon practicable, and TCT shall be solely responsible for taking whatever legal steps are necessary to protect the information and prevent its release to the requestor. Customer shall not release any records until seven calendar days after receipt of request.

17. INSURANCE AND WAIVER OF SUBROGATION

- 17.1. The Parties shall maintain in force adequate insurance to cover any relevant statutory requirements and their obligations under this Agreement.
- 17.2. TCT shall provide insurance as set forth in Exhibit C of this Agreement attached and incorporated by reference.
- 17.3. The Customer hereby expressly waives any and all rights of recovery it may have against TCT for loss or damage insured against by all insurance policies in which the Customer may have any interest, in relation to any services performed during the term of this agreement and, further, shall ensure such a waiver is contained within all insurance policies in which the Customer may have an interest.
- 17.4. The insurance requirements under this Agreement shall not constitute a waiver of the rights of any Party or its insurer to enforce the indemnity and release obligations owed to them under this Agreement. The failure to secure any insurance coverage required under this Agreement or to secure any endorsements on insurance policies as may be necessary to comply with this Agreement shall not relieve the breaching Party from its obligations under this Agreement.

18. LIMITATION OF LIABILITY

CONSEQUENTIAL DAMAGES

EXCEPT FOR CUSTOMER'S OBLIGATION TO PAY FOR PARTS AND SERVICES, IN NO EVENT, WHETHER AS A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY, OR OTHERWISE, SHALL EITHER PARTY OR ANY OF ITS AFFILIATES OR SUPPLIERS BE LIABLE TO THE OTHER PARTY FOR LOSS OF PROFIT OR REVENUES, LOSS OF USE OF THE EQUIPMENT OR ANY ASSOCIATED EQUIPMENT OR SERVICES, COST OF CAPITAL, OVERHEAD, COST OF SUBSTITUTE EQUIPMENT SERVICES OR SOFTWARE, COST OF SUBSTITUTE FACILITIES OR REPLACEMENT POWER, DAMAGE TO ASSOCIATED EQUIPMENT, FACILITIES, SERVICES OR REPLACEMENT POWER, DOWNTIME COSTS, OR CLAIMS OF CITY'S CUSTOMERS FOR ANY OF THE FOREGOING, AND TCT SHALL NOT BE LIABLE FOR CLAIMS FOR DAMAGES OR COSTS RELATED TO THE CLEANUP, REMOVAL, RELEASE OR THREATENED RELEASE, REMEDIATION OR DISPOSAL OF OR ANY RESPONSE TO ANY HAZARDOUS MATERIAL. NOTWITHSTANDING ANYTHING TO THE CONTRARY, NEITHER PARTY SHALL BE RESPONSIBLE TO THE OTHER PARTY FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE OR SPECULATIVE DAMAGES.

DIRECT DAMAGES

TCT'S LIABILITY UNDER ANY OF THE EXPRESS OR IMPLIED TERMS OF THIS AGREEMENT, SEPARATELY OR COMBINED, OR OTHERWISE IN RESPECT OF ALL CLAIMS OF ANY KIND, WHETHER IN TORT (INCLUDING NEGLIGENCE OF ANY DEGREE, GROSS OR OTHERWISE), CONTRACT, WARRANTY, INDEMNITY, STRICT LIABILITY OR OTHERWISE SHALL NOT EXCEED THE LIMITATION OF LIABILITY SET FORTH IN THE FOLLOWING TABLE. THE LIMITATION OF LIABILITY SHALL APPLY ON A PER PURCHASE ORDER BASIS. THE TERMS OF THIS ARTICLE SHALL BE PRIMARY TO ANY OTHER CONFLICTING TERM OF THIS AGREEMENT.

Purchase Order Price	Limitation of Liability
Less than \$250,000	\$250,000
Greater than \$250,000 and Less than \$1,000,000	1.5 times the Purchase Order Price or \$1,000,000 whichever is greater
Greater than \$1,000,000	The Purchase Order Price or \$5,000,000.00 whichever is greater

19. **ENVIRONMENTAL LIABILITY**

IN RESPECT OF FIELD INSPECTION SERVICES, TCT SHALL NOT BE LIABLE FOR ANY PERSONAL INJURY OR PROPERTY DAMAGE ASSOCIATED WITH HAZARDOUS MATERIALS, POLLUTANTS OR ENVIRONMENTAL CONTAMINANTS PRESENT AT THE JOBSITE, ALL PRE-EXISTING HAZARDOUS MATERIALS, ENVIRONMENTAL CONTAMINATION OR POLLUTION AT THE JOBSITE PRIOR TO THE START OF SERVICES AND FOR ALL HAZARDOUS MATERIALS, POLLUTION OR ENVIRONMENTAL CONTAMINATION TO ADJACENT PROPERTIES CAUSED BEFORE THE START DATE FOR SERVICES HEREUNDER. TCT SHALL ONLY BE LIABLE FOR SUDDEN AND ACCIDENTAL POLLUTION CAUSED BY MATERIALS OR EQUIPMENT BROUGHT TO THE JOBSITE FOR THE PURPOSE OF PROVIDING SERVICES HEREUNDER, PROVIDED THAT, THE RELEASE, DISCHARGE, DISPERSAL, SEEPAGE, MIGRATION OR ESCAPE IS KNOWN BY THE CUSTOMER WITHIN SEVEN (7) DAYS OF COMMENCEMENT AND REPORTED TO TCT WITHIN TWENTY (20) DAYS OF COMMENCEMENT OF THE RELEASE, DISCHARGE, DISPERSAL, SEEPAGE, MIGRATION OR ESCAPE.

20. **FORCE MAJEURE**

- 20.1. If, by reason of any industrial dispute or government action, fire, flood, hurricane, earthquake, volcanic eruption, act of God, labour conflicts and disputes, war (declared or undeclared), terrorism, civil commotion, riot, insurrection, military uprising, the performance of Services is rendered so difficult or costly as to make such performance commercially unreasonable or any other causes beyond the reasonable control of TCT (each a "Force Majeure"), is delayed or impeded in the performance of its obligations, then, TCT shall be under no liability for failure to perform its obligations. TCT shall, within a reasonable time, give notice in writing to the Customer of its Claim for an extension of time. Upon resolution of the Force Majeure, TCT shall be entitled to reschedule the outstanding Services.
- 20.2. Notwithstanding that TCT shall be entitled to an extension of time under Article 20.1, should the Force Majeure exist for a period of one hundred and twenty (120) consecutive days, then either Party, at any time thereafter, may, by written notice to the other, terminate this Agreement. This is

subject to the terms of this Agreement and providing that performance is still delayed or impeded.

21. LAW

This Agreement shall be governed by the substantive law of California without regard to any conflicts of laws principles that could require application of any other law, including without limitation, the interpretation of this Agreement and any dispute, controversy or Claim arising out of, relating to, or in any way connected with this Agreement, including, without limitation, the existence, validity, performance, breach, or termination thereof.

22. DISPUTE RESOLUTION

- 22.1. Unless otherwise mutually agreed to by the Parties, any controversies between TCT and Customer regarding the construction or application of this Agreement, and claims arising out of this Agreement or its breach, shall be submitted to mediation within thirty (30) days of the written request of one Party after the service of that request on the other Party.
- 22.2. The Parties may agree on one mediator. If they cannot agree on one mediator, the Party demanding mediation shall request the Superior Court of Santa Clara County to appoint a mediator. The mediation meeting shall not exceed one day (eight (8) hours). The Parties may agree to extend the time allowed for mediation under this Agreement.
- 22.3. The costs of mediation shall be borne by the Parties equally.
- 22.4. For any contract dispute, mediation under this section is a condition precedent to filing an action in any court. In the event of mediation which arises out of any dispute related to this Agreement, the Parties shall each pay their respective attorney's fees, expert witness costs and cost of suit, through mediation only.
- 22.5. Should either Party bring any legal proceeding under this Agreement, it shall be filed and litigated in the Superior Court of the County of Santa Clara.

23. ENTIRE AGREEMENT

This Agreement, including the exhibits and amendments, as agreed, embodies the entire Agreement and understanding of the Parties in respect of the subject matter hereof, whether oral or written and there are no further terms, conditions, warranties or representations, written or oral other than those contained herein and, as of its effective date, terminates and supersedes all prior or agreements and understandings between the Parties covering the same subject matter. These terms and conditions shall be exclusive and in lieu of all terms and conditions appearing on the face or reverse side of any Purchase Order or other documents submitted by the Customer. The identification of Services, price, quantity, delivery dates and shipping instructions shall be as set forth in TCT's proposal or the Customer's Purchase Order, which has been accepted by TCT.

24. GENERAL PROVISIONS

- 24.1. No provisions of this Agreement shall be changed or modified in any way either in whole or in part except by an instrument in writing made after the date of this Agreement signed on behalf of both Parties and which is expressly stated to amend this Agreement.
- 24.2. In the event of a conflict between the terms and conditions of a proposal, Work Authorization,

purchase order or any document authorizing specific work, the Terms and Conditions of the Agreement shall govern and control.

- 24.3. All services shall be provided using the terms and rates included in the Agreement.
- 24.4. The article headings and subheadings in this Agreement are for convenience only, and shall not affect the meaning, construction or interpretation of this Agreement.
- 24.5. Each person executing this Agreement on behalf of a Party represents and warrants (as evidenced by his or her signature) that he or she has the authority to execute this document on behalf of, and bind, that Party.
- 24.6. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original of this Agreement and which together shall constitute one and the same instrument; provided that neither Party shall be bound to this Agreement unless and until both Parties have executed a counterpart. A signature page signed by a Party and sent by facsimile machine or scanned by email to the other Party shall be deemed to be valid as an original and shall be binding as between the Parties.
- 24.7. Any reference to a statute, law, rule, regulation, decree or other legislative, administrative or executive act, having the effect of law shall include and shall be deemed to be a reference to such statute and to the rules and regulations made pursuant thereto, and any amendments made thereto from time to time, and to any law that may be passed which has the effect of supplementing or replacing the law so referred to or the regulations made pursuant thereto.
- 24.8. No consideration shall be given to the fact or presumption that one Party has a greater or lesser hand in drafting this Agreement and the interpretation rule known as the "Contra Preferentem" rule shall not apply, nor shall any similar rule or approach to interpretation, and this Agreement shall not be interpreted narrowly against either party to it.
- 24.9. The Customer shall not, directly or indirectly, export or transmit any items covered by this Agreement to any country to which such export or transmission is restricted by applicable regulations or statutes of Canada, the United States of America or the United Kingdom, or any agency thereof, without the prior written consent of the relevant country's Department of Trade and/or Commerce, and of any other required government agency.
- 24.10. The status of each Party under this Agreement shall be that of an independent contractor. Except as otherwise expressly provided in this Agreement, nothing contained in this Agreement shall be construed as creating an employment, partnership, joint venture or agency relationship between the Parties as granting either Party the authority to bind or contract any obligation in the name of or on the account of the other Party or to make any statements, representations, warranties or commitments on behalf of the other Party. All persons employed by a Party shall be employees of such Party and not of another Party and all costs and obligations incurred by reason of any such employment shall be for the account and expense of such Party.
- 24.11. Each provision of this Agreement shall be considered severable and if any provision(s) is (are) determined to be invalid, unenforceable or illegal under any existing or future law, such invalidity, unenforceability or illegality shall not impair the operation of or affect those portions of this Agreement that are valid, enforceable and legal.

24.12. In the event of termination or expiration of this Agreement, the provisions pertaining to warranty, indemnity, confidentiality, insurance, disclaimer of consequential damages, limitation of liability, dispute resolution, and governing law shall remain in full force and effect.

24.13. No waiver of any breach of this Agreement shall be or deemed to be effective or binding unless the waiver is in writing and signed by an authorized representative of the Party purporting to have waived the breach and, unless otherwise provided in this Agreement, such waiver shall be limited to the specific breach waived. A Party's failure to enforce or delay in enforcing any of the terms and conditions of this Agreement shall not constitute or be deemed to constitute a waiver of such terms or conditions. No delay or failure by either party in exercising or pursuing any Claims, rights or remedies arising under this Agreement, or for any breach hereof shall operate as a waiver thereof nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy.

25. COMPLIANCE WITH ETHICAL STANDARDS

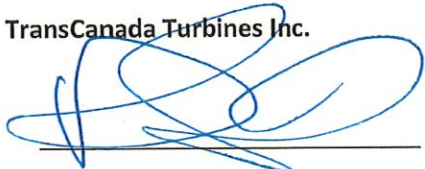
As a condition precedent to entering into this Agreement, Contractor shall:

25.1. Read the attached Exhibit G entitled "ETHICAL STANDARDS," and,

25.2. Execute the affidavit attached as Exhibit H entitled "AFFIDAVIT OF COMPLIANCE WITH ETHICAL STANDARDS."

IN WITNESS HEREOF the Customer and TCT have executed this Agreement as of this 6TH day of April 2021.

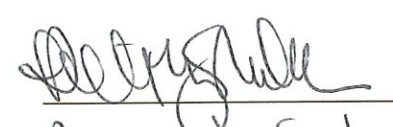
TCT: TransCanada Turbines Inc.

Per: 

Name: Daniel J.B. Simonelli

Title: Secretary

Customer: City of Santa Clara

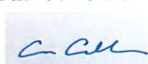
Per: 

Name: Deanna J. Santana

Title: City Manager

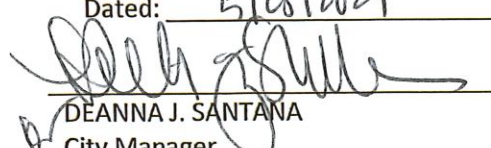
CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation

APPROVED AS TO FORM:


BRIAN DOYLE
City Attorney

Digitally signed by Caio
Arellano
Date: 2021.05.25 15:33:24
-07'00'

Dated: 5/28/2021


DEANNA J. SANTANA
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210

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DEPOT SERVICES, FIELD SUPPORT, AND PART(S) SUPPLY MASTER AGREEMENT
between the
CITY OF SANTA CLARA, CALIFORNIA AND TRANSCANADA TURBINES, INC. (TCT)

EXHIBIT A – SCOPE OF SERVICES

1. TCT will provide Depot Support Services, Field Support Services, and Part(s) Supply on an as-requested basis for the City of Santa Clara Electric Department, Silicon Valley Power (Customer).
 - 1.1. Services shall be requested and authorized using the process outlined in Section 3 of the Agreement (GENERAL PROCEDURES).
 - 1.2. Services shall be performed on SVP's LM6000 engines located in the City of Santa Clara. Services may be provided on-site at City of Santa Clara or at TCT's depot.
 - 1.3. When requested, TCT shall use reasonable efforts to have Field Service Technician(s) on-site within twenty-four (24) hours of receiving written instructions from the Customer.
2. TCT will manage and coordinate the Service of the Engine and any work activity associated with Services authorized under the applicable Purchase Order on behalf of Customer, in accordance with the established maintenance cycle of the equipment, industry and manufacturer best practices, original equipment manufacturer (OEM) standards and recommendations, applicable equipment specifications, policies, procedures, state or local regulations and laws. Services to be provided may include, but are not limited to:
 - 2.1. Develop/implement routine, preventive and condition-based maintenance programs.
 - 2.2. Institute comprehensive reporting procedures to ensure close communications with Customer
 - 2.3. Supply parts as required to maintain, repair, and otherwise perform services
 - 2.4. Scheduled Maintenance activities including, but not limited to:
 - 2.4.1. Annual Routine Inspections (every ~8,000 hours) consisting of borescope, visual inspection, complete package and control calibrating of components essential to reliable operation.
 - 2.4.2. Hot Section Rotable Exchange - Performed at the site during a scheduled outage approximately every 25,000 hours of gas fuel operation.
 - 2.4.3. Major Gas Turbine Overhaul - a complete overhaul of the gas turbine is performed at an Overhaul Depot approximately every 50,000 hours. Key features of this overhaul are: (a) complete tear down and inspection of engine, (b) rebuild with new, refurbished and serviceable parts as required, and (c) functionality and performance demonstration in the test cell.
 - 2.5. The inspections shall include but not be limited to:
 - 2.5.1. Review latest recommendations, improvements, and technical information letters and recommend which should be implemented.
 - 2.5.2. Implementation of product bulletins, service bulletins, and other OEM recommendations
 - 2.5.3. Review borescope results and plan for next borescope or any required maintenance.
 - 2.5.4. Perform any required on-site Level 1 or 2 maintenance work package in accordance with On-Site Operation and Maintenance Manual.

- 2.6. Remedial Measures: Remedial measures are defined as services performed beyond normal O&M services to address issues discovered during inspections of the turbines including any services that may be performed to restore the gas turbine system to optimal operating condition.
- 2.7. On-Site services may include, but are not limited to:
 - 2.7.1. Full Borescope Inspection
 - 2.7.2. Preventive and corrective maintenance and inspection performed on the exterior of an installed gas turbine
 - 2.7.3. Gas turbine removal and installation
 - 2.7.4. Separation of generator and power turbine
 - 2.7.5. Turbine preservation and shipping
 - 2.7.6. Quarterly, Semi-annual, and Annual package and controls inspections
 - 2.7.7. Full alignments and alignment verification
 - 2.7.8. Troubleshooting all aspects of package and engine problem
 - 2.7.9. Perform repairs and remedial measures identified during inspection and maintenance.
- 2.8. Depot Services may include, but are not limited to:
 - 2.8.1. Complete disassembly and/or assembly of modules down to individual piece parts
 - 2.8.2. Repair and replacement of piece parts and accessories
 - 2.8.3. Gas generator, gas turbine and/or power turbine testing in test cell.
 - 2.8.4. High Pressure Compressor / Low Pressure Compressor (HPC/LPC) Blade/Vane repair and replacement
 - 2.8.5. Hot Section/combustor replacement
 - 2.8.6. Other internal component replacement - refer to engine specific work scopes
 - 2.8.7. Transportation of equipment from Customer site to Depot and return.
- 3. TCT Responsibilities:
 - 3.1. TCT shall provide the Customer with a written report of the Services performed within twenty-one (21) working days following completion of each inspection or repair. This report shall be in a format to be agreed with the Customer. The Customer shall acknowledge such report by signing and returning a copy thereof.
 - 3.2. Any additional work identified during routine or unscheduled inspections will be notified in the report and corrective action shall be determined by mutual agreement between the Parties.
 - 3.3. TCT shall possess all licenses and/or certifications necessary to perform the services described in this Attachment A.
 - 3.4. TCT shall provide qualified and skilled specialists and engineers.
 - 3.4.1. TCT shall be solely responsible for selecting, hiring, employing, paying, supervising, training and discharging all personnel necessary for the providing efficient services.
 - 3.4.2. TCT shall employ only competent craftsmen/skilled workers who are appropriately trained and licensed to perform the required services.

- 3.4.3. TCT shall be responsible for understanding and complying with any training and licensing required for the performance of the services described in this Agreement, including but not limited to, Department of Transportation (DOT) requirements for commercial driver's license and required drug testing if applicable.
- 3.4.4. Customer may request verification of the assigned employees' qualifications at any time. TCT shall promptly provide such verification upon request by Customer.
- 3.4.5. TCT's employees and any subcontractors shall supply proper identification when requested by Customer.
- 3.4.6. Customer reserves the right to request the removal of any TCT employee(s) who does not conduct themselves in a courteous, professional manner, or whose actions endanger the safety of people or property. TCT shall promptly respond to requests for replacement personnel.
- 3.5. TCT shall provide a Project Manager/General Manager who is responsible for the day-to-day management and supervision of the required services. Project Manager responsibilities shall include, but not be limited to: correcting problems, managing conflicts and complaints, and overseeing work schedules, personnel, and equipment requirements. If the Project Manager/General Manager is off-site or otherwise unable to give direction to TCT's employees (including subcontractors), Customer may give directions to the personnel until the Project Manager/General Manager returns.
- 3.6. TCT shall provide all parts, materials, tools, equipment, and consumables necessary for all tasks
- 3.7. TCT shall provide all tooling for tasks of On-Site Services and Depot Services.
- 3.8. Safety:
 - 3.8.1. TCT shall ensure that all its employees and agents abide by established local, state and federal safety rules and regulations.
 - 3.8.2. TCT employees, and any subcontractors shall always act in a safe manner while on City property.
 - 3.8.3. TCT shall be responsible for remaining up to date on all applicable federal, state, county, and local laws, ordinances and codes in the event they are amended. Where any amended applicable laws or ordinances are in conflict with the Customer's requirements, the more stringent requirement(s) shall be followed. TCT's failure to be thoroughly familiarized with the safety provisions shall not relieve TCT from compliance with the obligations and penalties resulting therefrom.
 - 3.8.4. TCT shall provide and maintain an Injury and Illness Prevention Program (IIPP) pursuant to Title 8, Section 3203 of the California Administrative Code. The program shall include, but not be limited to, a safety training program instructing TCT's employees in general safe work practices and shall include specific instructions with regard to hazards unique to the employee's job assignment. A copy of TCT's IPP shall be submitted to Customer prior to the execution of an agreement, and be made available on site upon request.
 - 3.8.5. TCT shall schedule periodic safety inspections to identify and correct unsafe conditions and work practices. Customer reserves the right to accompany TCT during these inspections.
 - 3.8.6. TCT's employees (including any subcontractors) shall not use or possess alcohol, narcotics, firearms, or drugs of any nature other than medical (for which TCT's employee has a

current doctor's prescription) on Customer property and while performing services for the Customer. Employees using prescribed medication will not engage in any work if the medication can potentially impair the employee's ability to perform the work safely.

- 3.8.7. TCT's employees (including any subcontractors) shall utilize appropriate Personal Protective Equipment (PPE) and Fire Resistant (FR) clothing, as required. TCT shall provide the required PPE and FR clothing at its own expense.
 - 3.8.8. TCT shall immediately remove any personnel who is acting in an unsafe or dangerous manner.
 - 3.8.9. TCT shall notify Customer immediately in event of an injury or property damage that occurs during the performance of the services described in this Agreement. TCT shall investigate the reported injury or damage upon request from Customer, and provide Customer with regular updates until the investigation is resolved. Customer reserves the right to perform its own investigation. Should Customer choose to conduct its own investigation, TCT shall assist Customer as required.
- 3.9. Workmanship:
- 3.9.1. TCT shall perform the required services in an environmentally responsible manner.
 - 3.9.2. TCT shall assume full responsibility for the protection and safekeeping of its material and tools, and shall lock all TCT vehicles when parked and unattended, to prevent unauthorized use. TCT shall not leave vehicles or equipment unattended with the motor running or the ignition key in place.
 - 3.9.3. TCT shall take all necessary precautions to protect Customer property from damage during the performance of the required Services. TCT shall be responsible for the repair of any property damaged through the fault or negligence of TCT during the performance of services. Damage to Customer property that cannot be repaired shall be replaced at the TCT's sole expense, prior to issuance of payment to TCT by Customer. Any expenses incurred by Customer to repair property damage will be deducted from TCT's compensation or billed to TCT at Customer's discretion.
 - 3.9.4. TCT shall keep their work site(s) free from all surplus material, waste material, dirt and rubbish caused by TCT's performance of services.
 - 3.9.5. TCT shall leave the work site in a neat and orderly condition. All clean-up work will be done to the satisfaction of Customer, and at the sole expense of TCT.
 - 3.9.6. Customer shall have the right to inspect any work performed by TCT and any subcontractors. Should Customer determine upon inspection any defective work or work not compliance with the requirements of the Purchase Order, TCT shall promptly correct the work at no additional cost to the Customer.
- 3.10. The Customer shall maintain complete records relating to the Engine, including but not limited to previous inspection and repairs reports, details of all repairs and modifications to the Engine performed and a log containing relevant information about operation of the Engine.

DEPOT SERVICES, FIELD SUPPORT, AND PART(S) SUPPLY MASTER AGREEMENT
between the
CITY OF SANTA CLARA, CALIFORNIA AND TRANSCANADA TURBINES, INC. (TCT)

EXHIBIT B –FEE SCHEDULE

1. Fee Schedule:

1.1. TCT shall provide services at the following rates:

<u>Field Service (Mechanical Tech)</u>	<u>Rate</u>
Straight Time	\$220.00 per hour
Overtime (payable after 8 hours/weekends)	\$330.00 per hour
Travel Straight Time/Standby	\$169.00 per hour
Travel Weekend/Holiday	\$220.00 per hour
Daily Rate (12 hour day)	\$3,084.00 per day
Overtime (after 12 hours)	\$367.00 per hour
 <u>Field Service (Controls Tech)</u>	
Straight Time	\$265.00 per hour
Overtime	\$393.00 per hour
Travel Straight Time/Standby	\$203.00 per hour
Weekend and Holiday Travel	\$265.00 per hour
Daily Rate (12 hour day)	\$3,689.00 per day
Overtime (after 12 hours)	\$434.00 per hour
 <u>Depot</u>	
Labor Rate (Straight Time)	\$104.50 per hour
Labor Rate (Overtime)	\$156.75 per hour
 New Parts	GE List + 15%
Repairs	As Quoted
Zero-timed hardware (repaired)	GE List – 30%

- 1.2. Annual Adjustment – The rates listed shall be subject to annual adjustments beginning in January of each calendar year during the term of this Agreement. TCT shall provide written notice of such rate adjustment 60 days before the rates become effective.

2. Definitions:

- 2.1. Overtime - Overtime will be charged for any Service for time worked over eight (8) hours. The overtime rate will be charged on all Services required on weekends and established holidays.
- 2.2. Minimum Charges - A minimum charge of four (4) hours straight time plus expenses will be applied for any Service in the United States of America (USA).
- 2.3. Standby Charges - Standby charges will apply when Field Service Technician(s) arrive on site and are requested or required by the Customer to wait, a standby charge will be assessed as follows:
- 2.3.1. Domestic Standby Charges: A maximum of eight (8) hours per day for each weekday.

- 2.3.2. Domestic Overtime Standby Charges: A maximum of eight (8) hours overtime per day for Saturdays, Sundays, and established holidays.
- 2.4. Holiday rates apply on the following holidays: New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving, Day after Thanksgiving, Christmas Eve, Christmas Day.
- 3. Reimbursable Expenses:
 - 3.1. Pass-Through Costs: In some cases, TCT may pass-through costs such as, but not limited to: travel, subcontracted activities or materials. Such Pass-Through Costs shall be included in the each quote for services and are subject to the following conditions:
 - 3.1.1. TCT shall provide supporting documentation such as invoices or receipts for all Pass-Through costs. Except in the case of emergency, TCT will notify the Customer in advance when these costs are anticipated and include such pass-through costs on each quote.
 - 3.1.2. Expenses shall be reimbursable only to the extent that TCT submits sufficient documentation to the Customer, when requested, that the expenses were directly incurred in providing the requested services and that such costs are not already included in the fee or hourly rate.
 - 3.2. Subsistence - Expenses (travel and lodging) will be charged at cost plus ten percent (10%).
 - 3.2.1. Unless approved in writing (e-mail acceptable) in advance, meals, lodging, and related Per Diem shall not exceed the rates outlined by United States General Services Administration (GSA).

<https://www.gsa.gov/travel-resources>
 - 3.2.2. Airfare and car rentals shall be reimbursed at economy class except that travel over eight (8) hours will be business class. (Such travel shall be based on location from which required resource is normally based or actual location of required resource whichever is lower.
 - 3.3. **Taxes** - All applicable taxes (airport taxes, sales taxes, duties and other taxes) and fees will be billed for all Services.
 - 3.4. **Parts and Material** – Locally procured materials and supplies required by Field Service Technician(s) while at the Customer's site will be charged at cost plus ten (10%).
 - 3.5. Part sales will be quoted separately.
 - 3.6. **Miscellaneous Expense** – Expenses such as freight, passports, visas, inoculation and etc. required by Field Service Technician(s) to fulfill the Customer's requirements will be charged at cost plus ten percent (10%).

DEPOT SERVICES, FIELD SUPPORT, AND PART(S) SUPPLY MASTER AGREEMENT
between the
CITY OF SANTA CLARA, CALIFORNIA AND TRANSCANADA TURBINES, INC. (TCT)

EXHIBIT C
INSURANCE REQUIREMENTS

Without limiting the Contractor's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Contractor shall provide and maintain in full force and effect, at its sole cost and expense, the following insurance policies with at least the indicated coverages, provisions and endorsements:

A. COMMERCIAL GENERAL LIABILITY INSURANCE

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:
 - \$5,000,000 Each occurrence
 - \$5,000,000 General aggregate
 - \$5,000,000 Products/Completed Operations aggregate
 - \$5,000,000 Personal Injury
2. Exact structure and layering of the coverage shall be left to the discretion of Contractor; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.
3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Contractor to comply with the insurance requirements of this Agreement:
 - a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;
 - b. There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and
 - c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than one million dollars (\$1,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned, non-owned and hired autos.

C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with limits of at least one million dollars (\$1,000,000) policy limit Bodily Injury by disease, one million dollars

(\$1,000,000) each accident/Bodily Injury and one million dollars (\$1,000,000) each employee Bodily Injury by disease.

2. The indemnification and hold harmless obligations of Contractor included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for Contractor or any subcontractor under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).
3. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents.

D. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions, must be part of each commercial general liability policy, and each umbrella or excess policy.

1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Contractor's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85 or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.
2. Primary and non-contributing. Each insurance policy provided by Contractor shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the Indemnities may possess, including any self-insurance or self-insured retention they may have. Any other insurance Indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Contractor's insurance.
3. Cancellation.
 - a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.
 - b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.
4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through D of this Exhibit C, above.

E. ADDITIONAL INSURANCE RELATED PROVISIONS

Contractor and City agree as follows:

1. Contractor agrees to ensure that subcontractors, and any other party involved with the Services who is brought onto or involved in the performance of the Services by Contractor, provide the same minimum insurance coverage required of Contractor, except as with respect to limits. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Contractor agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.
2. Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Contractor for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.
3. The City reserves the right to withhold payments from the Contractor in the event of material noncompliance with the insurance requirements set forth in this Agreement.

F. EVIDENCE OF COVERAGE

Prior to commencement of any Services under this Agreement, Contractor, and each and every subcontractor (of every tier) shall, at its sole cost and expense, provide and maintain not less than the minimum insurance coverage with the endorsements and deductibles indicated in this Agreement. Such insurance coverage shall be maintained with insurers, and under forms of policies, satisfactory to City and as described in this Agreement. Contractor shall file with the City all certificates and endorsements for the required insurance policies for City's approval as to adequacy of the insurance protection.

G. EVIDENCE OF COMPLIANCE

Contractor or its insurance broker shall provide the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage shall be delivered to City, or its representative as set forth below, at or prior to execution of this Agreement. Upon City's request, Contractor shall submit to City copies of the actual insurance policies or renewals or replacements. Unless otherwise required by the terms of this Agreement, all certificates, endorsements, coverage verifications and other items required to be delivered to City pursuant to this Agreement shall be mailed to:

EBIX Inc.	
City of Santa Clara Electric Department	
P.O. Box 100085 – S2	or 1 Ebix Way
Duluth, GA 30096	John's Creek, GA 30097
Telephone number: 951-766-2280	
Fax number: 770-325-0409	
Email address: ctsantaclara@ebix.com	

H. QUALIFYING INSURERS

All of the insurance companies providing insurance for Contractor shall have, and provide written proof of, an A. M. Best rating of at least A minus 6 (A- VI) or shall be an insurance company of equal financial

stability that is approved by the City or its insurance compliance representatives.

DEPOT SERVICES, FIELD SUPPORT, AND PART(S) SUPPLY MASTER AGREEMENT
between the
CITY OF SANTA CLARA, CALIFORNIA AND TRANSCANADA TURBINES, INC. (TCT)
EXHIBIT D
LABOR COMPLIANCE ADDENDUM

This Agreement is subject to the requirements of California Labor Code section 1720 et seq. requiring the payment of prevailing wages, the training of apprentices, and compliance with other applicable requirements.

A. Prevailing Wage Requirements

1. TCT shall be obligated to pay not less than the General Prevailing Wage Rate, which can be found at www.dir.ca.gov, which shall be available to any interested party upon request. TCT is also required to have a copy of the applicable wage determination posted and/or available at each job site.
2. Specifically, contractors are reminded of the need for compliance with Labor Code Section 1774-1775 (the payment of prevailing wages and documentation of such), Section 1776 (the keeping and submission of accurate certified payrolls) and 1777.5 in the employment of apprentices on public works projects. Further, overtime must be paid for work in excess of 8 hours per day or 40 hours per week pursuant to Labor Code Section 1811-1813.
3. Special prevailing wage rates generally apply to work performed on weekends, holidays and for certain shift work. Depending on the location of the project and the amount of travel incurred by workers on the project, certain travel and subsistence payments may also be required. Contractors and subcontractors are on notice that information about such special rates, holidays, premium pay, shift work and travel and subsistence requirements can be found at www.dir.ca.gov.
4. Only bona fide apprentices actively enrolled in a California Division of Apprenticeship Standards approved program may be employed on the project as an apprentice and receive the applicable apprenticeship prevailing wage rates. Apprentices who are not properly supervised and employed in the appropriate ratio shall be paid the full journeyman wages for the classification of work performed.
5. As a condition to receiving progress payments, final payment and payment of retention on any and all projects on which the payment of prevailing wages is required, TCT agrees to present to City, along with its request for payment, all applicable and necessary certified payrolls (for itself and all applicable subcontractors) for the time period covering such payment request. The term "certified payroll" shall include all required documentation to comply with the mandates set forth in Labor Code Section 1720 et seq, as well as any additional documentation requested by the City or its designee including, but not limited to: certified payroll, fringe benefit statements and backup documentation such as monthly benefit statements, employee timecards, copies of wage statements and cancelled checks, proof of training contributions (CAC2 if applicable), and apprenticeship forms such as DAS-140 and DAS-142.
6. In addition to submitting the certified payrolls and related documentation to City, TCT and all subcontractors shall be required to submit certified payroll records and related documents electronically to the California Department of Industrial Relations. Failure to submit payrolls to the DIR when mandated by the project parameters shall also result in the withholding of progress,

retention and/or final payment.

7. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
8. No contractor or subcontractor may be awarded a contract for public work on a public works project, unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. Contractors MUST be a registered "public works contractor" with the DIR AT THE TIME OF BID. Where the prime contract is less than \$15,000 for maintenance work or less than \$25,000 for construction alternation, demolition or repair work, registration is not required.
9. All contractors/subcontractors and related construction services subject to prevailing wage, including but not limited to: trucking, surveying and inspection work must be registered with the Department of Industrial Relations as a "public works contractor". Those who fail to register and maintain their status as a public works contractor shall not be permitted to perform work on the project.
10. Should any contractor or subcontractors not be a registered public works contractor and perform work on the project, TCT agrees to fully indemnify the City for any fines assessed by the California Department of Industrial Relations against the City for such violation, including all staff costs and attorney's fee relating to such fine.
11. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

B. Audit Rights

All records or documents required to be kept pursuant to this Agreement to verify compliance with this Addendum shall be made available for audit at no cost to City, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such records or documents shall be provided to City for audit at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records or documents shall be made available at TCT's address indicated for receipt of notices in this Agreement.

C. Enforcement

1. City shall withhold any portion of a payment; including the entire payment amount, until certified payroll forms and related documentation are properly submitted, reviewed and found to be in full compliance. In the event that certified payroll forms do not comply with the requirements of Labor Code Section 1720 et seq., City may continue to hold sufficient funds to cover estimated wages and penalties under the Agreement.
2. Based on State funding sources, this project may be subject to special labor compliance requirements of Proposition 84.
3. The City is not obligated to make any payment due to TCT until TCT has performed all of its obligations under these provisions. This provision means that City can withhold all or part of a

payment to TCT until all required documentation is submitted. Any payment by the City despite TCT's failure to fully perform its obligations under these provisions shall not be deemed to be a waiver of any other term or condition contained in this Agreement or a waiver of the right to withhold payment for any subsequent breach of this Addendum.

4. City or the California Department of Industrial Relations may impose penalties upon contractors and subcontractors for failure to comply with prevailing wage requirements. These penalties are up to \$200 per day per worker for each wage violation identified; \$100 per day per worker for failure to provide the required paperwork and documentation requested within a 10-day window; and \$25 per day per worker for any overtime violation.

DEPOT SERVICES, FIELD SUPPORT, AND PART(S) SUPPLY MASTER AGREEMENT
between the
CITY OF SANTA CLARA, CALIFORNIA AND TRANSCANADA TURBINES, INC. (TCT)
EXHIBIT E – WORK AUTHORIZATION FORM

This Work Authorization Form is issued by the City of Santa Clara acting by and through its **Electric Utility, Silicon Valley Power** to the TCT. This Work Authorization Form shall constitute a binding legal contract between the Customer and TCT pursuant to the terms of the Agreement referenced in this Authorization. All services shall be provided using the terms and rates included in the Agreement. In the event of any inconsistency between this Work Authorization Form and the Terms and Conditions of the Agreement, the Terms and Conditions of the Agreement shall govern and control.

PART A: GENERAL INFORMATION

Work Authorization No.:	☐ Original ☐ First Revised ☐ Second Revised ☐ Other _____	
Contract No.		
Contractor Name/Address:		
Agreement Name:		
Expiration Date of Agreement:		
Contractor's Project Manager:	Name:	Email:
City's Project Manager	Name:	Email:
Period of Performance for this Work Order:	Start Date:	Expected Completion Date:
Total Funds Available for Field and Depot Services and Parts		
Previously Authorized Funds		
Available Funds		
Maximum Compensation for this Work Authorization:		
Sufficient funds are available in Account #:		
Contractor Name [Print]:		
Contractor Signature		Date
City Project Manager (Print):		
City Project Manager Signature		Date
Authorized City Representative Name [Print]*:		
Authorized City Representative Signature *		Date
<i>* Authorized City Representatives include Electric Utility Assistant Director, Chief Electric Utility Operating Officer, Chief Electric Utility Officer</i>		

PART B: SERVICES TO BE PERFORMED

1. REVISED WORK ORDER

☐ No

☐ If yes, provide a brief description of the change(s).

2. SCOPE OF WORK TO BE PERFORMED

The Contractor shall perform the service(s) described below in accordance with all of the Terms and Conditions of the Agreement. (Insert a detailed scope of work below or attach as a separate file.)

3. COMPENSATION

a. **Basis of Compensation:** ☐ Time & Materials ☐ Fixed Fee

b. **Reimbursable Expenses:**

☐ No expenses are reimbursable

☐ Expenses are reimbursable in the maximum amount of: _____

c. ☐ **Payment Schedule:**

☐ Monthly ☐ Completion of Deliverable/Milestone ☐ Completion of Work

*Payment for on-site labor may not be paid in advance. On-site labor shall not be invoiced until completed and Customer will not make payment until certified payroll is approved.

d. **Payment Terms.** Provide payment terms below or attach as a separate file.

4. LIQUIDATED DAMAGES

☐ Liquidated Damages do not apply.

☐ Liquidated Damages apply as follows:

It is mutually agreed by Contractor and City that, in event completion of the Services to be provided by the Contractor under this Agreement is delayed beyond _____, 20____, City will suffer damages and will incur other costs and expenses of a nature and amount which is difficult or impractical to determine. The Parties agree that by way of ascertaining and fixing the amount of damages, costs and expenses, and not by way of penalty, Contractor shall pay to City the sum of _____ dollars (\$_____) per day in liquidated damages to a cap of _____. Contractor agrees that City may deduct the amount of said unpaid damages from any money due or that may become due to Contractor under this Agreement.

Notwithstanding the foregoing both Parties understand and agree that no liquidated damages shall accrue for delivery delays due to any modification of the work scope, for delays caused by or attributable to the City, for delays caused by or attributable to third parties not under the direct control of TCT or any force majeure event during the period of service of this Work Authorization.

Such liquidated damages shall be the City's sole and exclusive remedy for TCT's failure to meet the agreed delivery schedule.

5. ACCEPTANCE CERTIFICATE

☐ Acceptance Certificate not required.

☐ Acceptance Certificate required:

DEPOT SERVICES, FIELD SUPPORT, AND PART(S) SUPPLY MASTER AGREEMENT
between the
CITY OF SANTA CLARA, CALIFORNIA AND TRANSCANADA TURBINES, INC. (TCT)
EXHIBIT E-1 – FINAL SYSTEM ACCEPTANCE CERTIFICATE

After the City is satisfied with all test results and resolutions, as specified herein, the City will initiate execution of the Final System Acceptance Certificate.

Customer Name: **City of Santa Clara ("City")**

Project Name: _____

This Final System Acceptance Certificate memorializes the occurrence of Acceptance of Scope of Work Performed under Work Order _____ between City and TCT.

Contractor and the City acknowledge that:

1. Contractor has completed all Deliverables promised under this Work Authorization.
2. The Project is accepted, and all punch list items generated during testing have been completed.
3. By acknowledging the Final Acceptance of the Project, the City agrees to pay any remaining and approved outstanding invoices to Contractor, including previously withheld retainage subject to acceptance of submitted Certified Payroll.

City of Santa Clara*
("Customer")

TransCanada Turbines, Inc.
("TCT")

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

** Authorized City Representatives include Electric Utility Assistant Director, Chief Electric Utility Operating Officer, Chief Electric Utility Officer*

DEPOT SERVICES, FIELD SUPPORT, AND PART(S) SUPPLY MASTER AGREEMENT
between the
CITY OF SANTA CLARA, CALIFORNIA AND TRANSCANADA TURBINES, INC. (TCT)
EXHIBIT F
NOTICE OF EXERCISE OF OPTION TO EXTEND AGREEMENT

AGREEMENT TITLE:	
CONTRACTOR:	
DATE:	

(Date the notice is sent must be consistent with the time for exercise set forth in Agreement)

Pursuant to Section ___ of the Agreement referenced above, the City of Santa Clara hereby exercises its option to extend the term under the following provisions:

OPTION NO.	# of #
-------------------	---------------

NEW OPTION TERM

Begin date:	
End date:	

☐ **CHANGES IN RATE OF COMPENSATION**

Percentage change in CPI upon which adjustment is based:	
--	--

Pursuant to Section ___ of the Agreement the rates of compensation are hereby adjusted as follows:
(use attachment if necessary)

MAXIMUM COMPENSATION for New Option Term:	
--	--

For the option term exercised by this Notice, City shall pay Contractor an amount not to exceed the amount set forth above for Contractor's services and reimbursable expenses, if any. The undersigned signing on behalf of the City of Santa Clara hereby certifies that an unexpended appropriation is available for the term exercised by this Notice, and that funds are available as of the date of this signature.

Dated:

Approved as to Form:

BRIAN DOYLE
City Attorney

DEANNA J. SANTANA
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

DEPOT SERVICES, FIELD SUPPORT, AND PART(S) SUPPLY MASTER AGREEMENT
between the
CITY OF SANTA CLARA, CALIFORNIA AND TRANSCANADA TURBINES, INC. (TCT)

EXHIBIT G
ETHICAL STANDARDS

Termination of Agreement for Certain Acts.

A. The City may, at its sole discretion, terminate this Agreement in the event any one or more of the following occurs:

1. If a Contractor¹ does any of the following:
 - a. Is convicted² of operating a business in violation of any Federal, State or local law or regulation;
 - b. Is convicted of a crime punishable as a felony involving dishonesty.³
 - c. Is convicted of an offense involving dishonesty or is convicted of fraud or a criminal offense in connection with: (1) obtaining; (2) attempting to obtain; or (3) performing a public contract or subcontract;
 - d. Is convicted of any offense which indicates a lack of business integrity or business honesty which seriously and directly affects the present responsibility of a City Contractor or subcontractor; and/or,
 - e. Made (or makes) any false statement(s) or representation(s) with respect to this Agreement.
2. If fraudulent, criminal, or other seriously improper conduct of any officer, director, shareholder, partner, employee, or other individual associated with the Contractor can be

¹ For purposes of this Agreement, the word "Contractor" (whether a person or a legal entity) means any of the following: an owner or co-owner of a sole proprietorship; a person who controls or who has the power to control a business entity; a general partner of a partnership; a principal in a joint venture; or a primary corporate stockholder [i.e., a person who owns more than ten percent (10%) of the outstanding stock of a corporation] and who is active in the day to day operations of that corporation.

² For purposes of this Agreement, the words "convicted" or "conviction" mean a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere within the past five (5) years.

³ As used herein, "dishonesty" includes, but is not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, failure to pay tax obligations, receiving stolen property, collusion or conspiracy.

imputed to the Contractor when the conduct occurred in connection with the individual's performance of duties for or on behalf of the Contractor, with the Contractor's knowledge, approval or acquiescence, the Contractor's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

B. The City may also terminate this Agreement in the event any one or more of the following occurs:

1. If the City determines that Contractor no longer has the financial capability⁴ or business experience⁵ to perform the terms of, or operate under, this Agreement; or
2. If the City determines that the Contractor fails to submit information, or submits false information, which is required to perform or be awarded a contract with City, including, but not limited to, Contractor's failure to maintain a required state issued license, failure to obtain a City business license (if applicable), or failure to purchase and maintain bonds and/or insurance policies required under this Agreement.

C. In the event a prospective Contractor (or bidder) is ruled ineligible (debarred) to participate in a contract award process, or a contract is terminated pursuant to these provisions, Contractor may appeal the City action to the City Council by filing a written request with the City Clerk to have the matter heard within ten (10) days of the notice given by the City. The matter will be heard within thirty (30) days of the filing of the appeal request with the City Clerk. The Contractor will have the burden of proof on the appeal. The Contractor shall have the opportunity to present evidence, both oral and documentary, and argument.

⁴ Contractor becomes insolvent, transfers assets in fraud of creditors, makes an assignment for the benefit of creditors, files a petition under any section or chapter of the federal Bankruptcy Code [11 U.S.C.], as amended, or under any similar law or statute of the United States or any state thereof, is adjudged bankrupt or insolvent in proceedings under such laws, or a receiver or trustee is appointed for all or substantially all of the assets of Contractor.

⁵ Loss of personnel deemed essential by the City for the successful performance of the obligations of the Contractor to the City.

DEPOT SERVICES, FIELD SUPPORT, AND PART(S) SUPPLY MASTER AGREEMENT
between the
CITY OF SANTA CLARA, CALIFORNIA AND TRANSCANADA TURBINES, INC. (TCT)

EXHIBIT H
AFFIDAVIT OF COMPLIANCE WITH ETHICAL STANDARDS

I, Sharmilla Tymchen, being first duly sworn, depose and state I am the Assistant Secretary of TransCanada Turbines, Inc. and I hereby state that I have read and understand the language, entitled "Ethical Standards" set forth in Exhibit G. I have the authority to make these representations on my own behalf or on behalf of the legal entity identified herein. I have examined appropriate business records, and I have made appropriate inquiry of those individuals potentially included within the definition of "Contractor" contained in Ethical Standards at footnote 1.

Based on my review of the appropriate documents and my good-faith review of the necessary inquiry responses, I hereby state that neither the business entity nor any individual(s) belonging to said "Contractor" category [i.e., owner or co-owner of a sole proprietorship, general partner, person who controls or has power to control a business entity, etc.] has been convicted of any one or more of the crimes identified in the Ethical Standards within the past five (5) years.

The above assertions are true and correct and are made under penalty of perjury under the laws of the State of California.

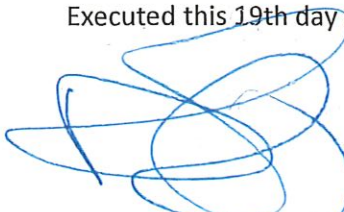
TransCanada Turbines Inc. (TCT)
A Nevada corporation



Sharmilla Tymchen

BEFORE ME, the undersigned authority, personally appeared Sharmilla Tymchen, known to me to be the Assistant Secretary for TransCanada Turbines Inc., a corporation duly organized and existing under the laws of the State of Nevada and before me she executed the foregoing document in her capacity as Assistant Secretary for TransCanada Turbines Inc.

Executed this 19th day of May 2021.


Notary Public in and for the Province of Alberta
Daniel J.B. Simonelli
Barrister and Solicitor

My Commission Expires at the Pleasure of
HER MAJESTY THE QUEEN

City of Santa Clara, dba Silicon Valley Power
Agreement for Services/TransCanada Turbines (TCT)