

# CenterPoint Energy Terms and Conditions

**1.0 Equal Employment Opportunity.** Vendor represents that it is in compliance with applicable laws, regulations and orders with respect to equal employment opportunity and either has heretofore provided or will provide Company the certification and representation regarding equal employment opportunity that Company may require under such laws, regulations and orders.

**2.0 No Waiver.** No certificate given or payment made shall be construed as acceptance of defective goods or services or as relieving the Vendor from its full responsibility under this Contract.

**3.0 Compliance with Laws.** Vendor shall comply with all applicable federal, state and local laws, ordinances, rules and regulations.

**4.0 Infringement Indemnity.** THE VENDOR SHALL, AT ITS OWN EXPENSE, DEFEND ANY SUIT OR PROCEEDING BROUGHT AGAINST COMPANY SO FAR AS SAID SUIT OR PROCEEDING IS BASED ON A CLAIM THAT ANY OF THE GOODS OR SERVICES OR ANY PART THEREOF OR ANY USE THEREOF CONSTITUTES AN INFRINGEMENT OF ANY PATENT OR OF ANY TRADE SECRET OR OTHER PROPRIETARY RIGHT, IF NOTIFIED AND GIVEN AUTHORITY, INFORMATION AND ASSISTANCE (AT THE VENDORS EXPENSE) FOR THE DEFENSE OF SAME, AND THE VENDOR SHALL PAY ALL DAMAGES AND COSTS INCURRED BY OR AWARDED AGAINST COMPANY. IF THE GOODS OR SERVICES, OR ANY PART THEREOF IS HELD TO CONSTITUTE INFRINGEMENT, OR THEIR USE ENJOINED, VENDOR SHALL, PROMPTLY AND AT ITS OWN EXPENSE, (A) PROCURE FOR COMPANY THE RIGHTS TO CONTINUE USING THE GOODS OR SERVICES, (B) REPLACE SAME WITH NONINFRINGEMENT GOODS OR SERVICES SATISFACTORY TO COMPANY OR (C) MODIFY THE GOODS OR SERVICES IN A WAY SATISFACTORY TO COMPANY SO THEY BECOME NONINFRINGEMENT.

**5.0 Warranty of Title.** Vendor warrants that it shall have title to all of the goods furnished hereunder and the right to sell such goods.

**6.0 Independent Contractor.** Vendor shall furnish the goods or services and shall perform this contract as an independent contractor and not as a subcontractor, joint employer, agent or employee of the Company. Vendor affirms that Vendor Personnel assigned to perform the Work are classified as its W-2 employees, not contractors. Company shall not be required to make employee contributions provided for in Social Security or other Law on behalf of Vendor, Vendor Personnel, or their respective employees, agents, or consultants. Company shall not be responsible for withholding federal, state, or local income, Social Security, or other taxes from the amounts paid to Vendor.

**7.0 Warranty.** Vendor represents and warrants that the goods and/or services covered by this Contract shall be suitable for the purpose intended and for any purposes for which their suitability is represented in writing by the Vendor; be free from defects in design, workmanship and materials; conform to the specification supplied to Vendor, if any; and if installed by Vendor, to be properly installed and activated. Vendor shall be required to correct any defects in the goods and/or services, and all repairs, replacements, modification or adjustments required under this warranty shall be at Vendors expense, including, without limitation, transportation, shipping and incidental expenses.

**8.0 Indemnity.** VENDOR AGREES TO PROTECT, DEFEND, INDEMNIFY AND HOLD COMPANY, ITS

CORPORATE AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FREE AND HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, SUITS OR OTHER LITIGATION (INCLUDING ALL COSTS THEREOF AND ATTORNEYS FEES) OF EVERY KIND AND CHARACTER ARISING IN FAVOR OF VENDOR OR ANY THIRD PARTY (INCLUDING, BUT NOT LIMITED TO, PERSONNEL FURNISHED BY VENDOR OR ITS SUPPLIERS OR SUBCONTRACTORS OF ANY TIER) ON ACCOUNT OF BODILY INJURY, DEATH OR DAMAGE TO OR LOSS OF PROPERTY IN ANY WAY OCCURRING, INCIDENT TO, ARISING OUT OF OR IN CONNECTION WITH THE GOODS FURNISHED OR SERVICES PERFORMED BY VENDOR HEREUNDER OR THE PRESENCE OF VENDOR, ITS PERSONNEL, AGENTS, SUPPLIERS OR SUBCONTRACTORS ON COMPANY'S PREMISES, IN EACH CASE TO THE EXTENT SUCH BODILY INJURY, DEATH OR DAMAGE IS CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE (WHETHER SOLE, JOINT, CONCURRENT, CONTRIBUTING, OR COMPARATIVE), STRICT LIABILITY, OR OTHER LEGAL FAULT OF VENDOR, ITS CORPORATE AFFILIATES OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS.

**9.0 Insurance.** Vendor agrees to procure and maintain in force (i) insurance in compliance with the Texas Workers' Compensation Act, (ii) general and auto liability insurance with limits of at least \$1 million per claim, occurrence or accident, and (iii) umbrella liability insurance with a limit of at least \$1 million. Certificates of such insurance shall be provided to Company when specifically requested by Company.

**10.0 Termination.** In addition to Company's right to terminate the contract for cause, Company shall also have the right to terminate the contract at any time, in whole or in part, for any reason by giving the Vendor written notice. Upon any such termination, Company's sole obligation shall be to pay Vendor all amounts due and not previously paid to Vendor for goods furnished or services rendered in accordance with the contract. In no event shall Company be liable to Vendor for any consequential damages or anticipated profits.

**11.0 Governing Law.** The definition of terms used, interpretation or construction of this contract and the rights of all parties hereunder shall be interpreted, construed and governed by the laws of the State of Texas, and venue is hereby stipulated in Houston, Harris County, Texas.

**12.0 Changes.** The Company shall have the right, at any time to make any changes in the goods or services. Should any change increase or decrease or otherwise affect the amount of character or material required by this contract or time for performance hereunder, the price and/or schedule shall be adjusted by mutual agreement. Any such revisions shall be made only by a written supplement to the contract. In the absence of such a supplement, the Vendor shall have no claim for additional compensation. In case any such change shall result in decrease of work, no allowance shall be made to the Vendor for loss of anticipated profits.

**13.0 Records and Audits.** Company, or an independent certified public accountant designated by Company, shall have the right to audit, during Vendor's normal working hours, Vendor's compliance with the terms of the contract, as well as Vendor's accounts and records relating to costs incurred and records to costs incurred as a result of revisions under Article 12.0, termination under Article 10.0, or any costs when such costs are the basis of a claim for reimbursement to the Vendor hereunder. The expense of such audit shall be borne by Company.

**14.0 Safety Data Sheets.** Vendor warrants that each and every chemical substance constituting or contained in the product sold or otherwise transferred to the Company under this contract is in compliance with the Toxic Substances Control Act and other applicable federal, state and local laws and regulations. Vendor shall furnish Safety Data Sheets as required and shall promptly furnish revisions or supplements as they become available.

**15.0 Assignment.** This contract shall not be assigned or subcontracted by the Vendor without the prior written consent of Company.

**16.0 Publicity.** Vendor shall make no public or trade announcement or release of information concerning this contract unless such release has been submitted to and approved in writing by Company.

**17.0 Invoicing and Payment.** Terms of payment are net forty-five (45) days following receipt of Vendor's invoice. Company shall determine the taxability of the goods and/or services furnished hereunder. In the event this contract is for tangible personal property or services to be used or consumed within the state for which a direct Pay Permit may be issued, Company shall issue its Direct Pay Permit, and Company shall self-accrete and remit any sales and use taxes due to the proper taxing authority as required by applicable state laws, rules, or regulations, except for sales and use taxes imposed directly against Vendor. If Company does not have a valid Direct Pay Permit, Vendor shall charge Company sales and use taxes and separately state such amounts on applicable invoices submitted to Company. Vendor shall account for and remit such sales and use taxes to the proper taxing authority, provided such Vendor has sufficient nexus with the state and is registered to collect and remit such sales and use taxes.

**18.0 Acceptance.** The furnishing of the goods and/or services covered hereby, acceptance of payment, or any other definite and reasonable expression of acceptance shall operate as an acceptance of this contract, and the effect of acceptance shall be to make a contract on terms limited to the terms of this offer. Vendor's terms, if any, shall not become a part of the contract unless agreed to in writing by Company.

**19.0 Entire Agreement.** This contract is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement.