

SUNFLOWER ELECTRIC POWER CORPORATION

MASTER SERVICES AGREEMENT FOR

NO. «AGREEMENT_NO»

**«COMPANY_NAME»
«ADDR_1»
«ADDR_2»
«CITY», «STATE» «ZIP»**

**MASTER SERVICE AGREEMENT
BETWEEN
SUNFLOWER ELECTRIC POWER CORPORATION
AND
«COMPANY_NAME»**

THIS MASTER SERVICE AGREEMENT No. «AGREEMENT_NO» is effective as of «Effective_Date», and is between Sunflower Electric Power Corporation ("Sunflower"), and «Company_Name» ("Supplier"). The parties agree as follows:

1. Scope. This Agreement is for the provision of furnishing qualified labor, experienced supervision, specialized tools, equipment, and material as may be necessary to perform «service» services ("Services") to Sunflower by Supplier from time to time as outlined in separate Authorizations during the term of this Agreement. This Agreement does not commit Sunflower to order any Services; however, all Services provided by Supplier to Sunflower or Sunflower Affiliates during the term of this Agreement, whether or not the subject of an Authorization, unless specifically covered by another written agreement between the parties, will be covered by this Agreement.

2. Authorizations. The Services should be described specifically in one or more Authorizations substantially in the form a purchase order referencing this Agreement. An executed Authorization will represent the parties' commitment to provide and pay for Services.

3. Specifications for Services. Services will be performed in accordance with the specifications, schedule, and pricing and other terms agreed to by the parties or described in the applicable Authorization.

4. Affiliate Transactions. Sunflower enters into this Agreement on its own behalf and for the benefit of all Sunflower Affiliates. The term "Sunflower Affiliate" means any entity controlling, controlled by or under common control with Sunflower. All references in this Agreement to Sunflower refer equally to Sunflower Affiliates for whom Supplier performs Services during the term of this Agreement, unless the context requires otherwise. Any Services performed at the request of a Sunflower Affiliate shall be the sole and direct obligation of the Sunflower Affiliate authorizing the Work and only the Sunflower Affiliate for whom Supplier performs Services will have any obligation to Supplier for such Services. Sunflower Affiliates include:

Mid-Kansas Electric Company, LLC

5. Rates. The rates for Services will be provided at the hourly rates or fixed charges set forth in Exhibit A or as otherwise provided in the Authorization for such Services. If appropriate for the Services provided, Sunflower will reimburse Supplier in accordance with Sunflower's policies for all actual travel, lodging, meal, and other expenses that are authorized by an Authorization and reasonably incurred and documented by Supplier in connection with performing the Services. Rates outlined in the Appendices

shall be firm for one (1) year. Rates may be adjusted thereafter annually. In the event the parties are unable to agree on the adjusted rates, the Agreement will terminate.

6. Invoicing. Supplier will invoice Sunflower for Services on a monthly basis or in the manner provided in the Authorization. Supplier's invoices will be accompanied by all documentation supporting its fees, including without limitation itemized time records if Sunflower requests. Sunflower will pay invoices within 30 days after receipt, provided Sunflower has accepted the Services. All invoices must reference this Agreement number and the relevant Authorization (purchase order) number and be sent to the "Pay To" address indicated on the Authorization.

7. Taxes. All sales and use taxes lawfully assessed under the laws and regulations of the State of Kansas or other appropriate taxing authorities applicable to the Services shall be paid by Sunflower.

8. Term and Termination. The term of this Agreement is «no_of_years» year(s). The terms of this Agreement continue in effect for any Authorization that is outstanding at the time this Agreement terminates or expires.

9. Cancellation of Services. Sunflower may cancel any commitment to purchase Services or any Authorization upon notice to Supplier. Upon receipt of notice of cancellation of an Authorization, Supplier must discontinue its performance of such cancelled Services, preserve and protect materials, work in progress and completed work and, if requested by Sunflower, transition the performance of such Services to Sunflower or a third party in accordance with Sunflower's instructions. Sunflower may designate a transition period of up to three months.

10. Confidential Information. Each party may have access to confidential or proprietary information of the other during the term of this Agreement and accordingly agree to disclose such information only to its personnel who have a need to know such information in connection with the performance of Services. Each party will use confidential information of the other only in connection with the performance of Services. Supplier represents that it has agreements in place with its personnel sufficient to protect Sunflower's rights under this paragraph. The terms and existence of this Agreement and any Authorization are each party's confidential information.

11. Sunflower Property. All information, equipment, materials, and data of every kind and description that Supplier receives, directly or indirectly, from Sunflower or from a third party on behalf of Sunflower is the property of Sunflower.

12. Assignment of Intellectual Property. Supplier assigns to Sunflower all materials, research, plans, specifications, works of authorship and other data and intellectual property generated, conceived or developed in connection with this Agreement (the "Developed Material") and any resulting patents, copyrights and other intellectual property rights. Works of authorship in any form of expression, including, manuals, plans, specifications, and software developed in connection with this Agreement, are "works for hire" and belong exclusively to Sunflower. Supplier will take all reasonable actions, at its expense, necessary to transfer to Sunflower all of

Supplier's rights in and to the Developed Material. Supplier represents that it has agreements in place with its personnel sufficient to protect Sunflower's rights under this paragraph.

13. Inspection. Sunflower may inspect Supplier's performance under this Agreement from time to time. Sunflower's inspection (or lack of inspection) will not constitute an acceptance of any Services or a waiver of any right or warranty or preclude Sunflower from rejecting any defective Services.

14. Warranties of Performance. Supplier warrants that it will perform Services using commercially reasonable efforts and in accordance with good industry practices, Services will be free from defects in materials and workmanship and conform to the established specifications and Supplier's personnel performing Services will be skilled and have adequate education and training to perform Services. Supplier will promptly correct defects in the Services after Sunflower's notice to Supplier of a defect. If Supplier fails to promptly correct the defect, Sunflower may cause the defect to be corrected at the expense of Supplier. Supplier's warranties will continue for a minimum of one year after Sunflower's acceptance of the Services.

15. Financial Ability, Proceedings and Obligations. Supplier represents and warrants that it is financially capable of fulfilling all of its obligations under this Agreement, that there are no legal or administrative proceedings pending or threatened against it that could adversely affect Supplier's performance and that the Supplier is not prohibited by any arrangements or any document or obligation from entering into or performing this Agreement.

16. No Infringement; No Conflict. Supplier warrants that the Services will not infringe upon the rights of any third party and will not conflict with its existing obligations under other contracts.

17. Change Orders. Sunflower may, upon written notice to Supplier, request changes in the scope, specifications, schedules, testing or any other terms contained in an Authorization or that have otherwise been agreed. If such a change will increase or decrease the cost of or the time required for performance of the Services, the parties will promptly negotiate a mutually acceptable solution, which will be reflected in a signed revision to the Authorization. Supplier will not unreasonably withhold or delay its consent to any change.

18. Indemnification.

- (a) Each party (the "Indemnifying Party") will indemnify, hold harmless, and defend the other party and its officers, directors, agents, employees, assigns, representatives, and successors in interest (collectively, the "Indemnified Party") from all claims, liabilities, fines, interest, costs, expenses, and damages (including reasonable attorneys' fees) incurred by the Indemnified Party (collectively, the "Indemnified Losses"), for any damage, injury, death, loss or destruction of any kind to persons or property, to the extent the damage, injury, death, loss or destruction

arises out of or is related to the conduct, negligence, error, omission, willful misconduct, misrepresentation, breach of warranty or other breach of this Agreement on the part of the Indemnifying Party or any of its servants, representatives, agents, employees or contractors.

- (b) If any of the Developed Materials infringes upon any patent, copyright or other right of a third party and Sunflower is prohibited from using such Developed Materials for their intended purpose, Supplier must, at its expense: (i) procure on behalf of Sunflower the right to use such Developed Materials; (ii) replace such Developed Materials with equivalent, non-infringing materials; (iii) modify such Developed Materials so they become non-infringing but retain their functionality; or (iv) if (i), (ii) and (iii) are not commercially reasonable, refund all compensation paid by Sunflower to Supplier for such Developed Materials. The foregoing obligations are in addition to the indemnification obligations of Supplier set forth in Section 18(a) above.
- (c) Supplier will indemnify and defend Sunflower against Indemnified Losses arising out of claims by Supplier personnel or any government agency related to the payment of employment taxes, benefits, and workers' compensation in connection with the performance of Services by such Supplier personnel.

19. Insurance Coverages. Supplier will obtain and maintain at its sole cost and expense during the term of this Agreement or, if later, the termination of all outstanding Authorizations, and ensure that its contractors obtain and maintain at their sole cost and expense, with insurers licensed to do business in all jurisdictions where Services are performed and that have a Best's rating and policy holder surplus of B+ or better, the following minimum insurance coverages:

- (a) workers compensation as required under any workers compensation or similar law in the jurisdiction where the Services are performed, and employers liability insurance. Employers liability limits may not be less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.
- (b) commercial general liability with a limit of not less than \$1,000,000 each occurrence and annual aggregate, exclusive of defense costs. The aggregate limit, must apply separately to this project/location. The policy must cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). Completed Operations coverage is to extend for two years following the last to occur of the following events: (i) the termination of this Agreement; or (ii) the termination of all outstanding Authorizations.
- (c) automobile liability with a limit of not less than \$1,000,000 each accident. Such insurance must cover liability arising out of any automobile

(including owned, hired, and non-owned autos).

- (d) if the Services are professional services, errors and omissions liability coverage appropriate to the service being provided. Coverage must apply to economic damages resulting from a professional error, act, or omission arising out of the scope of services defined in this contract. Coverage must be maintained in an amount of at least \$1,000,000 per occurrence and aggregate.

As evidence that policies do in fact provide the required coverages and limits of insurance and that they are in full force and affect, Supplier will furnish to Sunflower certificates of insurance on forms acceptable to Sunflower.

Sunflower assumes no responsibility for loss or damage to Supplier's and/or subcontractor's personal property while on Sunflower's premises.

Sunflower must be included as an additional insured under the policies described in paragraphs 19(b) and (c). Insurance will apply on a primary and non-contributory basis, with respect to any other insurance or self-insurance programs afforded to Sunflower. The policy will be so endorsed if necessary. Policies must contain a severability of interest clause. Any deductibles or self-insured retentions carried by Supplier are the sole responsibility of Supplier and must be declared on certificates of insurance.

20. Waiver of Subrogation. Supplier waives all rights against Sunflower and its agents, officers, directors, and employees for recovery of damages.

21. Right to Audit. Supplier will maintain all records pertaining to the Services for at least five years after the completion of such Services or final payment of all invoices issued pursuant to this Agreement, whichever occurs later. Sunflower may audit, copy and inspect the records at reasonable times during the term of this Agreement and for the five-year period stated above. Sunflower or its authorized representatives will have the right to audit Supplier's performance.

22. Removal of Personnel. Sunflower may require Supplier to remove any Supplier personnel from providing Services to Sunflower for any lawful reason. If Sunflower issues a notice of removal within 5 days of the date the Supplier personnel to be removed began providing Services to Sunflower, Sunflower is not obligated to pay for Services provided by the removed Supplier personnel. Sunflower is not obligated to pay for Services provided by the removed Supplier personnel following Sunflower's notice of removal to Supplier.

23. Debarment Certification. Supplier certifies that neither it or its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or

voluntarily excluded from participation in this transaction by any Federal department or agency as outlined in 7 CFR Part 3017, Section 3017.510, Participants' responsibilities. The regulations were published as Part IV of the January 30, 1989, *Federal Register* (pages 4722-4733).

24. Gratuities. Sunflower may, by written notice to Seller, terminate this Agreement without liability to Supplier if it is determined by Sunflower that gratuities in the form of entertainment, gifts, or otherwise, were offered or given by Supplier, or any agent or representative of the Supplier, to any officer or employee of Sunflower with a view toward securing an agreement, securing favorable treatment with respect to the awarding or amending of any agreement, or the making of any determinations with respect to the performance of any such agreement. In the event this Agreement is cancelled by Sunflower pursuant to this provision, Sunflower shall be entitled to recover or withhold the amount of any cost incurred by Seller in providing such gratuities in addition to any other rights and remedies provided in law or equity. Supplier represents and warrants that it has and will comply with the provisions of the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3).

25. EEOC Certification. The Supplier represents that if it has 100 or more employees it has furnished the Equal Employment Opportunity-Employers Information Report EEO-1, Standard Form 100, required of employers with 100 or more employees pursuant to Executive Order 11246 and Title VII of the Civil Rights Act of 1964.

26. Environmental and Energy Policy Compliance. Supplier warrants and represents compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368). Executive Order 11738, Environmental Protection Agency regulations (40 CFR part 15), and the Energy Policy and Conservation Act as applicable for contracts in excess of \$100,000.

27. Safety and Hazardous Materials. Supplier will implement and maintain a Safety, Health, Accident Prevention, and Hazardous Materials Program, specifically applicable to the Services to be provided on Sunflower property. Such program, at a minimum, will comply with Sunflower's "CONTRACTOR'S SAFETY RULES." A copy of Sunflower's "CONTRACTOR'S SAFETY RULES" can be obtained on Sunflower's website (www.sunflower.net) under the "CONTACT US" tab, "CONTACT SUPPLY CHAIN" link. The rules will be reviewed with the Supplier prior to commencement of the project. Supplier is required to comply with all postings and notices located on Sunflower's premises and with all policies, rules, and regulations of Sunflower.

28. Substance Abuse Policy. Sunflower has developed and implemented a comprehensive Substance Abuse Policy ("Sunflower Plan") for all of its officers and employees. A copy of the Sunflower Plan can be obtained on Sunflower's website

(www.sunflower.net) within the “CONTACT US” tab, “CONTACT SUPPLY CHAIN” link. The Supplier may be required to either:

- (a) Conform to the principles of the Sunflower Plan by the enforcement of a plan of its own that has received the prior written approval of Sunflower based on its conformance with the principle features of the Sunflower Plan; or
- (b) Subject all of its personnel that will be involved with Sunflower personnel, property or equipment to all the testing requirements of the Sunflower Plan at Supplier’s expense. If Supplier’s employee tests positive for drugs or alcohol, that employee will be permanently removed from Sunflower work. No counseling or other employee benefit available to Sunflower employees under the Sunflower Plan will be available to employees of the Supplier.

29. Foreign Material Exclusion Policy. Sunflower has developed and implemented a comprehensive Foreign Material Exclusion Policy (“Sunflower FME Plan”) for all of its employees. A copy of the Sunflower FME Plan can be obtained on Sunflower’s website (www.sunflower.net) within the “CONTACT US” tab, “CONTACT SUPPLY CHAIN” link. The Contractor will be required to either:

- (a) Conform to the principles of the Sunflower FME Plan by the enforcement of a plan of its own that has received the prior approval of Sunflower based on its conformance with the principle features of the Sunflower Plan; or
- (b) Conform to the Sunflower FME Plan.

30. On-Site Controlled Facility Acknowledgement. Suppliers required to be on Sunflower’s premises at any of the locations are required to adhere to the following Acknowledgement:

Supplier understands that Sunflower Electric Power Corporation and Mid-Kansas Electric Company facilities are limited access facilities and Supplier’s presence on the premises is subject to the consent of the owner, Sunflower Electric Power Corporation or Mid-Kansas Electric Company. Supplier also understands the owner has the right to revoke that consent at any time. Supplier further understands the facilities are part of the national electric grid and are designated as being critical national importance and therefore enjoy special protection above and beyond that afforded the ordinary private property. SUPPLIER UNDERSTANDS AND ACKNOWLEDGES THAT ANY INTENTIONAL DAMAGE OR DESTRUCTION TO THE FACILITIES OR ANY PART THEREOF, SUBJECTS IT TO CRIMINAL PROSECUTION under federal and/or state law and that any conviction will result in fines or imprisonment or both.

31. Independent Contractor. Supplier is an independent contractor and not an employee of Sunflower. Supplier has the responsibility for, and control over, the means and details of performing the Services in accordance with this Agreement and the Authorizations, and all Services performed by Supplier and its employees, contractors and agents will be controlled and supervised exclusively by Supplier.

32. Notices. All notices under this Agreement must be in writing, identified by the Agreement number set forth above and, if applicable, the relevant Authorization number and sent by certified mail, return receipt requested, by overnight mail, by facsimile (with proof of transmission to the receiving party's fax number), by e-mail (with receipt notification from receiving party) or by hand delivery to the following:

Sunflower:
ATTN:

Supplier:
ATTN:

Sunflower Electric Power Corporation_
2440 Holcomb Lane ~ PO Box 430
Holcomb, Kansas 67851
Fax: 620-277-4595
Phone: 620-277-0141

or to such other addresses or facsimile numbers as either party may notify the other of in writing.

33. Assignment; Subcontracting. This Agreement is personal to Supplier. Supplier may not assign this Agreement or any of its rights, or delegate or subcontract any of its obligations under this Agreement, without the prior written consent of Sunflower. Supplier will ensure that its contractors performing Services comply with the terms and provisions of this Agreement while such persons perform the Services.

34. Governing Law. This Agreement will be interpreted, governed, and construed under the laws of the State of Kansas as if executed and to be performed wholly within the State of Kansas. Any legal action by either party arising out of this Agreement shall be brought and heard in a court of competent jurisdiction located within the State of Kansas.

35. Compliance with Laws; Permits and Licenses. Supplier will comply with all applicable federal, state and local laws, orders, ordinances, rules, and regulations in connection with its performance of Services. Supplier warrants that it has obtained and will keep current at its expense all permits, certificates, and licenses necessary for Supplier to perform the Services.

36. Damages. Neither party will be directly liable to the other party for indirect, consequential or punitive damages.

