

INDEFINITE QUANTITY CONTRACT (IQC)

VEIC IQC Contract Number: **XXXXXXXX** **re 11 = Budget Year Established, Where 001= Incremental number on the contract for that Pod)**

This Agreement (hereinafter called "Contract") dated this **[fill in day]** day of **[fill in month and year]** is between the Vermont Energy Investment Corporation (VEIC) of 128 Lakeside Avenue, Suite 401, Burlington, VT 05401 and **[fill in full name and physical address of Contractor]** (Contractor).

WHEREAS, VEIC desires to employ Contractor to provide VEIC with certain services in connection with a Project; and

WHEREAS, Contractor offers unique services and desires to provide VEIC with such services in connection with the Project;

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties hereto agree as follows:

1. DEFINITIONS

When capitalized, whether in the singular or plural, the following words and phrases shall have the following meanings in constructing this Contract.

- A. VEIC** means Vermont Energy Investment Corporation, a Vermont non-profit corporation with its principal offices at 128 Lakeside Avenue, Suite 401 in Burlington, Vermont.
- B. Contractor** means **[fill in Organization/Company name and organization/company formation]** with its principal offices at **[fill in address]**.
- C. Contract Scope of Work** means the Contractor's Scope of Work identified in Work Orders issued against this Indefinite Quantity Contract.
- D. Contract** means this IQC Contract and all Attachments hereto, as all may be amended from time to time.

2. CONTRACT SCOPE OF WORK

General Scope of Services: **Insert**

All work under this *Contract* will be undertaken based solely on one (1) or more "Work Orders" that are issued by VEIC to the Contractor. Each Work Order will specify, at a minimum, the specific Contract Scope of Work to be performed on a Fixed Fee or Time and Materials Not to Exceed amount, and a Schedule (and such other items as VEIC shall deem

appropriate). A template for the Work Orders is included as Attachment A; this template will be used for each Work Order issued by VEIC. No work should be undertaken until a Work Order has been issued to the Contractor by an authorized representative of VEIC. Every Work Order, whether mailed, faxed or electronically transmitted to Contractor, is subject to the terms and conditions of this *Contract*.

Nothing herein shall obligate VEIC to issue any Work Orders and VEIC does not commit to providing Contractor with any particular level of work under this *Contract*.

Each Work Order shall be deemed satisfactory to and accepted by Contractor according to the terms of this *Contract* upon counter-signature by Contractor on the Work Order. The stating of additional or different terms by Contractor on the Work Order or the furnishing by Contractor of additional documents, written or electronic, shall not modify the Contract or the Work Order, nor be binding upon VEIC.

Contractor shall, at its own cost and expense and without billing any such costs to VEIC, assist VEIC in developing an individualized Contract Scope of Work for each particular Work Order, if necessary or appropriate under the circumstances. In contrast, if the general Contract Scope of Work set forth in Attachment A, if any, will govern the work scope in the Work Order, then the Work Order may simply incorporate Attachment A by reference.

The Contractor shall furnish all necessary personnel, office space, equipment, materials, services, licenses, transportation, and other necessary resources to accomplish the Contract Scope of Work. Changes to the Contract Scope of Work may be made only by written agreement of both the Contractor and VEIC. Notwithstanding the foregoing, VEIC reserves the exclusive right, in its sole discretion, to temporarily or permanently reduce the level or scope of all or any elements of the Contract Scope of Work at any time; provided, that, VEIC must provide thirty (30) days' advance written notice to Contractor of any such reduction (unless such notice would be impracticable under the circumstances).

All work products under the Contract Scope of Work shall be provided to VEIC using the applicable Microsoft Office application software or other such software as may be specified by VEIC. Currently this software is Excel 2013, Word 2013, Access 2013 and PowerPoint 2013 -- Microsoft's Office 2013 XP Suite. Contractor shall upgrade to new versions of Microsoft Office or other such software as may be specified by VEIC at the same time VEIC does and shall use the same.

Contractor shall devote sufficient personnel to complete the Contract Scope of Work in a timely manner, consistent with any milestones or deadlines set forth in the applicable Work Order. Contractor shall provide VEIC with a list of the key personnel upon execution of this *Contract*, and VEIC reserves the right to reasonably reject any or all of the Contractor's key personnel.

The Contractor shall carry out the Contract Scope of Work in a professional and workmanlike manner, consistent with best practices in the industry and with due diligence and efficiency, in a

practical manner designed to promote the purposes of the VEIC and with due regard to the obligations of the parties thereto.

3. TERM OF CONTRACT

The Term of this *Contract* shall begin on **[date]**, **[year]** and end on **[date]**, **[year]** unless amended or terminated earlier in accordance with the provisions of this *Contract*.

Time is of the essence and all deadlines detailed in the Contract Scope of Work shall be strictly adhered to.

4. FEES AND PAYMENTS

The Contractor will be paid in accordance with the following payment provisions:

Each Work Order issued hereunder shall be designated therein as either a “Firm Fixed Fee” Work Order or a “Time and Materials” Work Order and the following provisions shall apply to each Work Order, as the context requires.

“Firm Fixed Fee” Work Orders

The Contractor will be compensated based upon the Firm Fixed Fee amount set forth in the Work Order for all work specified in the Work Order as the Contract Scope of Work, including all administrative and technical support. In addition to the Firm Fixed Fee, Contractor’s reimbursable expenses will be compensated in accordance with the Contractor’s Reimbursable Expenses Schedule (Attachment C) up to, but not to exceed, the estimated amount set forth in the Work Order. The reimbursable expenses shall be charged to VEIC at Contractor’s actual cost, with no mark-up. No obligations for expenses beyond the estimated amount in Attachment C shall be reimbursed without prior written approval by VEIC. The schedule of rates set forth on Attachment B shall not change during the Term of this *Contract*, with the exception of mileage, which will be adjusted on a calendar year basis in accordance with changes in the IRS approved mileage rate for use of a personal automobile. Invoices shall be submitted monthly, based on the percentage completion of the Contract Scope of Work, and shall indicate the work progressed on Scope components that is being invoiced; for reimbursable expenses invoices will show the tasks for which each expense was incurred. Prior to making any monthly payment, VEIC may request supporting documentation from the Contractor evidencing the completion of such work scope and achievement of any related milestones or deadlines set forth in the Work Order. The Fixed Fee includes all General and Administrative Overhead; all Contractor administrative functions are understood to be compensated through the Contractor’s Fixed Fee, and only administrative assistance that is in direct support of production of the deliverables in the Scope of Work will be compensated by the Fixed Fee. Final Payment shall not be made until, as a minimum, review and approval by VEIC of the final deliverables is completed. If, following completion of such deliverables and final payment, VEIC determines that the deliverables contain errors or omissions, Contractor shall promptly correct such errors or omissions at no further cost to VEIC. Contractor acknowledges that it is required to complete the Contract Scope of Work in return for the Firm

Fixed Fee and Contractor shall not be entitled to any additional compensation hereunder, with the exception of the reimbursable expenses described herein.

In cases where VEIC requests an amendment to the previously agreed upon Contract Scope of Work that is subject to a Firm Fixed Fee Work Order, VEIC and Contractor shall amend the Firm Fixed Fee Work Order to include the additional scope and adjust the Firm Fixed Fee (in a manner consistent with how the original Fixed Firm Fee was determined) and any relevant deadlines.

“Time and Materials” Work Order

In performing the Contract Scope of Work set forth in the “Time and Materials” Work Order, the Contractor will be compensated on an Hourly Basis for labor, with a Not-To-Exceed (NTE) amount set forth in such Work Order, in accordance with the Contractor’s Standard Billing Rates (Attachment B) and on an incurred basis for Reimbursable Expenses Schedule (Attachment C) up to, but not to exceed, the estimated amount set forth in the Work Order. The reimbursable expenses shall be charged to VEIC at Contractor’s actual cost, with no mark-up. Contractor shall not exceed these dollar amounts set forth above for labor and reimbursable expenses in performing the Contract Scope of Work, unless approved in advance in writing by an authorized representative of VEIC. **During each yearly anniversary of the Term of this *Contract*, Contractor may only increase the Standard Billing Rates for labor set forth on Attachment B by the lesser of (i) three percent (3%) or (ii) the average percentage change in the annual Consumer Price Index Northeast for all urban consumers (CPI-U) (1982-1984) over the then current contract year (CPI). The average percentage CPI change will be calculated by VEIC by January 1 of each year and will be used until the following January. [Do Not Use If a Single Year Contract].** The schedule of rates set forth on Attachment C shall not change during the Term of this *Contract*, with the exception of mileage, which will be adjusted on a calendar year basis in accordance with changes in the IRS approved mileage rate for use of a personal automobile. With the exception of the increases provided for in the preceding two sentences regarding mileage and labor rates, Contractor shall not increase any other expenses set forth on Attachments B and C during the Term of this *Contract*. No obligations for expenses beyond the estimated amount in Attachment C shall be reimbursed without prior written approval by VEIC. The Standard Billing Rates include all General and Administrative Overhead; all Contractor administrative functions are understood to be compensated through the factor applied to determine the Standard Billing Rates, and only administrative assistance that is in direct support of production of the deliverables in the Scope of Work will be compensated on an hourly basis. Invoices shall be submitted monthly, including a breakdown showing the staff, hourly rate, hours, and the tasks progressed or completed for the invoice period. Prior to making any monthly payment, VEIC may request supporting documentation from the Contractor evidencing the completion of such tasks and achievement of any related milestones or deadlines set forth in the “Time and Materials” Work Order. Reimbursable expenses shall be invoiced in accordance with the Reimbursable Expenses Schedule; invoices must indicate the tasks for which the expenses were incurred, and the expenses itemized. If, following completion of the deliverables required under the Contract Scope of Work and final payment, VEIC determines that the deliverables contain errors or omissions, Contractor shall promptly correct such errors or omissions at no further cost to VEIC.

[Note to Drafter: Attachment B should include the hourly labor rates and (ii) Attachment C should include the types of expenses (travel, copying, postage/delivery, etc.) that will be reimbursed at actual out-of-pocket cost. Also need to provide in Attachment C the basis for reimbursable costs, i.e. mileage reimbursement at the IRS-approved rate only for use of a personal motor vehicle; air travel via most direct route on coach class only, etc.]

The following general payment provisions shall apply to this *Contract*:

Contractor billings including labor and reimbursable expenses shall not exceed the total maximum fee of the particular Work Order(s) issued.

All labor and reimbursable expenses shall be clearly itemized and coded to appropriate job and project codes.

It is understood that the above detailed Fees and Payments include all of the Contractor's costs and expenses to perform the Contract Scope of Work, including all General and Administrative tasks including, but not limited to preparation and submission of invoices.

The Maximum Limiting Amount (MLA) is the maximum possible value of all Work Orders issued under this IQC Contract. The MLA shall not be exceeded except when it has been amended and approved by VEIC and the Contractor prior to exceeding the MLA of the IQC Contract. The Contractor bears all risks for cost incurred by exceeding the MLA without negotiating an amendment to the existing MLA before the cost overrun occurred.

The MLA for this *Contract* is \$XXXXXX (XXXXXXXXXX U.S. Dollars).

The parties understand that VEIC cannot predict with certainty the level of utilization of any IQC Contract over its term. Therefore, the parties agree the Maximum Limiting Amount of this IQC Contract shall remain as stipulated at the outset, unless VEIC requests the Contractor to accept a revision of the MLA at any point in the term of the IQC Contract, at which time the Contractor will agree to VEIC's proposed adjustment of the MLA. Nothing herein shall obligate VEIC to issue any Work Orders and VEIC does not commit to providing Contractor with any particular level of work under this *Contract*.

Payment by VEIC for services or products under a Work Order will not be construed as (i) an acceptance of such services or products, or (ii) a waiver or limitation of any of VEIC's rights or remedies under this *Contract* or at law or in equity with regard to services or products that do not comply with or conform to the Work Order or this *Contract*.

5. INVOICE REQUIREMENTS AND PAYMENT TERMS

The Contractor shall submit monthly invoices of eligible Fees and Payments in accordance with Paragraph 4 above, to be received at VEIC's principal offices by the 5th business day after the end of each month.

If invoices are submitted by mail they should be sent to:
Accounts Payable
Vermont Energy Investment Corporation
128 Lakeside Avenue, Suite 401
Burlington, VT 05401

If submitted via e-mail invoices should be sent to AccountsPayable@veic.org.

All invoices shall, at a minimum, include:

- Contract number,
- Contractor name,
- Contractor address,
- Federal Employer I.D. number (or Social security number if Contractor is an individual) of the Contractor;
- period covered by invoice;
- work order being billed for;
- hourly rate(s) or fixed fee;
- summary description of hours and reimbursable expenses;
- hours detailed daily by staff person with VEIC job and project codes;
line item detail of reimbursable expenses and receipts for all reimbursable expenses over \$10 coded to appropriate VEIC job and project codes.
- Administrative Contact Name, Phone Number, and E-mail.

The Contractor shall cooperate with VEIC to develop an invoice format and requirements for implementation prior to the first invoice submitted under this *Contract*. VEIC may require modifications to the form of invoice during the Term of this *Contract*.

6. INVOICE REVIEW, APPROVAL AND PAYMENT

No later than five (5) business days after its receipt of an invoice, VEIC shall review the invoice and either approve the invoice for payment or inform the Contractor in writing of any disputed amount and the basis for such dispute.

If an invoice is disputed by VEIC, the Contractor shall answer VEIC's concerns in writing within five (5) business days of the Contractor's receipt of the written notice from VEIC. If VEIC and the Contractor cannot resolve the dispute within ten (10) business days after VEIC's receipt of the Contractor's reply, each party agrees to submit the dispute to final and binding arbitration as provided in Paragraph 21 below.

VEIC will pay the Contractor's approved monthly invoices within 30 days. However, payment will be withheld on open invoices if a Certificate of Insurance showing coverage of the required insurances stated in Paragraph 14 of this *Contract* is not on file with VEIC. It is the sole responsibility of the Contractor to have its insurance agent provide current certificates at each insurance renewal period of each type of insurance to VEIC.

7. TERMINATION OF CONTRACT

a) Termination For Cause

In the event that Contractor materially breaches the terms of this *Contract*, VEIC may without prejudice to any of its other legal remedies terminate this *Contract* upon fifteen (15) days written notice to Contractor and be relieved of the payment of any amount due to Contractor for Contract Scope of Work performed prior to the date of such termination, except as provided in subparagraph “d” below. Alternatively, VEIC may, in its sole discretion, provide Contractor with time to cure any breach.

In the event this *Contract* is terminated for cause, VEIC may proceed in any manner it deems proper. Contractor shall be compensated for satisfactory services rendered and eligible costs and expenses as provided in subparagraph “d” below; however, in its discretion, VEIC may deduct from any sum due to Contractor under this *Contract*, all expense, damage or other harm incurred by VEIC or any of its agents as a result of Contractor’s failure to perform its obligation under this *Contract*. VEIC reserves all other rights and remedies at law and in equity, in the event of a breach of this *Contract* by Contractor.

b) Termination – Bankruptcy

In the event proceedings in bankruptcy are commenced against the Contractor, it is adjudged bankrupt, or a receiver of any of its assets is appointed, VEIC may terminate this *Contract* by giving five (5) days notice in writing to the Contractor.

c) Termination at Will

VEIC may in its discretion terminate the Contract at any time without good cause upon giving thirty (30) days written notice to Contractor prior to said termination date. Contractor may terminate this *Contract* without good cause upon giving sixty (60) days written notice to VEIC prior to said termination date.

d) Responsibility of Parties Upon Expiration or Termination of Contract

Upon expiration or termination of this *Contract*, Contractor shall, as specifically directed by VEIC, provide reasonable transition assistance as requested by VEIC to VEIC to ensure that the functions being performed by the Contractor are continuously carried out without interruption. In such event, Contractor shall use all reasonable efforts to mitigate its expenses and obligations hereunder.

Upon termination of this *Contract*, VEIC shall pay the Contractor, pursuant to the compensation terms set forth above in the Paragraph 4, for all satisfactory services rendered and eligible fees, costs and expenses prior to the notice of termination and until the actual Contract termination date. VEIC shall also pay Contractor for all reasonable services rendered and costs and expenses incurred by the Contractor subsequent to termination, but only for reasonable transition assistance as specifically directed by VEIC which could not, by reasonable efforts of the Contractor, have been avoided.

All work product(s), records and data related to Contract Scope of Work performed under this *Contract* in the possession of the Contractor and its subcontractor(s) shall be made available and turned over to the VEIC or its designated representative upon the expiration or termination of the Contract, at VEIC's request. These transfers shall be accomplished no later than ten (10) business days after the date of notification to the Contractor to transfer the data and documents. Following a termination of this *Contract*, Contractor shall continue to adhere to the confidentiality provisions of this *Contract*.

8. REPORTING REQUIREMENTS

The Contractor shall provide progress reports to VEIC and any other entity designated by VEIC according to the schedule, formats, information and data, and other requirements set forth in and developed pursuant to the Contract Scope of Work. The Contractor shall work cooperatively with VEIC and any other entities designated by VEIC to develop appropriate formats for the required reports under this *Contract*. All written reports that are to be submitted must be printed or copied using both sides of the paper.

9. RECORDS AVAILABLE FOR AUDIT AND INSPECTION

The Contractor shall maintain all books, documents, payroll papers, accounting records and all other evidence pertaining to this *Contract*, in accordance with Generally Accepted Accounting Principles consistently applied, and make them available at reasonable times during the term of this *Contract* and for three (3) years thereafter for inspection for any reason whatsoever by VEIC. Storage of electronic images of documents shall comply with the requirements of this Paragraph. If any litigation, claim, or audit is commenced before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records has been resolved.

Contractor shall include in its subcontract(s) a provision that states that its subcontractor(s)' records related to the Contract Scope of Work shall be subject to audit and examination during the term of this *Contract* in accordance with the terms of this Paragraph and for a period of three years after final payment under the relevant subcontract(s). Contractor shall comply with any standard format and documentation developed by VEIC to implement the requirements of this Paragraph.

The fact that such inspection or monitoring is undertaken shall in no way relieve the Contractor of its obligations to properly perform its duties in accordance with this *Contract* nor from Contractor's full responsibility and liability for damages or loss caused by Contractor, its subcontractor(s), employees or agents. Contractor's obligations under this Paragraph shall be continual and shall not be affected by VEIC's acceptance of an invoice from Contractor.

10. INSPECTION OF WORK

VEIC or any other authorized representative shall have the right at all reasonable times, to inspect, monitor, or otherwise evaluate the Contract Scope of Work. Contractor shall include in its subcontract(s) a provision that requires that the subcontractor(s)' records, information, equipment, personnel and all relevant materials related to the Contract Scope of Work performed under this *Contract* to be subject to inspection during the term of this *Contract*.

The fact that such inspection or monitoring is undertaken shall in no way relieve the Contractor from its obligations to properly perform its duties in accordance with this *Contract* nor from Contractor's full responsibility and liability for damages or loss caused by Contractor, its subcontractor(s), employees or agents.

11. CONFIDENTIALITY OF DATA, INFORMATION, AND DOCUMENTS

Contractor agrees that all information communicated to it with respect to services to be performed under this *Contract*, including any confidential information gained by Contractor by reason of association with VEIC, which is identified at the time of disclosure by an appropriate legend, marking, stamp, or other positive written identification in a prominent location to be confidential is confidential.

Contractor agrees that all conclusions, recommendations, reports, advice, or other documents generated by Contractor pursuant to this *Contract* are confidential. Further, Contractor:

- a. Shall not disclose any confidential information to any other person or entity unless specifically authorized in writing by VEIC to do so.
- b. Shall use its best efforts to prevent inadvertent disclosure of any confidential information to any third party by using the same care and discretion that it uses with similar data that Contractor designates as confidential.
- c. Agrees that copies of confidential information may not be made without the express written permission of VEIC and that all such copies shall be returned to VEIC along with the originals.
- d. Shall return to VEIC promptly at VEIC's request, all confidential materials. Any materials, the return of which is not specifically requested, shall be returned to VEIC promptly at the conclusion of the work on the project or activity to which the materials relate.

However, Contractor's obligation to hold any information confidential under this *Contract* shall not apply to any information if the same is:

- (1) In the public domain at the time of disclosure to Contractor by VEIC, or subsequent to the date of disclosure, without breach of this *Contract* by Contractor; or
- (2) Known to Contractor, as evidenced by written documentation, prior to disclosure of such information by VEIC; or
- (3) Disclosed without restriction to Contractor by a third party having a bona fide right to disclose the same to Contractor and without breach of this *Contract* by Contractor; or
- (4) Independently developed by representatives of Contractor who did not have access to said confidential information.

[Note to drafters: delete the following if inapplicable] Notwithstanding the foregoing, if any Work Order allows Contractor to have access to customer-specific or competitively sensitive information related to VEIC's Efficiency Vermont, District of Columbia Sustainable Energy Utility, or Efficiency Smart operations, Contractor will be required to comply with the

applicable confidentiality requirements of those operations. Those applicable confidentiality requirements will be included as part of any such Work Order.

Notice of Immunity from Liability for Confidential Disclosure of a Trade Secret to the Government or in a Court Filing. Federal law requires VEIC to notify Contractor that there are a few limited situations in which Contractor will not be liable for the confidential disclosure of a trade secret to the government or in a court filing. First, an individual shall not be criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that (A) is made (i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney, and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. Second, an individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual (A) files any document containing the trade secret under seal; and (B) does not disclose the trade secret, except pursuant to court order.

The provisions of this Paragraph 11 shall survive termination of this *Contract*.

12. OWNERSHIP OF DATA, RECORDS, AND INTELLECTUAL PROPERTY

a) Data

All data obtained by Contractor or any of its subcontractor(s) in the course of performing the duties outlined in this *Contract* Scope of Work shall be the property of the VEIC.

b) Work Product

All products of the Contractor's and its subcontractor(s) including logos, trademarks, service marks, data, communications and records originated, developed or prepared by the Contractor or its subcontractor(s), or jointly by the Contractor, subcontractor(s), and VEIC pursuant to this *Contract*, including but not limited to papers, outlines, drawings, sketches, art work, plans, photographs, specifications, estimates, reports, charts, surveys, survey results, computer databases or software and spreadsheets and other similar documentation, and any Contract Scope of Work product determined by VEIC to be necessary to the success of the scope of work shall become the exclusive property of the VEIC and may be copyrighted by the VEIC. The preceding sentence shall not apply to administrative communications between VEIC and the Contractor, or administrative communications between the Contractor and its subcontractor(s), and attorney-client communications between the Contractor and its attorneys. Contractor and its subcontractor(s) may not copyright or resell the above Contract Scope of Work product.

c) Equipment and Materials Provided by or for Use by VEIC

All property, equipment or materials, including customized computer software, purchased directly by VEIC or furnished to the Contractor by VEIC, under this *Contract*, is provided on a loan basis only and remains the sole property of VEIC. Property or equipment purchased by

Contractor to perform this *Contract* shall be the sole property of the Contractor unless specified otherwise in this *Contract*.

d) Research Reports or Similar Publications

Prior written approval by VEIC is required in order for the Contractor to prepare or present any research report, conference presentation, journal paper or similar other publication that identifies VEIC or relies on data acquired from the Contractor's or its subcontractor(s)' performance of this *Contract*. If VEIC does provide its approval, VEIC shall review and approve, prior to public release, any such research report or similar publication.

e) Paragraph 12 Survives Expiration or Termination of This Contract

The terms of this Paragraph 12 shall continue in effect after the expiration or termination of this *Contract*.

13. CONFLICT-OF-INTEREST PROVISION

Contractor and its subcontractor(s) may engage in business activities other than those activities that create a conflict of interest with the performance of the Contract Scope of Work

14. INSURANCE

Before commencing Work on this *Contract*, the Contractor shall provide Certificates of Insurance to show that the following minimum coverages are in effect. Where applicable the Certificates of Insurance shall name VEIC as additionally insured party as its interests may appear. All policies shall be non-cancellable without 30 days prior written notice from the insurance carrier to VEIC. It is the responsibility of the Contractor to maintain current Certificates of Insurance on file with VEIC through the term of this *Contract*.

Workers' Compensation: With respect to all operations performed under this *Contract*, the Contractor shall carry workers' compensation insurance in accordance with the laws of the State and any other state in which it is performing the Contract Scope of Work.

General Liability and Property Insurance: With respect to all operations performed under this *Contract*, the Contractor shall carry general liability insurance having all major divisions of coverage including, but not limited to:

- Premises – Operations
- Independent Contractors' Protective
- Products and Completed Operations (where appropriate)
- Personal Injury Liability
- Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

- \$1,000,000 Per Occurrence
- \$1,000,000 General Aggregate
- \$1,000,000 Products/Completed Products Aggregate (where appropriate)

\$50,000 Fire Legal Liability.

Automotive Liability: The Contractor shall carry automotive liability insurance covering all motor vehicles, no matter the ownership status, used in connection with this *Contract*. Limits of coverage shall not be less the amount required by any applicable state law.

No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Contractor for the Contractor's operations. These are solely minimums that have been set to protect the interests of VEIC.

15. INDEPENDENT CONTRACTOR

For the purposes hereof, the Contractor is an independent contractor, and shall not be deemed to be an employee or agent of VEIC. Except as specifically provided herein, neither party, nor their employees, agents, or representatives shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other. The Contractor shall pay any and all taxes and fees on it imposed by any government under this *Contract*.

16. ASSIGNMENT OR SUBLET OF CONTRACT

Contractor may not assign or sublet any performance of the Contract Scope of Work without the prior written approval of VEIC. Such approval will not be unreasonably withheld. VEIC reserves the right to reject any substitution of Contractor's key personnel. The performance of the Contract Scope of Work shall be the sole responsibility of and under the sole control, management, and supervision of the Contractor.

17. INDEMNIFICATION

The Contractor shall indemnify, defend and hold harmless VEIC and their respective officers and employees from and against any liability and any claims, suits, judgments, and damages arising as a result in whole or in part from any of the Contractor's, its employees' or its subcontractors' acts and/or omissions in the performance of this Contract.

18. NOTIFICATIONS REQUIRED UNDER THIS CONTRACT

Correspondence and transmittals of formal notifications, requests, reports or other documents concerning this Contract, to be effective, shall be addressed to the respective persons as follows:

VEIC	Scott Johnstone Jim Madej VEIC Executive Director Vermont Energy Investment Corporation 128 Lakeside Avenue, Suite 401 Burlington, VT 05401-4717 802-658-6060 Fax 802-658-1643
Contractor	Counterparty Contact Person Counterparty

Counterparty Street Address
Counterparty City State & Zip
Counterparty Phone Number
Fax Counterparty Fax Number

VEIC and the Contractor may change their contact person, address or telephone numbers at any time upon written notice to the other party.

19. REPRESENTATIONS AND WARRANTIES

The Contractor represents and warrants that it is in the business of providing the Contract Scope of Work and that it shall perform the Contract Scope of Work:

- in accordance with generally accepted best industry principles and practices; and
- in a manner consistent with that level of care normally exercised by members of its profession undertaking services of the sort described herein.
- as to any products delivered by Contractor under this *Contract*, they shall be free from defects in materials and workmanship and shall be of merchantable quality.

20. PERMITS, LAWS, REGULATIONS AND PUBLIC ORDINANCES

Contractor shall secure and pay for all permits and licenses required to perform the Contract Scope of Work, shall comply with all applicable federal, state and local laws, regulations, and ordinances governing the performance of the Contract Scope of Work, and shall indemnify, defend, and save VEIC harmless from any and all liability, fine, damage, cost and expense arising from Contractor's failure to do so.

21. SETTLEMENT OF DISPUTES

Any disputes or differences arising out of this *Contract* that cannot be amicably settled between the parties shall be finally settled under the Rules of Conciliation and Arbitration of the American Arbitration Association by one or more arbitrators appointed in accordance with said Rules. The arbitration shall take place in Burlington, Vermont. Each party to the arbitration shall fully bear their own costs. The costs of the arbitrator shall be borne equally.

22. NO EMPLOYEE BENEFITS FOR CONTRACTOR

The Contractor understands that VEIC will not provide Contractor or Contractor's employees or subcontractors with any individual retirement benefits, group life insurance, group health and dental insurance, vacation and sick leave, Workers' Compensation or other benefits or services available to VEIC employees, nor will VEIC withhold any state or federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of this *Contract*. The Contractor understands that all tax returns required by the Internal Revenue Code and any state, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Contractor.

23. FAIR EMPLOYMENT PRACTICES AND AMERICAN DISABILITIES ACT

Contractor shall comply with the requirements of Title 21, V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Contractor shall also ensure,

to the full extent required by the Americans With Disabilities Act of 1990, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Contractor under this *Contract*. Contractor further agrees to include this provision in all of its subcontracts.

24. FORCE MAJEURE

Either party's performance of any part of this *Contract* shall be excused to the extent that it is hindered, delayed or otherwise made impractical by reason of flood, riot, fire, explosion, war, acts or omissions of the other party or any other cause, whether similar or dissimilar to those listed, beyond the reasonable control of the non-performing party. If any such event occurs, the non-performing party shall make reasonable efforts to notify the other party of the nature of such condition and the extent of the delay and shall make reasonable, good faith efforts to resume performance as soon as possible.

25. SEVERABILITY

If any provision of this *Contract* shall be adjudged to be invalid, then that provision shall be deemed null and void and severable from the remaining provisions, shall in no way affect the validity of this *Contract*, and the remaining provisions shall be integrated so as to give the greatest effect thereto.

26. SURVIVAL OF REQUIREMENTS

Unless otherwise authorized in writing by VEIC, the terms and conditions of this *Contract* shall survive the performance period and shall continue in full force and effect until the Contractor has completed and is in compliance with all of the requirements hereof. Any confidentiality requirements set forth in or developed pursuant to this *Contract* shall continue after the expiration or termination of this *Contract* in perpetuity.

27. WAIVER

Failure or delay on the part of either party to exercise any right, power, privilege or remedy hereunder shall not constitute a waiver thereof. A waiver of any default shall not operate as a waiver of any other default or of the same type of default on a future occasion.

28. APPLICABLE LAW

This *Contract* shall be governed by the laws of the State of Vermont.

29. AMENDMENT

No changes, modifications, amendments or extensions in the terms and conditions of this *Contract* shall be effective unless reduced to writing and signed by the duly authorized representatives of VEIC and the Contractor.

30. ENTIRE AGREEMENT

This *Contract* with the following Attachments represents the entire agreement between the parties relating to the subject hereof. All prior agreements, representations, statements, negotiations, and understandings are merged herein and shall have no effect. This *Contract* consists of the following documents listed in order of precedence from highest to lowest:

Main Body of the Contract

Attachment A: IQC Sample Work Order

Attachment B: Standard Billing Rates

Attachment C: Reimbursable Expenses Schedule

[list any other Attachments to Contract here]

[Note to drafters: delete the list of schedules that you ARE NOT using.]

The above Attachments are hereby incorporated into *this Contract* and made a part hereof for all purposes. If there is any conflict between the terms of these documents, the order of precedence indicated above shall be controlling.

31. ACCEPTANCE OF CONTRACT

This *Contract* will become effective when signed by both parties. Transmittal of signatures by facsimile, internet or other means is as valid for all purposes as the delivery of signed original documents.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

ACKNOWLEDGMENT OF ARBITRATION

Each of Contractor and VEIC understands that this Agreement contains an agreement to arbitrate. After signing this document, we understand that we will not be able to bring a lawsuit concerning any dispute that may arise which is covered by the arbitration agreement, unless it involves a question of constitutional or civil rights. Instead, we agree to submit any such dispute to an impartial arbitrator.

IN WITNESS WHEREOF, Contractor and VEIC have caused this *Contract* to be executed.

FOR CONTRACTOR

FOR VEIC

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Date

FED ID #

ATTACHMENT A:
SAMPLE IQC WORK ORDER
WORK ORDER NO:

Indefinite Quantity Contract (IQC) No.: XXXXX
IQC Committed to Date:
Date:
Customer(s) Served:
Work Order Manager:

Work Order No: WO-001
IQC MLA Value:
Value of this Work Order:
Remaining IQC Contract:
Cost Code:

SCOPE: (CONTRACT SCOPE OF WORK)

XXCompanyNameXX shall provide the following services to complete this work order:
Describe Work (including schedule/deadlines) XXXXXXXXX, Includes deliverables

FEE(S AND PAYMENTS):

Fixed Fee
Hourly NTE

The Contractor will be paid in accordance with the following provisions:

SCHEDULE: (TERM OF WORK ORDER)

Milestones
Date of Completion

Work on this project will be completed on or before **MM DD, YY**, unless VEIC extends the completion date in writing.

ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

SIGNATURES:

Accepted by: _____
For: Contractor

Approved by: _____
For: VEIC

ATTACHMENT B:
STANDARD BILLING RATES

ATTACHMENT C:
REIMBURSABLE EXPENSES SCHEDULE