



AMERICAN PETROLEUM INSTITUTE

Jack Gerard
President and Chief
Executive Officer

1220 L Street, NW
Washington, DC 20005-4070
USA

www.api.org

Ms. Jen Miller

API Contract No.: 2015-109244

DDC Advocacy
175 Waterfront Street
National Harbor, MD 20745

Dear Ms. Miller:

This letter confirms the Agreement between the American Petroleum Institute (API or Client) and DDC Advocacy (DDC) to assist API with

This Agreement shall be performed under the following terms and conditions:

1. Definitions.

- a. **"API Materials"** means all materials and information provided by API to DDC for DDC's use in providing the Services to API, including, without limitation, data, text, copyrightable subject matter, information regarding API's employees, API's trademarks, and other of API's Confidential Information. API shall be responsible for obtaining any permissions or waivers from any third party having rights over materials supplied to DDC by API to permit DDC to perform the Services under this Agreement
- b. **"API Site(s)"** means Internet URL's developed by DDC as part of the Services on behalf of API and hosted by DDC on DDC's servers.
- c. **"API Software"** means that software employed by API to enable API and each User to access the Software through the Internet.
- d. **"API Technology"** means API's proprietary technology, including API's content, software tools, hardware designs, algorithms, software (in source and object forms), user interface designs, architecture, class libraries, objects and documentation (both printed and electronic), network designs, know-how, trade secrets, and any related intellectual property rights throughout the world (whether owned by API or licensed to API from a third party), and also including any derivatives, improvements, enhancements, or extensions of API Technology conceived, reduced to practice, or developed during the term of this Agreement by API.
- e. **"Art"** means standard development of a website or other technology.
- f. **"Confidential Information"** of a party means all confidential or proprietary information, including, without limitation, all information not generally known to the public, deliverables and any technical and business information relating to API's activities, products, services, employees, member organizations and the terms, existence and substance of this Agreement, information relating to either party's customers, technology, operations, facilities, consumer markets, products, capacities, systems, procedures, security practices, research, development, business affairs, ideas, concepts, innovations, inventions, designs, business methodologies, improvements, trade secrets, software, copyrightable subject matter, the DDC Technology, the API Technology and other proprietary information.
- g. **"Content"** means the content of any postings to the API Site(s) and the content of any transmissions utilizing the Software made by the API or any User.

An equal opportunity employer

- h. **"DDC Technology"** means DDC's proprietary technology, including software tools, hardware designs, algorithms, software (in source and object forms), user interface designs, architecture, class libraries, objects and documentation (both printed and electronic), network designs, know-how, trade secrets, and any related intellectual property rights throughout the world (whether owned by DDC or licensed to DDC from a third party), and also including any derivatives, improvements, enhancements or extensions of DDC Technology conceived, reduced to practice, or developed during the term of this Agreement by either party that are not uniquely applicable to API or that have general applicability in the art.
 - i. **"Services"** means those professional services provided by DDC to API under this Agreement, as further described in each Work Order/SOW/ATP.
 - j. **"Software"** means the software developed under this Agreement, as described in each Work Order/SOW/ATP. Unless specifically stated otherwise, Software shall be considered Work Product under this Agreement.
 - k. **"Space"** means space in DDC's business premises (or other premises selected by DDC) to store and operate hardware used in conjunction with the Services.
 - l. **"User"** means any person or entity API permits to access, display or use the API Site(s) or Software.
 - m. **"Work Product"** means those deliverables provided to API in conjunction with any Service, as further described in each Work Order.
2. **Effective Date.** This Agreement shall cover the period January 1, 2015 through December 31, 2015.
3. **Scope.** The following is the scope of work to be performed by DDC:
- a.
 - b.
 - c. All work performed hereunder shall be completed to the satisfaction of API.
4. **Project Manager.** DDC agrees that Jen Miller shall be the Project Manager for DDC's obligations under this Agreement. DDC shall give API prior written notice of the replacement or reduction in the level of effort of the Project Manager. API shall have the right to approve any replacement of the Project Manager, or a reduction in his or her level of effort.
5. **API Contract Officer.** This Agreement shall be under the direction of Deryck Spooner, Senior Director, External Mobilization [REDACTED], or whomever that person designates as the API Contract Officer. The API Contract Officer for this Agreement will be Tara Anderson ([REDACTED]). DDC shall send all correspondence and reports relating to this Agreement to the attention of the API Contract Officer. DDC shall keep in regular contact with the API Contract Officer, and keep him or her regularly informed of the status of the work performed under this Agreement.
6. **Payment Terms.** API will pay DDC an amount not to exceed [REDACTED] for services provided and expenses incurred hereunder as follows and as specified in DDC's attached proposal:

DDC Advocacy will invoice API for services and expenses as specified below:

- for 1st Quarter 2015 activities upon execution of this agreement.
- for 2nd Quarter 2015 activities upon API's approval of 2nd Quarter scope of work.
- for 3rd Quarter 2015 activities upon API's approval of 3rd Quarter scope of work.
- for 4th Quarter 2015 activities upon API's approval of 4th Quarter scope of work.

The above amounts will cover all miscellaneous administrative expenses related to this agreement, including but not limited to mailings, postage, travel, photocopies, faxes, phone calls and stock-image purchase or licensing fees. API may withhold up to 15% of the agreement amount, pending API's acceptance of all deliverables.

Because API is providing DDC with an advance payment for event costs, DDC will submit financial reports for the event to Tara Anderson () and Sharon Arries () within 21 days of completion of the event for amounts expended hereunder for that event. The financial reports will be in a format specified by API, but will include an itemized list of all expenses as well as copies of all receipts for expenses greater than \$75.

API reserves the right to make adjustments to the scope of work, including increases or decreases in level of effort and associated amounts. Accordingly, DDC shall not proceed with activities for the 2nd, 3rd and 4th quarters of 2015 until receiving written approval from API.

7. DDC agrees to follow the guidelines in Attachment A, *API Invoicing and Expense Documentation Guidelines*, including how to submit invoices for payment, what constitutes allowable out of pocket expenses, and payments that DDC may not pay directly on API's behalf.
8. **Political Consultant Policies.** Consultant agrees to provide Attachment B, *API Political Consultant Policies and Procedures*, to every employee reasonably anticipated to perform work under this Agreement.
9. DDC shall be in regular contact with Deryck Spooner and Tara Anderson concerning its efforts, and shall provide activity reports to him by phone or e-mail as appropriate and agreed upon. At a minimum, DDC shall provide the following reports:
 - Quarterly recruiting reports, including results, costs per recruit, and recommendations for the next quarter.
 - Mobilization activity reports, including number of persons contacted and results (e.g., number or letters or letters-to-the editor generated, number of attendees at local hearings or town halls, etc.)
 - Reports on offline state campaigns and the Wisconsin grasstops pilot.
 - Program report at the conclusion of the agreement, with such report due to API by January 21, 2015. The concluding program report shall include (a) the number of total new members recruited, (b) names, addresses, and e-mail addresses of the new members, and (c) other information as requested by API.
10. If payments will be made to charitable organizations, chambers of commerce, business organizations, trade associations, or any other third parties with similar purposes or functions, all

such payments shall be made directly by API, and shall not be made by DDC on API's behalf. Requests for payments by such third parties shall be submitted directly to API via email request made to _____ and shall reference the above contract number. Such payment requests must include:

- The full legal name and address of the party to which payment is being made.
- The party's employee identification number (EIN).
- The party's tax exempt status (e.g., 501(c)3, 501(c)4, 501(c)6, etc.).
- Electronic payment instructions (ACH information including ABA routing number and bank account number).

Payments made by API pursuant to this provision shall be deducted from the total amount owed by API to DDC under this agreement. If DDC makes any payment to a third party described above without complying with the terms of this provision, DDC shall not be entitled to include the expense of that payment in the total amount owed by API to DDC under this agreement.

11. **Right to Inspect.** API shall have the right at all reasonable times, at API's sole cost and expense, but not more than twice per calendar year, during the course of the Agreement, and for one (1) year following completion of the Agreement, to inspect DDC's offices and facilities, and records relating to the work conducted hereunder, for the purpose of ensuring conformance with this Agreement, and to verify the accuracy of invoices. Such inspection shall include the right to photocopy records pertaining to work conducted pursuant to this Agreement. For clarification, any such inspection/audit shall not include any electronic or penetration testing of DDC's systems or environment.
12. **Compliance with Advocacy Laws.** DDC and any of its agents agree that they shall comply with and render all services under this Agreement in accordance with all applicable federal, state and local laws and regulations, including without limitation the Federal Election Campaign Act of 1971, as amended; the gift and travel rules of the United States Senate and the United States House of Representatives, as amended; the Standards of Ethical Conduct of Employees of the Executive Branch; the Lobbying Disclosure Act of 1995, as amended; the CAN-SPAM Act; the Children's Privacy Protection Act; and any other applicable lobbying, election campaign finance, gift and travel, ethics, and privacy laws. As DDC's efforts on API's behalf may extend to action within the meaning of the Lobbying Disclosure Act of 1995, DDC will, if applicable, register with and report to Congress under the provisions of that Act. At all times, DDC's and its agents' relationships with public officials and candidates for public office will be maintained in such a manner as to avoid any impropriety or appearance of impropriety that may be attributed to API. Consultant agrees to provide training to all employees reasonably anticipated to provide services under this Agreement on compliance with all applicable laws and regulations, and that Consultant will provide a copy of any training materials to API upon request.
13. **Independence of Political Advocacy.** DDC agrees that it will assist API in maintaining API's independence of its political advocacy from federal candidates and political parties. DDC agrees to give API advance notice of any vendor or consulting relationship it has or later intends to establish with a federal candidate or political party. DDC agrees that prior to taking on another engagement which, in API's judgment, presents the risk of an allegation of improper coordination between API and a federal candidate or political party. DDC shall establish adequate procedures, including internal firewalls, to ensure API's compliance with the law. If adequate measures cannot be agreed upon, API may terminate this Agreement on three days' written notice. DDC further agrees that it will take no action that would cause API to improperly coordinate its activities under the law, including, but not limited to, conveying to API non-public information about plans, projects, activities, or needs of a candidate or political party.

14. **Substantive Conflicts.** During the period of this agreement, DDC shall not perform advocacy campaign consulting services for any other party or entity on matters or issues that conflict with positions taken by API made previously known to DDC. DDC shall immediately notify the API designee if he becomes aware of the existence of a conflict or potential conflict. DDC shall not release any information concerning work hereunder to anyone outside API, without prior written approval of API, except for reports required by law.
15. **Defense of Work.** Upon request of API, DDC agrees to defend its work under this Agreement and to provide testimony in defense of its work to governmental bodies (legislative, executive, or judicial). API shall pay expenses for such services at DDC's standard billing rates in effect at the time the testimony occurs.
16. **Conflicts of Interest.** No director, employee, officer, or agent of DDC may give or receive anything of significant value to or from any director, employee, officer, or agent of API, or engage in any business relationship, unless pursuant to the terms of this Agreement. DDC shall promptly notify API of any violation of this paragraph. Anything of value provided or received in violation of this paragraph shall promptly be provided to API. API may audit DDC and any agent of DDC to determine compliance with this paragraph. DDC further agrees that, during the period of this Agreement, DDC shall not represent or engage in efforts for any other party or entity on matters or issues that conflict with positions taken by API. DDC shall immediately notify the API Contract Officer if DDC becomes aware of the existence of a conflict or potential conflict.
17. **Restrictions on Use of API Information.** DDC shall not use any API content, information, processes, knowledge or any copyrightable work created under this Agreement or any materials developed therefrom for any other purpose than to satisfy the terms of this Agreement, or release the content or findings of the work performed hereunder to parties outside API, without prior review and written approval from the API Contract Officer, unless such materials are in the public domain or are otherwise publicly released by API. DDC shall not disclose the existence of this Agreement, its terms, the content or findings of the work performed hereunder to any parties outside API, and shall preserve the confidentiality of information furnished hereunder by API or received on behalf of API pursuant to the obligations described under Nondisclosure of Confidential Information.
18. **Nondisclosure of Confidential Information.** This paragraph governs each party's obligations with respect to Confidential Information. Confidential Information does not include information that is or becomes publicly available without act or omission by DDC or API; was in a party's possession before disclosure to the other party; or is lawfully disclosed to a party by a third party without restriction on disclosure. A party may disclose Confidential Information if required by law or court or governmental order or process. However, the disclosing party shall immediately notify and provide a copy to the other party upon receiving such disclosure orders. In addition, where possible, the disclosing party shall first provide to the other party, a copy of its response to such disclosure orders, to give the other party an opportunity to review and comment on such response, and to enable such party to seek maximum confidential treatment of such disclosure as may be permitted by applicable law, regulation or court order. This obligation shall survive the termination of this agreement. Each party shall immediately revoke access privileges to Confidential Information for separated (either involuntarily or voluntarily) personnel upon their separation.

Each party certifies that it currently is not obligated by any agreement with any other third party to disclose Confidential Information related to this Agreement. Each party agrees: (i) to use Confidential Information only for purposes of this Agreement; (ii) to not disclose Confidential Information to any third party pursuant to a contractual obligation without prior written approval from the other party; (iii) prior to disclosing Confidential Information to the extent required by lawful order of a court or government entity, a party shall immediately notify the other party of such order, provide a copy of the order to the other party, allow that party to review and comment on the other

party's response to such order before disclosure, and allow that party to seek maximum confidential treatment of the Confidential Information allowed by law; and (iv) to use commercially reasonable efforts to secure against discovery or disclosure of Confidential Information.

The parties agree that the requirements of this paragraph are material terms such that failure to comply with this paragraph is grounds for a party to terminate this Agreement. At the termination of this Agreement, each party will return or destroy (at the other party's election) all Confidential Information in its possession or control.

19. DDC and any of its agents agree that they shall comply with and render all services under this agreement in accordance with all applicable federal, state and local laws and regulations.
20. **Ownership.** Except for the license rights expressly granted herein, this Agreement does not transfer from DDC to Client any DDC Technology, and all right, title, and interest in and to DDC Technology will remain solely with DDC. Except for the license rights expressly granted herein, this Agreement does not transfer from Client to DDC any Client Technology, and all right, title, and interest in and to Client Technology will remain solely with Client. Notwithstanding anything to the contrary in this Agreement, DDC will not be prohibited or enjoined at any time by Client from utilizing any skills or knowledge of a general nature acquired during the course of providing the Services, including, without limitation, information publicly known or available or that could reasonably be acquired in similar work performed for another client of DDC. Client grants to DDC a limited, non-exclusive license to the Client Technology and Client Materials for the limited purpose of providing the Services herein; provided that such limited license shall terminate immediately upon the termination of this Agreement. Any Software made available for Client's use under any SOW and/or ATP is subject to the limited license, as described in Schedule B to this Agreement, and Client shall not own nor acquire any interest in such Software, except as explicitly provided therein. Under no circumstances shall client attempt to (1) copy the Software, (2) reverse engineer, decompile, disassemble, modify, or otherwise attempt to derive source code from the Software; (3) write or develop any derivative or other Software programs, based, in whole or in part, upon the Software.

The Services described in a SOW and/or ATP may include the production of written materials that may be Work Product. DDC hereby retains the rights to DDC's methodologies, processes, ideas, templates, forms, and other standardized written materials utilized in the preparation of the Work Product, including, without limitation, portions of text included in the Work Product ("DDC's Work"). DDC retains the right to utilize DDC's Work in work prepared for other of DDC's clients in the future. None of Client's Confidential Information, Client Materials or Client Technology or any other information obtained by DDC from Client will be considered part of DDC's Work. Excluding DDC's Work, all other right, title, and interest in the Work Product is hereby transferred to Client.

21. API may provide to DDC mailing lists or other API data or information that may be helpful to the project DDC is conducting under this agreement. DDC may use such materials only in fulfilling its obligations under this agreement, and shall not reproduce, distribute, use or share such materials in any other way.
22. **Restrictions on Publicity.** Neither Party will use the trademark or name of the other Party or any abbreviation thereof, in any publicity, advertising, or for other promotional purposes without the prior written approval of the non-disclosing Party.

23. Hosting and Licensing Services

- a. **Hosting Services and Access License.** This section contains the terms and conditions governing the provision of hosting services by DDC and API's access license as part of this Agreement and applicable Work Order.
- b. **Description of Services.** The specific terms of the Services shall be detailed in this Agreement and applicable Work Orders, describing the Software and Services.
- c. **Access.** Client is granted a limited, non-exclusive right to access, display, and use the Software for Client's benefit as further described in any Work Order ("License"). The Software will be that Software that is proprietary to DDC which has been modified to meet the needs of Client. The Software is not Work Product and Client has no right, title or interest in or to the Software, except for the express limited license granted herein. No source or object code for the Software will be provided to Client. This License is for the duration of the SOW/ATP only and will terminate immediately upon termination of the applicable SOW/ATP. Unless otherwise specifically agreed to by the parties, Client shall access the Software through the Internet. The Software shall reside on DDC's servers, located in DDC's Space. All Client Sites shall be hosted on DDC's servers and will be accessed by Client through the Internet. All software necessary for Client to access and use the Internet is Client's responsibility.
- d. **API's Software.** API is solely responsible for purchasing, installing, maintaining, and upgrading the API Software in order to enable API to access the Internet. In order to access and use the Software, API must have an Internet connection with the software necessary to access, display, and use the Internet. API is further responsible for ensuring that any other software employed by API is compatible with the Internet.
- e. **System Compatibility.**
 - (1) **Democracy Direct®:** Democracy Direct® requires: - The use of Internet Explorer running on a Windows operating system - The use of Adobe Acrobat for certain reports - A recommended screen resolution of 1280x1024 or greater and a minimum screen resolution of 1024x768. An up to date list of the supported Internet Explorer versions and Operating systems, Adobe Acrobat reader versions, and screen resolution requirements may be obtained by contacting DDC. Versions supported will change based on the manufacturer's support of various technologies.
 - (2) **API Sites:** DDC will support certain versions Internet Explorer and Firefox for Windows in public release. An up to date list of the versions supported may be obtained by contacting DDC. Additional browsers may be supported at an additional cost. Browser versions supported will change from time to time based on the browser manufacturer's support of various technologies API is responsible for providing any such software or hardware as needed to view the Site or administrator utilities.
- f. **Initial Effort Limits.** The initial setup effort to deliver a given product will be defined in this Agreement and applicable Work Orders. Setup will be deemed complete when said product is moved to DDC's production environment and any unused setup hours will expire. Hours are exclusive to each functional area and are not shared with or transferable to other Work Orders. Time required in addition to the allotment stated will be conducted at DDC's then standard hourly rates.
- g. **Image and Data Transfer Limits** As part of the yearly license fee, the following limits on image hosting and data transfer will apply across all products referenced in the following work orders.

As it relates to website creation, the initial site creation will include the time and effort necessary for uploading all files associated with each referenced Site.

- h. **Content.** API is solely responsible for the Content. API represents and warrants that they and each User will use the Software, Services, and API Site(s) for lawful purposes and otherwise in compliance with all applicable law, including, without limitation, laws relating to distribution of unsolicited communications ("spam"), protection of data (privacy), and election laws. DDC may suspend or terminate Services immediately, without prior notice to API, if DDC believes, in good faith, that API or a User is breaching the terms of this paragraph. API shall defend, indemnify, and hold DDC harmless from and against all claims, expenses, or damages resulting from API's breach of the terms of this paragraph.
 - i. **Data Specifications**
 - (1) API is responsible for providing a unique identifier for all records provided to DDC, if a unique identifier does not exist e-mail address will be used as the unique identifier.
 - (2) Data gathered by any API Site(s) will be stored in an API specific database, which may support multiple applications under license to the API. DDC will not be responsible for any duplicate records which are not captured in the standard duplicate checking rules.
 - (3) API agrees to post or retrieve all data files via DDC's secure FTP site. DDC will provide client with their own username and password. DDC will not transfer data in an unsecure manner, i.e., e-mail.
 - (4) API agrees to format data according to DDC's standard file layouts for any exchange of data to or from DDC. Data not received in the standard format will be subject to additional costs at our then current rates.
 - j. **Miscellaneous.** API acknowledges and agrees that API has not been granted any real property interest or other interest in the Space.
24. **Return of Materials.** Upon termination of this Agreement, DDC shall return to API all property and information that API provided to DDC, or, at API's election, destroy such property and information.
25. **DDC is Independent Contractor.** DDC acknowledges that it is an independent contractor in its performance of any and all work pursuant to this Agreement, and the only obligations assumed by API are those specifically described in this Agreement. No association, partnership, or joint venture of any kind has been created by this Agreement. DDC agrees not to refer to itself as API's agent nor refer to the relationship between the parties as an association, partnership, joint venture, or any other business combination. DDC shall have no authority to act or contract on behalf of API. API shall not be liable for taxes, Workers' Compensation, unemployment insurance, employer's liability, employer's FICA, social security, withholding tax, and/or other taxes or withholding for or on behalf of DDC or any other person under DDC's direction in performing the services under this agreement. All such obligations and costs are DDC's responsibility.
26. **Insurance Requirements.** DDC shall carry Workers' Compensation insurance and any other insurance required by the jurisdiction in which the work pursuant to this Agreement will be performed. DDC shall obtain and maintain Comprehensive General Liability Coverage in an amount sufficient to cover all of DDC's operations and obligations under this Agreement. DDC shall require any subcontractor to obtain and maintain the same level of insurance as that required by DDC under this paragraph. DDC agrees to provide evidence of insurance if requested by API.

27. **Indemnity.** API shall defend, indemnify, and hold DDC, its officers, directors, members, employees, and agents harmless from and against any and all claims, awards, judgments, and damages arising from or related to (i) DDC's use of the Client Technology, (ii) DDC's use of the API Materials, (iii) any personal injury or property damage resulting from the gross negligence or willful misconduct of API's employees or agents, (iv) API's failure to pay any taxes applicable to the services hereunder and (v) API's violation of any applicable laws, rules or regulations.

DDC shall defend, indemnify, and hold API, its officers, directors, members, employees, and agents harmless from and against any and all claims, awards, judgments, and damages arising from or related to (i) a claim by any third party that the Services, Work Product, or Software infringe the intellectual property rights of any third party, (ii) any personal injury or property damage resulting from the negligence or willful misconduct of DDC's employees or agents and (iii) DDC's violation of any applicable laws, rules or regulations.

28. DDC represents and warrants that, to the best of its knowledge; (1) none of the materials used in performing under this agreement will violate or infringe upon the propriety or statutory rights of any person or entity, or constitute an invasion of anyone's right to privacy, and (2) upon delivery of Work Product or Software, that the Work Product or Software will perform substantially in accordance with the API's requirements per the applicable Work Order. In the event DDC is alleged to have engaged in any conduct which, if true, would constitute a breach of any warranty, DDC shall defend, indemnify and hold API and API's officers, directors, employees, and agents harmless from any and all claims or causes of actions, including court costs and reasonable attorneys' fees resulting from such conduct.

For breach of these warranties, in addition to the other remedies available, DDC will be obligated to do the following, at its option: (a) alter the Software to make it non-infringing or operational, while maintaining the same functionality, or (b) provide a prorated refund to API of the fees paid for the Software. THE WARRANTIES SET FORTH IN THIS SECTION ARE THE ONLY WARRANTIES MADE BY DDC, AND NO OTHER WARRANTIES ARE PROVIDED TO API OR ANY THIRD PARTY, AND, EXCEPT FOR THE SPECIFIC WARRANTIES PROVIDED HEREIN ALL WORK PRODUCT, SERVICES, AND SOFTWARE ARE PROVIDED "AS IS". DDC EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ARISING FROM USAGE OF TRADE AND COURSE OF DEALING. DDC DOES NOT WARRANT THAT THE SERVICES OR SOFTWARE WILL MEET CLIENT'S REQUIREMENTS OTHER THAN THOSE EXPRESSLY STATED IN AN APPLICABLE WORK ORDER, OR THAT THE SOFTWARE WILL OPERATE IN COMBINATION WITH OTHER SOFTWARE. DDC SHALL NOT BE RESPONSIBLE FOR ANY OF API'S INFORMATION, DATA, AND/OR SOFTWARE THAT MAY BE LOST, DAMAGED, OR CORRUPTED DURING CLIENT'S USE OF THE SOFTWARE; PROVIDED THAT SUCH INFORMATION, DATA, AND/OR SOFTWARE RESIDES ON API'S OR AN INDIVIDUAL USER'S PC, SYSTEM, OR NETWORK AND HAS NOT BEEN PROVIDED TO DDC AS PART OF THE SERVICES.

API represents and warrants (i) that, to the best of API's knowledge, none of the API Materials will infringe, misappropriate, or violate any intellectual property or other right of any person or entity, (ii) API has the authority to provide to DDC the API Materials, and (iii) API's provision of the API Materials shall not violate any local, state, or federal law, rule, or regulation. API represents, warrants and covenants that it, and its Users, will not upload, post or transmit to or distribute or otherwise publish through the Software any materials which (a) restrict or inhibit any other user from using and enjoying the Software, (b) are unlawful, threatening, abusive, libelous, defamatory, obscene, vulgar, offensive, harassing, pornographic, profane, sexually explicit or indecent, (c) constitute, or encourage conduct that would constitute, a criminal offense, give rise to civil liability or otherwise violate law, (d) violate, plagiarize or infringe the rights of third parties including, without

limitation, copyright, trademark, patent, rights of privacy or publicity or any other proprietary right, (e) contain a virus, Trojan horse, worms, time bombs, robots or other harmful components intended to disrupt or interfere with the intended operation of the Software or any site on the World Wide Web, or (f) constitute or contain false or misleading indications of origin or statements of fact. In addition API represents, warrants and covenants that it, and its Users will not (g) attempt to gain unauthorized access to the Software or the API Sites of others, (h) use the API'S Sites or Services, or any part thereof, to harass or harm any other User or any other person in any way; (i) impersonate any person or entity, or falsely state or otherwise misrepresent its affiliation with a person or entity; (j) interfere with or disrupt the Software or servers of DDC; or (k) use the API Sites or Services to violate any applicable, local, state, national or international law or regulation.

29. **Limitation of Damages.** IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE, OR SPECIAL DAMAGES (INCLUDING LOST PROFITS), EVEN IF SUCH PARTY HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR THE SPECIFIC INDEMNIFICATIONS PROVIDED HEREIN, OR BREACH OF THE CONFIDENTIALITY AND OWNERSHIP SECTIONS CONTAINED HEREIN, A PARTY'S TOTAL LIABILITY (WHETHER ARISING IN TORT, CONTRACT, OR OTHERWISE, AND NOTWITHSTANDING ANY FAULT, NEGLIGENCE, PRODUCT LIABILITY, OR STRICT LIABILITY) UNDER THIS AGREEMENT WILL IN NO EVENT EXCEED THE TOTAL COMPENSATION PAID TO DDC FOR SERVICES AND WORK PRODUCTS RECEIVED WITHIN THE TWELVE MONTHS IMMEDIATELY PRECEDING THE FIRST OCCURRENCE OF THE CAUSE OF ACTION.
30. **API Tax Exempt Status.** API is a nonprofit corporation exempt from United States federal income tax under section 501(c)(6) of the Internal Revenue Code of 1986 as amended. No provision of this Agreement shall obligate API to take any action that is inconsistent with or that could jeopardize its tax-exempt status.
31. **Payment of Taxes.** If applicable, DDC agrees to remit all sales, use, excise, and other taxes collected from API now or hereafter as required by any government body or authority based on or in any way measured by this Agreement.
32. **Assignment.** Neither party may assign its rights or obligations under this Agreement without the prior written consent of the other party, provided, however, that a sale of all or substantially all of the ownership interest or stocks of a party shall not be considered an assignment.
33. **Non-solicitation.** During the term of this Agreement, and for a period of one (1) year thereafter, Client and DDC will not directly or indirectly solicit the employees or customers and subcontractors of the other without prior written consent.
34. **Termination.** Either party shall have the right to terminate this agreement at any time by giving written notice to the other. Upon receiving such notice of termination from API, DDC shall cease incurring costs on this project, except with API's prior approval for such costs which are necessary to close out the project. In the event of such termination, API's payment obligations shall be to compensate DDC for prorated monthly service fees unearned and costs incurred as of the termination date, including uncanceled legal obligations that DDC has made at API's request, and subsequent costs incurred with API's approval. All prepaid/yearly license fees are non-refundable. If applicable, DDC shall reimburse API for amounts paid in advance for which services were not provided (not including any yearly license fees). In no event shall such payment include costs and/or anticipated fees for unperformed work or exceed the maximum amount of the agreement as set forth in paragraph 4. Should DDC elect to terminate this agreement, it agrees to complete any assignments underway, if API so requests, of which API has paid for.

35. Upon termination of this agreement, each party shall return to the other party any information provided by a party to the other together with all documents, data or other material developed therefrom that are not the proprietary property of the other party.
36. DDC may not assign, subcontract, or otherwise delegate its obligations under this Agreement without API's prior written consent.
37. **Notice of Claims.** Each party agrees to notify the other party (in the case of API, API's Contract Officer) within five business days of any threats of litigation or of any assertion or allegation that the rights of any third party have been violated by any actions taken pursuant to this Agreement. In response to said assertion, the appropriate party agrees to: (1) consult with the other party (in the case of API, API's Contract Officer) to determine what action needs to be pursued, and (2) to take any action that is deemed necessary by a party to protect both parties. The parties agree that if a party determines that there is a reasonable basis for said assertion, that party may immediately suspend or terminate this Agreement. Neither party shall be liable to the other party for any lost royalty, cost, expense, or damage whatsoever resulting from a suspension or termination made pursuant to this paragraph. If practicable, the party suspending or terminating the agreement in connection with any such issue(s) shall first provide the other party with notice, and an opportunity to cure.
38. **Method of Giving Notice.** Any notice required or authorized by this Agreement shall be given in writing and shall be delivered by personal delivery, e-mail transmission, overnight courier, or by certified or registered mail, and shall be deemed received: (i) on the date of personal delivery or facsimile or e-mail transmission (with confirmation of transmission), or (ii) on the next business day if delivered by overnight courier, or (iii) on the third business day if deposited into the United States mails. All notices to API shall be sent to the API Contract Officer. All notices to DDC shall be sent to the Project Manager.
39. **Non-Disclosure** API shall not disclose any of the terms, conditions, and/or fee amounts of this Agreement to any third party (other than affiliates and subcontractors of Customer), unless required to do so by order of any court or governmental authority of competent jurisdiction.
40. **Choice of Law.** This Agreement shall be governed by and construed in accordance with the laws of the District of Columbia, without regard to the rules regarding conflicts of law. The parties agree that any action, suit, or proceeding based upon any matter, claim, or controversy arising under this Agreement shall be brought exclusively in the federal or state courts located in the District of Columbia. The parties consent to the jurisdiction and venue of such courts, and waive any objections to the jurisdiction and venue of those courts.
41. **Complete Agreement.** This Agreement sets forth the entire agreement between the parties. This Agreement supersedes all prior proposals, understandings or agreements, oral or written, relating thereto.
42. **Severability.** The terms and conditions of this Agreement are severable. If any term or condition of this Agreement is deemed to be illegal or unenforceable, all other terms of this Agreement shall remain in effect.
43. **Priority of Terms.** For any inconsistencies between this Agreement and its attachments, the express terms of this Agreement shall govern.
44. **Modification and Waiver.** The failure of either party to enforce its rights under this Agreement at any time for any period shall not be construed as a waiver of such rights. No changes or

modification or waivers to this Agreement will be effective unless in writing and signed by all parties, and any modification of this Agreement must be specifically referenced.

45. **Execution.** This Agreement may be signed in multiple counterparts that together shall constitute a single agreement. This Agreement, including any modifications, waivers, or notifications relating thereto, may be executed and delivered by facsimile, electronic mail, or other electronic means. Any such electronically transmitted document shall constitute the final Agreement of the parties.

46. **Authority to Contract.** The undersigned individuals represent and warrant that they are expressly and duly authorized by their respective entities to execute this Agreement and to legally bind their respective entities as set forth in this Agreement.

47. **Surviving Terms.** Paragraphs 7-46 shall survive the termination of this Agreement.

If the above terms and conditions are acceptable, please sign below and return an executed copy of this Agreement to API.

DDC Advocacy



American Petroleum Institute



Jack Gerard
President & CEO

Date: 3/31/2015 | 5:04 PM ET

Date: 3/31/2015 | 5:20 PM ET

Attachment A**API INVOICING AND EXPENSE DOCUMENTATION GUIDELINES**

Vendor shall provide this Attachment A to their Account Manager and/or Billing Department

Please review these Guidelines carefully. Incomplete invoices or unsubstantiated expenses will result in payment delays. For questions, contact the API representative named in the agreement. Sections IV, V and VI also apply to invoices submitted for subcontractor expenses.

I. General Invoice Guidelines

1. Invoices shall reference API Contract No.: 2015-109244.
2. Each invoice shall have a unique invoice number that will not subsequently be reused.
3. Unless otherwise specified in the agreement, invoices shall be in US dollars.
4. Invoices must clearly provide a detailed description of the services provided. This includes, but is not limited to, tasks performed, hours worked, and itemized expenses.
5. API may request specific activity/expense itemization on the invoice.
6. Invoices are payable within 30 days of API's receipt of a complete and accurate invoice.
7. API may withhold up to 15% of the agreement amount, pending API's acceptance of all deliverables.
8. API will request a current W-9 and banking information from new vendors; payments shall be contingent upon return of the W-9 to API.

II. Submitting Invoices for Payment

1. API uses Anybill, a third party vendor, to receive and route API invoices for payment.
2. Invoices should be submitted directly to Anybill using one of the methods provided; it is not necessary for API staff to be included on communications to Anybill.
3. Complete invoices shall be submitted to Anybill using one of the following methods:
 - a. Anybill Email (preferred):
 - i. Email submissions should be made up of ONE PDF FILE for each invoice, including supporting documentation.
 - ii. Individual PDF files cannot exceed 9MB. If file exceeds this size, separate invoice & documents into as few PDF files as possible, name them in sequence (i.e., 1 of x), and submit to Anybill in a single email.
 - b. Anybill Fax:

III. Required Supporting Documentation

1. Vendor must provide documentation when seeking reimbursement of expenses of \$75 USD or more.
2. Documentation must clearly show the amount incurred by Vendor (or subcontractor); estimates or quotes are insufficient.
3. Expenses shall be itemized on the invoice, or an attachment to the invoice, such that they match amounts on supporting documentation.
4. Receipts must be legible, oriented upright, and be in the same sequential order as listed in the itemization.

IV. Out of Pocket Expenses

1. Reimbursement of travel expenses is limited to coach class transportation and reasonable accommodations if travel is requested by API.
2. Air travel must include the ticketed itinerary that states the fare amount, taxes, fees, etc. as well as class designation.

3. If upgrading from coach class, Vendor must submit documentation that identifies the coach fare at the time the ticket was purchased, and clearly identifies the amount of overage paid by Vendor.
4. Reimbursement for vehicle mileage shall be at the prevailing IRS rate.

V. Payments to Charitable Organizations, Chambers of Commerce, Business Organizations, Trade Associations

1. If payments will be made to charitable organizations, chambers of commerce, business organizations, trade associations, or any other third parties with similar purposes or functions, all such payments shall be made directly by API, and shall not be made by Vendor on API's behalf. Requests for payments by such third parties shall be submitted directly to API via email request made to _____ and shall reference the above contract number. Such payment requests must include:
 - The full legal name and address of the party to which payment is being made, party's employee identification number (EIN).
 - The party's tax exempt status (e.g., 501(c)3, 501(c)4, 501(c)6, etc.).
 - Electronic payment instructions (ACH information including ABA routing number and bank account number).
 - Form W-9 for the party to which the payment is being made.
2. Payments made by API pursuant to this provision shall be deducted from the total amount owed by API to Vendor under this agreement. If Vendor makes any payment to a third party described above without complying with the terms of this provision, Vendor shall not be entitled to include the expense of that payment in the total amount owed by API to Vendor under this agreement.

Attachment B**API POLITICAL CONSULTANT POLICIES AND PROCEDURES***(Keep this copy for your records)***I. Statement of Policies**

1. Primary responsibility for the direction and strategy of this matter is with API staff and the company advisors on the government relations strategy committee or other responsible committee. This includes all payments that may be made to charitable organizations, chambers of commerce, business organizations, trade associations, or any other third parties with similar purposes or functions. As agreed by you in your contract, all such payments shall be made directly by API, and shall not be made by you or any of your employees or subcontractors on API's behalf.
2. API takes all of its compliance and legal obligations very seriously. Accordingly, you have agreed to comply with and render all services to API in accordance with all applicable federal, state, and local laws and regulations. These laws and regulations include, but are not limited to:
 - a. Federal criminal statutes prohibiting bribery of public officials and illegal gratuities, 18 U.S.C. § 201, and any state and local laws prohibiting the same;
 - b. Gift, travel, and related ethics rules adopted by the U.S. House of Representatives, the U.S. Senate, federal agencies of the Executive Branch, and similar rules adopted by state and local legislative bodies and agencies;
 - c. The Foreign Corrupt Practices Act;
 - d. Federal prohibitions on coordinated communications, 52 U.S.C. § 30116, and any state and local laws prohibiting the same;
 - e. Federal prohibitions on political contributions in the name of another person, 52 U.S.C. § 30122, and any state and local laws prohibiting the same; and
 - f. Registration and disclosure laws applicable to lobbyists, agents, and other professionals, including the Lobbying Disclosure Act, and state, county, municipal, and other local laws requiring the same.
3. API requires its political consultants to understand its obligations under the laws and regulations described above, and to train their employees on a regular basis to understand and comply with the same. If you have written policies and procedures regarding the training of your employees in these matters, you are required to provide a copy to API upon request. If you do not have a training program designed to address these issues on a regular basis, you are strongly urged to speak with your legal counsel or compliance officer about implementing one.

II. Recordkeeping.

1. You are required to keep these Policies and Procedures, as well as any training materials described in Section I(3), on file at all times for inspection by API.

-END-