



Professional Electrical Indefinite Delivery Consultant

State Project H27-D231-JM

SE-640

PROFESSIONAL SERVICES INDEFINITE DELIVERY CONTRACT**AGENCY:** University of South Carolina**PROJECT NAME:** Electrical Indefinite Delivery Consultant**PROJECT NUMBER:** H27-D231-JM**AGENCY PROCUREMENT OFFICER:** Ms. Lind Jackson

THIS AGREEMENT is made this the ____ day of ____ in the year Two Thousand ____ by and between

NAME: University of South Carolina**ADDRESS:** 743 Greene Street
Columbia, SC 29208

hereinafter called the "Agency", and

NAME: _____**ADDRESS:** _____

hereinafter called the "A-E."

WHEREAS, the agency solicited A-E, land surveying, or construction management-agent services, for the discipline(s) described below, for projects to be determined, on an as-needed basis:

DISCIPLINE(S): Electrical

WHEREAS, A-E submitted a successful proposal to provide the services described above on an as-needed basis.

NOWHEREFORE, in consideration of the mutual covenants and obligations set forth herein, the Agency and A-E (hereinafter jointly referred to as the "parties") agree as follows:

A. CONTRACT TERM

1. The effective date of this agreement shall commence as of the date at the top of this page and the term shall extend until ____, 20__ (not to exceed two (2) years). The parties may not renew this agreement for an additional term nor may they extend the duration of this agreement by amendment or waiver.
2. A-E proposals accepted by the agency within the time limits of the contract may be completed by the A-E even though the completion date may extend beyond the term of the contract.

B. CONTRACT DOCUMENTS

1. Documents forming a part of the contract are:
 - a. Invitation for Indefinite Delivery Professional Services Contract;
 - b. Delivery Orders (SE-645) issued by the Agency pursuant to this contract;
 - c. Delivery Order Modifications (SE-648) issued by the Agency pursuant to this contract; and
 - d. The following other documents:
USC Article 14 Hourly Rates
Purchase Order
2. The contract is the entire and integrated agreement between the parties and supersedes prior negotiations, representations, or agreements, whether written or oral.

C. THE WORK

1. The Agency will request proposals for A-E services on an as-needed basis. The scope of services will be within the discipline(s) set forth above and within the expenditure limits set forth in the Invitation for Professional Services Indefinite Delivery Contract. Upon receipt of a request for a proposal, the A-E will prepare and submit a proposal setting forth the proposed scope of services, schedule, fee, and reimbursable expenses. Once the Agency and A-E have negotiated and agreed on the scope of services, schedule, fee, and estimated reimbursable expenses, the Agency will issue the A-E a Delivery Order, using form SE-645 Professional Services IDC Delivery Order, which will set forth the parties' agreement.
2. The A-E shall not incur any expense chargeable to the Agency on or about the work of any Delivery Order assigned to this contract until the Delivery Order has been awarded and fully executed by both the Agency and the A-E.
3. The A-E's services shall be provided by qualified persons in accordance with professional standards of care for such services in South Carolina and in accordance with the provisions of Chapter 5 of the *Manual for Planning and Execution of State Permanent Improvements, Part II*.

D. PAYMENT

A-E may make application for payment for services performed under a Delivery Order (and the Agency shall make payment) as agreed in the Delivery Order. Reimbursable expenses (not to be included in the fee) are not to exceed the estimated amount shown on the Delivery Order. Fees and reimbursable expenses are not to exceed the amount shown on the Delivery Order unless approved by the Agency on a Professional Services IDC Delivery Order Modification using Form SE 648. The A-E shall not invoice for services more often than monthly for work performed and reimbursable expenses incurred during that period. The Agency shall make payments to the A-E of undisputed amounts due for services performed by the A-E, within twenty-one (21) days of receipt of the A-E's invoice. The A-E shall make progress payments to the consultants within seven (7) days of the receipt by the A-E of each payment from the Agency.

E. TERMINATION

1. **Agency Right of Suspension:** The Agency may, at any time, suspend the work, in whole or in part, with or without cause for such period of time as determined by the Agency. Except in the event of suspension due to a default of the A-E, the amount payable to the A-E will be equitably adjusted to reflect reasonable costs actually incurred by the A-E due to delay or interruption resulting from such suspension.
2. **Agency Right of Termination:**
 - a. **Termination for Cause:** If the A-E defaults, persistently fails or neglects to perform the services in accordance with the Contract Documents, or fails to perform a provision of the Contract, the Agency shall provide written notice of such default, failure, or neglect to the A-E. If the A-E fails to cure such default, failure, or neglect within fifteen days from receipt of the Agency's notice, the Agency may, without prejudice to any other right or remedy the Agency may have, terminate the Contract.
 - b. **Termination for Convenience:** The Agency may, for its convenience, terminate all or any portion of the work or terminate this Contract by ten (10) days written notice stating the effective date of the termination. Thereafter, the Agency shall pay the A-E for those services actually performed before the date of termination. No payments shall be made for services not actually performed, and no payment shall be made or due for lost profits for portions of the services not actually performed.
3. **A-E Right of Termination:**
 - a. The A-E may terminate the contract, or Delivery Order, if work is stopped through no fault of the A-E, or other persons performing work either directly or indirectly for the A-E, for a period of time exceeding 60 consecutive calendar days due to a court order or other public authority having jurisdiction; or a declared National emergency which requires the work to be stopped.
 - b. **Agency Failure to Make Payment:** Subject to the Agency's right to withhold payments pursuant to Part D, if the Agency fails to make payments to the A-E as set forth in Part D and any other applicable provisions of the Contract Documents, the A-E may, upon thirty (30) days prior written notice to the Agency, terminate the Contract and recover from the Agency payment for all services performed, including reasonable overhead, profit and damages applicable to the services performed through the date thereof.

F. DISPUTE RESOLUTION

Both parties shall attempt to resolve disputes through good faith negotiations.

1. All disputes, claims, or controversies relating to the Contract, that cannot be resolved through good faith negotiations between the parties shall be resolved exclusively by the appropriate Chief Procurement Officer in accordance with Title 11, Chapter 35, Article 17 of the South Carolina Code of Laws, or in the absence of jurisdiction, only in the Court of Common Pleas for, or a federal court located in, Richland County, State of South Carolina. A-E agrees that any act by the State regarding the Contract is not a waiver of either the State's sovereign immunity or the State's immunity under the Eleventh Amendment of the United States Constitution. As used herein, the phrase, "the State" includes the Agency and the State Fiscal Accountability Authority.
2. Interest: Payments due to the A-E and unpaid under the Contract Documents shall bear interest only if and to the extent allowed by Title 29, Chapter 6, Article 1 of the South Carolina Code of Laws. Amounts due to the Agency shall bear interest at the rate of one percent a month or a pro rata fraction thereof on the unpaid balance as may be due.
3. A-E consents that any papers, notices, or process necessary or proper for the initiation or continuation of any claims or controversies relating to the Contract; for any court action in connection therewith; or for the entry of judgment on any award made, may be served on A-E by certified mail (return receipt requested) addressed to A-E at the address provided for the A-E's Representative or by personal service or by any other manner that is permitted by law, in or outside South Carolina. Notice by certified mail is deemed duly given upon deposit in the United States mail.
4. Continuation of Work: Pending final resolution of any dispute under this Contract, the A-E will proceed diligently with the performance of its duties and obligations under the Contract Documents, and the Agency will continue to make payments of undisputed amounts in accordance with the Contract Documents.

G. LIMITATION OF LIABILITY

1. Notwithstanding any other provision of the Contract Documents, but subject to a duty of good faith and fair dealing, the A-E and Agency waive claims against each other for listed damages arising out of or relating to this Contract. This mutual waiver includes
 - a. For the Agency, listed damages are (i) lost revenue and profit, (ii) losses resulting from injury to business or reputation, (iii) additional or escalated overhead and administration expenses, (iv) additional financing costs, (v) costs suffered by a third party unable to commence work, (vi) reasonable attorneys' fees, (vii) any interest, except to the extent allowed by Part F(2) (Interest), (viii) lost revenue and profit for lost use of the property, (ix) costs resulting from lost productivity or efficiency, and (x) damages incurred by the Agency for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
 - b. For the A-E, listed damages are (i) lost revenue and profit, (ii) losses resulting from injury to business or reputation, (iii) additional or escalated overhead and administration expenses, (iv) additional financing costs, (v) reasonable attorneys' fees, (vi) any interest, except to the extent allowed by Part F(2) (Interest); (vii) unamortized equipment costs; and (viii) losses incurred by consultants used by the A-E for the types of damages the A-E has waived as against the Agency.
2. This mutual waiver is applicable, without limitation, to all listed damages due to either party's termination in accordance with Part E. This mutual waiver is not applicable to amounts due or obligations under Part H (Indemnification).

H. INDEMNIFICATION

1. To the fullest extent permitted by law, the A-E shall indemnify and hold harmless the Agency and the Agency's agents and employees from and against claims, damages, losses and expenses, including, but not limited to, reasonable attorneys' fees, arising out of or resulting from the A-E's performance of services under this Agreement, or any Delivery Order issued pursuant to this Agreement, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the A-E, a consultant used by the A-E, anyone directly or indirectly employed by either of them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.

2. In claims against any person or entity indemnified under Part H(1) by an employee of the A-E, a consultant used by the A-E, anyone directly or indirectly employed by either of them or anyone for whose acts they may be liable, the indemnification obligation under this Part H shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for A-E or a consultant used by the A-E under workers' or workmen's compensation acts, disability benefit acts, or other employee benefit acts.

I. REPRESENTATIVES

1. Agency's Representatives

Agency designates the individual listed below as its Representative, which individual shall have the authority to bind the Agency with respect to all matters regarding the Contract and requiring the Agency's approval or authorization:

NAME: Tom Opal
TITLE: Assistant Director for Facilities Design and Construction
ADDRESS: 743 Greene St., Cola, SC 29208
TELEPHONE: (803) 777-7076 FAX: (803) 777-0484
EMAIL: tnopal@fmc.sc.edu

The term "Agency" means the Agency or the Agency's Representative.

2. A-E's Representatives

A-E designates the individual listed below as its A-E's Representative, which individual shall have the authority to bind the A-E with respect to all matters regarding the Contract and requiring the A-E's approval or authorization:

NAME: _____
TITLE: _____
ADDRESS: _____
TELEPHONE: _____ FAX: _____
EMAIL: _____

The term "A-E" means the A-E or the A-E's Representative.

3. Neither the Agency nor the A-E shall change their representatives without ten days written notice to the other party.

J. INSURANCE

1. A-E shall procure and maintain in effect during the term of this Agreement the insurance coverages described below, which insurance shall be placed with insurance companies authorized to do business in the State of South Carolina and rated A minus VII or better by the current edition of Best's Key Rating Guide or otherwise approved by Agency.
 - a. Professional Liability Errors and Omissions Insurance including contractual liability coverage with limits of not less than \$1,000,000 per claim and \$2,000,000 aggregate. A-E shall maintain this coverage in effect during the term of this Agreement and for two years after the date of completion of services provided under this Contract. A-E shall give prompt written notice to Agency of any and all claims made against this policy during the period in which this policy is required to be maintained pursuant to this Contract.
 - b. Worker's Compensation Insurance as required by the State of South Carolina, with Statutory Limits, and Employer's liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease.
 - c. Automobile Liability Insurance: Insurance Services Offices (ISO) Form CA 00 01 covering Code 1 (any auto), or if Architect has no owned automobiles, Code 8 (hired) and Code 9 (non-owned), with limits not less than \$1,000,000 per accident for bodily injury and property damage. Comprehensive Automobile Liability Insurance (owned, hired, and non-owned vehicles) with limits not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
 - d. Commercial General Liability Insurance (CGL): ISO Form CG 00 01 12 07 covering CGL on an "occurrence" basis for bodily injury and property damage, including products-completed operations, personal injury, and advertising injury, with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to the project or the general aggregate limit shall be twice the required occurrence limit. This contract shall be considered to be an "insured contract" as defined in the policy.

2. A-E agrees to require its consultants to comply with the insurance provisions required of A-E pursuant to this Agreement unless A-E and Agency mutually agree to modify these requirements for consultants whose work is of relatively small scope.

K. CONSTRUCTION COST

The A-E shall not be responsible for, nor have control over the cost of labor, materials, or equipment furnished by others, or over the resources provided by others, not under contract to the A-E, to meet Delivery Order schedules. The A-E's opinion of probable costs and project schedules is to be made on the basis of the A-E's best judgment, experience, and qualifications as a professional. The A-E does not guarantee that proposals, bids, or actual costs will not vary from the A-E's opinion of probable costs or that the actual schedules will not vary from the A-E's projected schedules

L. LIMITATIONS OF RESPONSIBILITY

Unless specifically included in a Delivery Order, the A-E shall not be responsible for: 1) construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with a Delivery Order; 2) the failure of any contractor, sub-contractor, vendor, or other project participant, not under contract to the A-E, to fulfill contractual responsibilities to the Agency or to comply with Federal, State, or Local laws, regulations, and codes; or 3) procuring permits, certificates, and licenses required for construction other than design-related construction permits required by Chapter 5 of the *Manual for Planning and Execution of State Permanent Improvements, Part II*.

M. WORK PRODUCTS

The A-E grants to the Agency a non-exclusive license to re-use the A-E's Work Products prepared pursuant to Delivery Orders issued under this Contract. The A-E assumes no liability for the Agency's re-use under these conditions unless contracted by the Agency to assume the liability for such re-use. Consultants used by the A-E for work performed under this Contract shall be bound by the same conditions.

N. MISCELLANEOUS PROVISIONS

1. Governing Law: This Contract shall be governed by the laws of South Carolina, except its choice of law rules.
2. Severability: If any provision of this Contract shall be held to be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby.
3. No Waiver: No course of dealing or failure of the Agency and/or the A-E to enforce strictly any term, right or condition of this Contract shall be construed as a waiver of such term, right or condition. No express waiver of any term, right, or condition of this Contract shall operate as a waiver of any other term, right, or condition.
4. Rights Cumulative: Except as otherwise provided in this Contract, (i) rights and remedies available to the Agency and/or the A-E as set forth in this Contract shall be cumulative with and in addition to, and not in limitation of, any other rights or remedies available to the parties at law and/or in equity, and (ii) any specific right or remedy conferred upon or reserved to the Agency and/or the A-E in any provision of this Contract shall not preclude the concurrent or consecutive exercise of a right or remedy provided for in any other provision hereof.
5. Notices: Any notices required to be given under this Contract shall be in writing and shall be delivered either by (i) certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid, in the U.S. mail; (ii) a reputable messenger service or a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with such messenger or courier; or (iii) personal delivery with receipt acknowledged in writing, in which case notice shall be deemed delivered when received. All notices shall be sent to the representatives identified in the Part I of the Agreement at the addresses provided therein. The foregoing addresses may be changed from time to time by notice to the other Party in the manner herein provided for.
6. Economic Conflict of Interest: The A-E shall not have or exercise any official responsibility regarding a public contract in which the A-E, or a business with which he is associated, has an economic interest. A person working for A-E shall not have or exercise any official responsibility regarding a public contract in which the person, an individual with whom he is associated, or his family members have an economic interest. If A-E is asked by any person to violate, or does violate, either of these restrictions, A-E shall immediately communicate such information to the procurement officer. The State may rescind, and recover any amount expended as a result of, any action taken or contract entered in violation of this provision. The terms "business with which he is associated," "economic interest," "family member," "immediate family," "individual with whom he is associated," "official responsibility" and "person" have the meanings provided in S.C. Code Ann. § 8-13-100.

7. **Illegal Immigration:** A-E certifies and agrees that it will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agrees to provide to the State upon request any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable both to A-E and its consultants or sub-consultants; or (b) that A-E and its consultants or sub-consultants are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." A-E agrees to include in any contracts with its consultants language requiring its consultants to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts with the sub-consultants language requiring the sub-consultants to comply with the applicable requirements of Title 8, Chapter 14. (An overview is available at www.procurement.sc.gov)
8. **Drug-Free Workplace:** The A-E certifies to the Agency that A-E will provide a Drug-Free Workplace, as required by Title 44, Chapter 107 of the South Carolina Code of Laws, as amended.
9. **False Claims:** According to S.C. Code of Laws § 16-13-240, "a person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty" of a crime.
10. **Non-Indemnification:** Any term or condition is void to the extent it requires the State to indemnify anyone. It is unlawful for a person charged with disbursements of state funds appropriated by the General Assembly to exceed the amounts and purposes stated in the appropriations. (§ 11-9-20) It is unlawful for an authorized public officer to enter into a contract for a purpose in which the sum is in excess of the amount appropriated for that purpose. It is unlawful for an authorized public officer to divert or appropriate the funds arising from any tax levied and collected for any one fiscal year to the payment of an indebtedness contracted or incurred for a previous year. (§ 11-1-40)
11. **Enforcement and Interpretation of Building Codes:** As required by Title 10, Chapter 1, Section 180 of the South Carolina Code of Laws, as amended, OSE shall determine the enforcement and interpretation of all building codes and referenced standards on state buildings. The A-E shall refer any questions, comments, or directives from local officials to the Agency and OSE for resolution. When the amount of construction work covered by the design documents prepared pursuant to a Delivery Order issued under this Contract exceeds the construction procurement certification of the Agency, the A-E shall submit Schematic Design Documents and Construction Documents to OSE for review and approval before releasing the documents for construction. (The A-E may find Agency construction certification limits on Procurement Services website at <http://procurement.sc.gov/PS/agency/PS-agency-audits.phtm>)
12. **Assignment:** The Agency and A-E respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements and obligations contained in this Contract. Neither party to the Contract shall assign the Contract as a whole, or in part, without written consent of the other and then only in accordance with and as permitted by Regulation 19-445.2180 of the South Carolina Code of Regulations, as amended. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.
13. **Iran Divestment Act - Certification (Jan 2015):** (a) The Iran Divestment Act List is a list published by the State Fiscal Accountability Authority pursuant to Section 11-57-310 that identifies persons engaged in investment activities in Iran. The list is available at the following URL: <http://procurement.sc.gov/PS/PS-iran-divestment.phtm>. Section 11-57-310 requires the government to provide a person ninety days written notice before he is included on the list. The following representation, which is required by Section 11-57-330(A), is a material inducement for the State to award a contract to you. (b) By signing your Contract, you certify that, as of the date you sign, you are not on the then-current version of the Iran Divestment Act List. (c) You must notify the Agency Procurement Officer immediately if at any time you are added to the Iran Divestment Act List.

AGENCY: _____

BY: _____
(Signature of Representative)

PRINT NAME: Amy E. Stone

PRINT TITLE: Secretary - Board of Trustees

DATE: _____

A-E: _____

BY: _____
(Signature of Representative)

PRINT NAME: _____

PRINT TITLE: _____

DATE: _____

SE-645

PROFESSIONAL SERVICES IDC DELIVERY ORDER

AGENCY: University of South Carolina

DELIVERY ORDER PROJECT NAME: _____

DELIVERY ORDER PROJECT NUMBER: _____

STATE IDC PROJECT NUMBER: _____

AGENCY IDC CONTRACT NO.: _____

AGENCY DELIVERY ORDER NO.: _____

A/E: _____

ADDRESS: _____

COST INFORMATION:

1. Maximum Total Amount of this IDC:
2. Maximum Total Amount Allowed for Delivery Order:
3. Amount of this Delivery Order:
4. Total Amount of Previous Delivery Orders (including Modifications):
5. IDC Total, Including this Delivery Order:
6. Balance Remaining for this IDC:

DELIVERY ORDER CONTRACT

	\$	
\$		
\$		
	\$	
	\$	0.00
	\$	0.00

SCHEDULE:

1. Date of Commencement:
2. Date of Completion:

DESCRIPTION OF DELIVERY ORDER SCOPE: *(attach A/E's Proposal)* _____

LIST OF DELIVERY ORDER DOCUMENTS: *(refer to attachments as necessary)* _____

The Agency and the A-E hereby agree, as indicated by the signatures below, to the scope of work identified in the Contract Documents listed above, the A/E's Cost Proposal dated the ____ day of ____, 20____, and this Delivery Order which shall be assigned to the Indefinite Delivery Contract identified above.

NOTICE TO PROCEED is hereby given on this the ____ day of ____, 20____. Time is of the essence of this Delivery Order. The Dates of Commencement and Completion are as noted above and will be used for determining completion and the applicability of Delay Damages. Failure to commence actual work on this Delivery Order within seven (7) days from the Date of Commencement will entitle the Agency to consider the A/E non-responsible. In this event, the Agency may withdraw this Delivery Order and terminate the Contract in accordance with the Contract Documents.

AGENCY:

BY: _____
(Signature of Representative)

PRINT NAME: _____

PRINT TITLE: _____

DATE: _____

A/E:

BY: _____
(Signature of Representative)

PRINT NAME: _____

PRINT TITLE: _____

DATE: _____

COMPLETION CERTIFICATION BY AGENCY:

ACTUAL COMPLETION DATE: _____

CERTIFIED BY: _____
(Signature of Agency Representative)

DATE: _____

TITLE: _____

SE-648

PROFESSIONAL SERVICES IDC DELIVERY ORDER MODIFICATION

AGENCY: University of South Carolina
DELIVERY ORDER PROJECT NAME:
DELIVERY ORDER PROJECT NUMBER:
STATE IDC PROJECT NUMBER:
AGENCY IDC CONTRACT NO.:
AGENCY DELIVERY ORDER NO.:
DELIVERY ORDER MODIFICATION NUMBER:

A/E:
ADDRESS:

COST INFORMATION:

Table with 2 columns: DELIVERY ORDER, CONTRACT. Rows include items 1-8 from Cost Information with monetary values.

SCHEDULE:

1. Date of Commencement:
2. Previous Days Allowed
3. Additional Days Allowed this Modification
4. Revised Date of Completion:

DESCRIPTION OF DELIVERY ORDER SCOPE MODIFICATION: (attach A/E's Proposal)

LIST OF MODIFICATION DOCUMENTS: (refer to attachments as necessary)

The Agency and the A/E hereby agree, as indicated by the signatures below, to the revised scope of work identified in the Modification Documents listed above, the A/E's Cost Proposal dated the ___ day of ___, 20___, and this Delivery Order Modification which shall be assigned to the Indefinite Delivery Contract identified above.

AGENCY:
BY: (Signature of Representative)
PRINT NAME:
PRINT TITLE:
DATE:

A/E
BY: (Signature of Representative)
PRINT NAME:
PRINT TITLE:
DATE:

TERMS AND CONDITIONS
BY ACCEPTANCE OF THIS ORDER SELLER AGREES WITH BUYER AS FOLLOWS

1. Buyer will not be responsible for goods for services supplied without an official properly authorized, written, and pre-numbered purchase order.
2. Subject to conditions beyond the control of the seller, delivery or completion must actually be effected within the time stated on the purchase order. If for any reason whatsoever, including conditions beyond the control of seller, completion is not timely, the buyer reserves the right to obtain the goods or services elsewhere and to charge seller with any loss incurred as a result thereof or, as its option, to cancel the order.
3. Whenever the seller has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this order, seller shall so inform buyer immediately.
4. Any materials shipped in excess of the quantity specified in the order may, at buyer's option, be returned to the seller at seller's expense or kept by the buyer. Buyer will not be obligated to pay for services or labor provided in excess of that specified in the order. For regulations on printing services, please refer to the South Carolina Consolidated Procurement Code effective July 1, 1993.
5. In addition to any warranties provided by applicable law, the seller hereby represents and warrants that the goods delivered or services performed on this order will be in accordance with the buyer's specifications, drawings, or samples, if such were submitted. If any goods or workmanship proves defective within one year from delivery or completion, or is not in accordance with specifications, drawings, or samples, the buyer may cancel and return this order or correct the defective goods or work at seller's expense. The foregoing representations and warranties shall survive acceptance of the goods or services and termination or cancellation of this agreement.
6. This purchase order is not assignable by the seller without the prior written consent of the buyer.
7. This order shall be governed in all respects by the laws of the State of South Carolina. Jurisdiction of any dispute regarding the terms and conditions of this order shall be vested in the courts of Richland County, State of South Carolina. This order shall not be modified except by written agreement of buyer and seller. This agreement and its attachments is the sole agreement of the parties and supersedes and replaces any and all prior understandings of the parties, written or oral, related to its subject matter.
8. If any other work is specified by this order to be performed at the buyer's premises, the seller may be required, prior to commencement of work, to furnish buyer with certificates of insurance showing that it has currently in force comprehensive general liability insurance providing coverage for bodily injury of \$500,000.00 for each person and \$500,000.00 for each occurrence and coverage for property damage for \$50,000.00 for each occurrence and \$100,000.00 aggregate and Worker's Compensation insurance and employer's liability coverage with a limit of \$500,000.00.
9. All transportation, insurance, crating and/or packing charges are to be entered as separate items on seller's invoice, unless goods are sold F.O.B destination or such charges are included in seller's price.
10. Whenever seller acts as buyer's agent in importing goods from other countries, the seller agrees to show on its invoice the amount of any customs or import duties paid to the United States Government, as a separate item.
11. Notwithstanding any other provisions of this agreement, the parties hereto agree that the charges hereunder are payable by the University of South Carolina (buyer) from appropriations, grants, and monies received by the buyer from the State Legislature and other government entities. In the event such appropriations, grants, & monies are determined in the sole discretion of the Vice President for Business and Finance of the University of South Carolina to no longer exist or to be insufficient with respect to charges payable hereunder, during or at the end of any fiscal year, this agreement shall terminate without further obligation to the seller or buyer. In such event, the Vice President for Business and Finance of the University of South Carolina shall certify to the seller the occurrence thereof.
12. The seller, by acceptance of this order, will be deemed to represent that seller has complied, or will comply with all applicable Federal, State and local laws and ordinances and all lawful orders, rules and regulations thereunder.
13. The University of South Carolina is an Affirmation Action/Equal Opportunity Employer and does not discriminate on the base of race, color, religion, sex, national origin, age, handicap or veteran status. The successful vendor will take affirmative action in complying with all Federal and State requirements concerning fair employment of the handicapped, and concerning the treatment of all employees and applicants for employment without discrimination by reason of race, color, religion, sex, national origin, age, handicap or veteran status.
14. When Federal funds are used for this procurement, this contract is subject to all applicable Federal Acquisition Regulations (April, 1984 or as amended).
15. The University of South Carolina requires all contractual activities to be in compliance with local, State, and Federal mandates concerning the "Protection of Human Health and the Environment". Any contractor doing business with the University of South Carolina will be required to document compliance and to specify prudent practices used by the contractor to address applicable mandates including, but not restricted to, "The Hazard Communication Standard" OSHA CFR 1910, 1200 (SCRR Article1, 71-1910, 1200). By acceptance of this contract, the contractor agrees to take all necessary steps to ensure compliance with these requirements.
16. Seller certifies compliance with Federal (41 U.S.C. 81) and State (Title 44, Chapter 107) Drug Free Workplace Acts.
17. In compliance with the State of South Carolina Higher Education Transparency initiative, payments issued by the University of South Carolina are subject to public reporting via the University website at <http://spend.admin.sc.edu>.
18. Seller certifies compliance with the State Iran Divestment Act of 2014 (Title 11, Chapter 57).

Unauthorized