

**GAINESVILLE REGIONAL UTILITIES (GRU)  
GENERAL TERMS AND CONDITIONS**

**DEFINITIONS:** The City of Gainesville d/b/a Gainesville Regional Utilities shall be referred to as "GRU".

**CONDUCT OF WORK:** Services will be performed with the skill and care which would be exercised by comparable qualified persons performing similar services. If the failure to meet these standards result in deficiencies in the work, the Supplier shall at no extra cost to GRU, re-perform such non-conforming services necessary to correct such deficiencies.

**INSPECTION:** All materials ordered are subject to inspection and test by GRU. GRU shall have the right to reject or to require correction of material found not to conform. At GRU's option, rejected material will be held for the Supplier's instruction or, at the Supplier's risk, returned at the Supplier's expense. Payment for material prior to inspection shall not constitute GRU's acceptance.

**DAMAGE TO WORK:** Until final acceptance of the Work by GRU, Work will be under the charge and care of Supplier who must take every necessary precaution against damage to the Work by the elements or from any other cause whatsoever. Supplier will rebuild, repair, restore, or make good at their expense, damages to any portion of the Work before its completion and acceptance. Failure to do so will be at Supplier's own risk. Supplier is not relieved of a requirement of the specifications on the plea of error.

**INDEMNIFICATION:** The Supplier shall indemnify and hold harmless GRU from all suits, actions or claims of any character brought on account of any injuries or damages received or sustained by any person, persons, or property by or from the Supplier or by or in consequence of any neglect in safeguarding the work through use of unacceptable materials or workmanship or by or on account of any activity or omission, neglect or misconduct of the Supplier or by or on account of any claim or amounts recovered from any infringement of patent, trademark, or copyright or from any claims or amounts arising or recovered under the "Worker's Compensation Law" and non-compliance with any local, state or federal codes, ordinances, orders or statutes, including the Occupational Safety and Health Act. This guarantee is in addition to and not intended as a limitation to any other warranty, express or implied. The City of Gainesville has adopted a Resolution that formally adopts the policy that the City does not contractually agree to indemnify other parties except in certain limited circumstances. The provisions of this section shall survive the termination or expiration of this Contract.

**CHANGE ORDERS:** GRU shall pay Supplier for the Work at the price[s] stated. No additional payment will be made to Supplier except for additional Work or materials stated on a valid change order, and issued by GRU prior to the performance of the added Work or delivery of additional materials. A change order may be issued if (1) made in writing, (2) signed by the authorized representative(s), and (3) accepted by Supplier. Such change orders shall include the following: change orders that constitute changes to (1) the general scope of Work, (2) the schedule, (3) administrative procedures not affecting the terms and conditions, or (4) the price.

**NOTICES:** Notices to Supplier shall be deemed to have been properly sent when electronically or physically delivered to

Supplier. Notices to GRU are deemed to have been properly sent when delivered to Utilities Purchasing, 301 SE 4th Avenue, Gainesville, Florida 32601 or e-mailed to purchasing@gru.com and GRU acknowledges receipt of the email.

**DISPUTES:** If a dispute arises out of or relates to this order, or the breach thereof, and if the dispute cannot be settled through negotiation, either party may, by giving written notice, refer the dispute to a meeting of appropriate higher management, to be held within 20 business days after giving of notice. If the dispute is not resolved within 30 business days after giving notice, or such later date as may be mutually agreed, the Parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association ("AAA") under its Commercial Mediation Rules before resorting to arbitration, litigation, or some other dispute resolution procedure. If the dispute requires arbitration, the dispute will be submitted to and finally resolved by arbitration under the Rules of the AAA. There will be a panel of arbitrators, selected in accordance with the AAA rules. The location of the arbitration will be Alachua County, Florida or a mutually agreeable location. The decision of the arbitrators will be final and binding upon both Parties, and neither Party will seek recourse to a law court or other authority to appeal for revisions of the decision.

**DELAY:** Notwithstanding the completion schedule, GRU has the right to delay performance for up to three (3) consecutive months as necessary or desirable and such delay will not be deemed a breach of Contract, but the performance schedule will be extended for a period equivalent to the time lost by reason of GRU's delay. Such extension of time will be supplier's sole and exclusive remedy for such delay.

If the project is stopped or delayed for more than three (3) consecutive months and GRU or Supplier elects to terminate the order because of such delay, or if such stoppage or delay is due to actions taken by GRU within its control, then Supplier's sole and exclusive remedy will be reimbursement for costs reasonably expended in preparation for or in performance of the Work. None of the aforementioned costs will be interpreted to include home office overhead expenses or other expenses not directly attributable to performance of the Contract. Supplier is not entitled to make any other claim, whether in breach of Contract or in tort for damages resulting in such delay.

**DEFAULT:** If Supplier should be adjudged as bankrupt, or make a general assignment for the benefit of its creditor(s), or if a receiver should be appointed for Supplier, or if there is persistent or repeated refusal or failure to supply sufficient properly skilled workforce or proper materials, or if Supplier should refuse or fail to make payment to persons supplying labor or materials for the Work, or persistently disregards instructions of GRU, or fails to observe or perform or is guilty of a substantial violation of any provision of the Contract documents, then GRU, after serving at least ten (10) calendar days prior written notice to Supplier of its intent to terminate and such default should continue unremedied for a period of ten (10) calendar days, may terminate the Contract without prejudice to any other rights or remedies and take possession of the Work; and GRU may take possession of and utilize in completing the

Work such materials, appliances, equipment as may be on the site of the Work and necessary therefore. Supplier will be liable to GRU for any damages resulting from such default.

**TERMINATION:**

Termination for Convenience: GRU may, by providing 30 calendar days written notice to Supplier, terminate this Contract, or any part thereof, for any or no reason, for GRU's convenience and without cause. After the termination date, Supplier shall stop all Work and cause its suppliers and/or sub-contractors to stop all Work in connection with this Contract. If GRU terminates for convenience, GRU shall pay Supplier for goods and services accepted as of the date of termination, and for Supplier's actual and reasonable, out of pocket costs incurred directly as a result of such termination. GRU is not responsible for Work performed after the effective termination date of this Contract.

Termination for Cause (Cancellation): GRU may terminate this Contract for cause if this Supplier materially breaches the Contract by: (a) refusing, failing or being unable to properly manage or perform; (b) refusing, failing or being unable to perform the Work pursuant to this Contract with sufficient numbers of workers, properly skilled workers, proper materials to maintain applicable schedules; (c) refusing, failing or being unable to make prompt payment to sub-contractors or suppliers; (d) disregarding laws, ordinances, rules, regulations or orders of any public authority or quasi-public authority having jurisdiction over the Project; (e) refusing, failing or being unable to substantially perform pursuant to the terms of this Contract as determined by GRU, or as otherwise defined elsewhere herein; and/or (f) refusing, failing or being unable to substantially perform in accordance with the terms of any other agreement between GRU and Supplier.

Funding out Clause: If funds for this Contract are no longer available, GRU reserves the right to terminate this Contract without cause upon thirty (30) calendar days written notice to Supplier.

**FORCE MAJEURE:** No Party to this Contract shall be liable for any default or delay in the performance of its obligations under this Contract due to an act of God or other event to the extent that: (a) the non-performing Party is without fault in causing such default or delay; and (b) such default or delay could not have been prevented by reasonable precautions. Such causes include, but are not limited to: acts of civil or military authority (including but not limited to courts of administrative agencies); acts of God; war; terrorist attacks; riot; insurrection; inability of GRU to secure approval; validation or sale of bonds; inability of GRU or Supplier to obtain any required permits, licenses or zoning; blockades; embargoes; sabotage; epidemics; fires; hurricanes, tornados, floods; or strikes. In the event of any delay resulting from such causes, the time for performance of each of the Parties hereunder (including the payment of invoices if such event actually prevents payment) shall be extended for a period of time reasonably necessary to overcome the effect of such delay. Any negotiated delivery dates established during or after a Force Majeure event will always be discussed and negotiated if additional delays are expected.

In the event of any delay or nonperformance resulting from such cause, the Party affected will promptly notify the other Party in writing of the nature, cause, date of commencement, and the anticipated impact of such delay or nonperformance. Such written notice, including change orders, will indicate the extent,

if any, to which is anticipated that any delivery or completion date will be affected.

**LIMITATION OF GRU LIABILITY:** To the fullest extent permitted by law, GRU shall not be liable to Supplier for any incidental, consequential, punitive, exemplary or indirect damages, lost profits, revenue or other business interruption damages, including but not limited to, loss of use of equipment or facility.

**WARRANTY:** Unless otherwise stated in this Contract, in addition to any warranty implied by law or fact, and any other express warranties, the Supplier expressly warrants all items to be free from defects in title, design, workmanship and materials, to conform strictly to applicable specifications, drawings, approved samples, if any; and to be fit and sufficient for the purpose intended and to be merchantable. Such warranties, together with all other services warranties of the Supplier, shall run to GRU. All warranties shall survive inspection, test acceptance of and payment by GRU. The Supplier will provide GRU with the same standard commercial warranty for the materials or services it would provide to buyers of a class similar to GRU under conditions similar to those specified in this order and comparable prices.

**PAYMENT:**

Invoicing: Supplier is responsible for invoicing GRU for Work performed pursuant to this Contract. Itemized invoice(s) must be mailed to Gainesville Regional Utilities, Accounts Payable, P.O. Box 147118, Station A-27, Gainesville, FL 32164-7118 or faxed to 352-334-2964 or e-mailed to accountspayable@gru.com.

Required Information: Supplier's itemized invoices shall include the following information (if applicable): Purchase Order number, item number, job number, description of supplies or services, quantities, unit prices, Work location, GRU Project Representative, job start date, job completion date or other pertinent information.

Payment Terms: Unless otherwise agreed upon in writing, GRU's payment terms are net thirty (30) days from receipt of correct invoice. Supplier shall not submit more than one invoice per thirty-day period. Any delay in receiving invoices, or error and omissions, will be considered just cause for delaying or withholding payment. Invoices for partially completed Work may be allowed with GRU's prior approval. All partial invoices must be clearly identified as such on the invoice. Any charges or fees will be governed by current Florida Statutes.

Final Payment/Acceptance: The acceptance by Supplier of final payment due on termination of the Contract shall constitute a full and complete release of GRU from any and all claims, demands and causes of action whatsoever which Supplier, its successors or assigns have or may have against GRU under the provisions of this Contract.

**COMPLIANCE WITH LAWS AND REGULATIONS:** All City, County, State and Federal laws, regulations and/or ordinances shall be strictly observed. Supplier is responsible for taking all precautions necessary to protect life and property.

**GOVERNING LAW, VENUE, ATTORNEY'S FEES, AND WAIVER OF RIGHT TO JURY TRIAL:** This Contract shall be construed pursuant to the laws of Florida and may not be construed more strictly against one party than against the other. In the event of any legal proceedings arising from or related to this Contract: (1) venue for any state or federal legal proceedings shall be in Alachua County Florida, (2) each Party

shall bear its own attorneys' fees except to the extent that Supplier agrees to indemnify GRU, including any appeals; and (3) for civil proceedings, the parties hereby waive the right to jury trial.

**SOVEREIGN IMMUNITY:** Nothing in this Contract shall be interpreted as a waiver of GRU's sovereign immunity as granted pursuant to Section 768.28 Florida Statutes.

**SEVERABILITY:** If any provision of this Contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and the rights and obligations of the Parties shall be construed and enforced as if this Contract did not contain the particular provision held to be invalid.

**ASSIGNMENT:** GRU or Supplier shall not assign, in whole or in part, any right or obligation pursuant to this Contract, without the prior written consent of the other Party.

**AUDIT OF RECORDS:** Supplier shall maintain records sufficient to document completion of the scope of services pursuant to this Contract. At all reasonable times, these records shall be made available to review, inspect copy and audit by persons duly authorized by GRU. These records shall be kept for a minimum of three (3) years after termination of this Contract. Records that relate to any litigation, appeal or settlement of claim arising pursuant to the performance of this Contract shall be made available until a final disposition has been made of such litigation, appeal, or claim.

**NONEXCLUSIVE REMEDIES:** Except as expressly set forth in this Contract, the exercise by either Party of any of its remedies under this Contract shall be without prejudice to its other remedies under this Contract or otherwise.

**ADVERTISING:** Supplier shall not publicly disseminate any information concerning the Contract without prior written approval from GRU, including but not limited to, mentioning the Contract in a press release or other promotional material, identifying GRU or the City as a reference, or otherwise linking Supplier's name and either a description of the Contract or the name of the City or GRU in any material published, either in print or electronically, to any entity that is not a party to this Contract, except potential or actual authorized distributors, dealers, resellers, or service representative.

**MODIFICATION OF TERMS:** This Contract constitutes the entire agreement between the Parties. No oral agreements or representations shall be valid or binding upon GRU or Supplier. No alteration or modification of this Contract, including substitution of product, shall be valid or binding unless authorized by GRU. Supplier may not unilaterally modify the terms of this Contract by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, "shrink wrap" terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto Supplier's order or fiscal forms or any other documents forwarded by Supplier for payment. An acceptance of product or processing of documentation on forms furnished by Supplier for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.

**WAIVER:** Any delay or failure by GRU to exercise or enforce any of its rights pursuant to this Contract shall not constitute or be deemed a waiver of GRU's right thereafter to enforce those rights, nor will any single or partial exercise of any such right

preclude any other or further exercise thereof or the exercise of any other right.

## **DISCLOSURE, CONFIDENTIALITY, AND PUBLIC RECORDS:**

"Confidential Information" includes, to the extent such information is defined pursuant to Sections 119.07 and 812.081, Florida Statutes, as trade secret, confidential, or otherwise exempt from the Florida Public Records Law. "Confidential Information" that is marked as "confidential" upon receipt, may include, but not limited to, certain information about GRU's operations, specifications, formulas, codes, software, hardware, intellectual properties, and other confidential and proprietary information belonging to GRU, Work Product (as defined below) or technical documentation, prepared, developed, or obtained by GRU, Supplier, or any of GRU's or Supplier's agents, representatives, or employees.

"Work Product" may include creative work which may lead to programs, intellectual properties, computer software, computer programs, codes, text, hypertext, designs, and/or any other work products associated with or arising directly out of the performance of the Work.

Florida has a very broad public records law. By entering into this Contract with GRU, Supplier acknowledges that it will comply with the Florida Public Records Act Chapter 119, Florida Statutes. Failure to comply with the Florida Public Records Act, including failure to provide a public record upon request, is a breach of this Contract and GRU may pursue all remedies for such breach. In complying with the Florida Public Records Act, Supplier shall: a) Keep and maintain public records required by the public agency to perform the service; b) Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law; c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency; d) Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

**IN THE EVENT THAT CONTRACTOR HAS QUESTIONS REGARDING FLORIDA’S PUBLIC RECORDS LAW, CHAPTER 119 OF THE FLORIDA STATUTES, OR IF CONTRACTOR HAS QUESTIONS RELATED TO CONTRACTOR’S OBLIGATION TO PROVIDE PUBLIC RECORDS, CONTRACTOR SHOULD CONTACT THE GRU PURCHASING REPRESENTATIVE USING THE CONTACT INFORMATION PROVIDED IN THIS CONTRACT, CONTACT THE PURCHASING DEPARTMENT AT (352) 393-1240, OR EMAIL [PURCHASING@GRU.COM](mailto:PURCHASING@GRU.COM).**

**SALES TAX:** Pricing shall include applicable taxes on items purchased or manufactured by Supplier for the project. GRU is exempt from Florida sales taxes for certain purchases. A “Consumer’s Certificate of Exemption” is available at [www.gru.com](http://www.gru.com).

**ACCEPTANCE:** No acknowledgment, or other document written or executed by the Supplier or forwarded by the Supplier to GRU after the date of this Contract, containing terms or conditions other than those specified herein, shall be binding on GRU unless any such instrument shall be signed by the person who signed the Contract on behalf of GRU and such instrument shall have been returned to GRU.

**DELIVERY.** All materials and equipment will be delivered F.O.B. Destination, freight included.

**INSURANCE.** Supplier shall meet the minimum insurance requirements at all times as required by law and GRU. Supplier failure to maintain minimum coverage may result in breach of Contract. Supplier shall procure and maintain insurance with coverage amounts as required. Supplier shall furnish GRU a certificate of insurance in a form acceptable to GRU for the insurance required with endorsement naming GRU as additional insured.

**MINIMUM INSURANCE REQUIRED FOR SERVICES:**

Commercial General Liability: \$1,000,000 Combined single limit for bodily injury and property damage.

Automotive Liability: \$1,000,000 Combined single limit for bodily injury and property damage.

Workers Compensation:  
(a) State Statutory

(b) Applicable Federal	Statutory
(c) Employer’s Liability	\$500,000 per accident
	\$500,000 Disease, Policy Limit.
	\$500,000 Disease, Each Employee.
Excess Liability	\$1,000,000

**NERC CIP Compliance Requirements. (Services)**

Pursuant to federally mandated security standards from the North American Electric Reliability Corporation (NERC) regarding Critical Infrastructure Protection (CIP), GRU has implemented specific requirements for any contract employee requiring access to protected systems and facilities. These requirements are outlined in NERC Standard “CIP-004-6 Table R3 – Personnel Risk Assessment Program”, and apply to anyone who shall have physical and/or electronic access to these designated locations. Compliance verification for an employee, including annual training as well as a qualified criminal history background screening, will be required prior to granting that employee authorized access to the designated protected systems and/or facilities.

**SAFETY DATA SHEETS (SDS).** If applicable, the Supplier shall provide to GRU upon delivery of materials, all safety data sheets.

**SAFETY AND SECURITY:** Each location has unique safety and security procedures and guidelines that must be followed. Acceptance of a project or work assignment in a particular location will be an acceptance of the safety and security requirements for that location. GRU will provide the safety and security requirements along with the scope of work requested.