

L-3 Communications

General Terms and Conditions for Supply and Services Subcontracts

Supplement 1 – U.S. Government Contract Provisions from the Federal Acquisition Regulation (FAR)

1. When the materials or products furnished are for use in connection with a U.S. Government contract or subcontract, in addition to the General Provisions, the following provisions shall apply, as required by the terms of the prime contract, or by operation of law or regulation. In the event of a conflict between these FAR provisions and the General Provisions, the FAR provisions shall control.

2. The following clauses set forth in the FAR in effect as of the date of the prime contract are incorporated herein by reference. In all clauses listed herein, the terms "Government", "Contracting Officer" and "Contractor" shall be revised to suitably identify the contracting parties herein and affect the proper intent of the provision except where further clarified or modified below. "Subcontractor", however, shall mean "Seller's Subcontractor" under this purchase order.

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55.	Termination for Convenience of the Government (Fixed-Price) (Short Form)	52.249-1
56.	29 CFR, Appendix A to Subpart Notification of Part 471, Employee Rights Under Federal Labor Laws	
B.	ORDERS OVER \$10,000 ALSO INCLUDE THE FOLLOWING:	
1.	Reporting Executive Compensation and First-Tier Subcontract Awards (Over \$25,000)	52.204-10
2.	Walsh-Healy Public Contracts Act.	52.222-20
3.	Prohibition of Segregated Facilities	52.222-21
4.	Equal Opportunity	52.222-26(b)
5.	Affirmative Action for Workers with Disabilities	52.222-36
6.	Buy American Act – North American Free Trade Agreement – Israeli Trade Act (over \$25,000)	52.225-3
7.	Buy American Act North American Free Trade Agreement – Israeli Trade Act Certificate (over \$25,000)	52.225-4
C.	ORDERS OVER \$100,000 ALSO INCLUDE THE FOLLOWING:	
1.	Certificate of Independent Price Determination	52.203-2
2.	Restrictions on Subcontractor Sales to the Government	52.203-6
3.	Anti-Kickback Procedures (less paragraph (c) (1))	52.203-7
4.	Price or Fee Adjustment for Illegal or Improper Activities	52.203-10
5.	Limitation on Payments to Influence Certain Federal Transactions	52.203-12
6.	Women-Owned Business (Other than Small Business)	52.204-5
7.	Audit and Records – Negotiation	52.215-2
8.	Integrity of Units Prices	52.215-14
9.	Utilization of Small Business Concerns	52.219-8
10.	Contract Work Hours and Safety Standards Act – Overtime Compensation	52.222-4
11.	Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans	52.222-35
12.	Employment Reports on Disabled Veterans and Veterans of the Vietnam Era, and Other Eligible Veterans	52.222-37
13.	Drug-Free Workplace	52.223-6
14.	Estimate of Percentage of Recovered Material Content for EPA-Designated Products	52.223-9
15.	Toxic Chemical Release Reporting (Less paragraph (e))	52.223-14
16.	Notice and Assistance Regarding Patent and Copyright Infringement	52.227-2
17.	Federal, State, and Local Taxes	52.229-3
18.	Bankruptcy	52.242-13
19.	Change Order Accounting	52.243-6
20.	Subcontracts (paragraphs (h) and (l) only apply)	52.244-2
21.	Inspection of Supplies, Fixed Price Contracts	52.246-2
22.	Inspection of Services, Fixed Price Contracts	52.246-4
23.	Responsibility for Supplies	52.246-16
24.	Value Engineering	52.248-1
25.	Termination for Convenience of the Government (Fixed-Price) – “Government: shall mean “Buyer”. In paragraph (c) the term “120 days” is changed to “60 days.” The term “one year” in Paragraph (e) is changed to “six months.” The term “90 days in paragraph (l) is changed to “forty-five days,” per 49.502(e)	52.249-2
26.	Default (Fixed Price Supply and Service)	52-249-8

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D. ORDERS OVER \$550,000 ALSO INCLUDE THE FOLLOWING:	
1. Pension Adjustment and Asset Reversions	52.215-15
2. Reversion or Adjustment of Plans for Postretirement Benefits (PRB) other than Pensions	52.215-18
3. Notification of Ownership Changes	52.215-19
4. Small Business Subcontracting Plan	52.219-9
5. Liquidated Damages – Subcontracting Plan	52.219-16
6. Code of Business Ethics and Conduct (over \$5 million)	52.203-13
7. Display of Hotline Poster (over \$5 million)	52.203-14
8. Preaward On-Site Equal Opportunity Compliance Evaluation (over \$10 million)	52.222-24
E. UNLESS OTHERWISE EXEMPT ALSO INCLUDE THE FOLLOWING:	
1. Audit and Records – Sealed Bidding (exceeds \$650,000)	52.214-26
2. Subcontractor Cost or Pricing Data – Modifications – Sealed Bidding (exceeds \$650,000)	52.214-28
3. Price Reduction for Defective Cost or Pricing	52.215-10
4. Price Reduction for Defective Cost or Pricing Data – Modifications	52.215-11
5. Subcontractor Cost or Pricing Data	52.215-12
6. Subcontractor Cost of Pricing Data – Modifications	52.215-13
7. Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data	52.215-20
8. Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data – Modifications	52.215-21
9. Prospective Subcontractor Requests for Bonds	52.228-12
10. Administration of Cost Accounting Standards	52.230-6
11. Earned Value Management System	52.234-4
F. APPLICABLE TO COST REIMBURSEMENT, TIME & MATERIAL OR LABOR HOUR ORDERS:	
1. Facilities Capital Cost of Money	52.215-16
2. Waiver of Facilities – Capital Cost of Money	52.215-17
3. Allowable Cost and Payment (cost reimbursement) – Seller agrees to execute assignment documents in order to meet subsection (h)	52.216-7
4. Fixed Fee – applicable if this is a cost plus fixed fee order	52.216-8
5. Incentive Fee – applicable if this is a cost plus incentive fee order	52.216-10
6. Cost Contract – No Fee – applicable if this is a cost no fee order	52.216-11
7. Cost Sharing Contract – No Fee – applicable if this is a cost sharing, no fee order	52.216-12
8. Payment for Overtime premiums – insert “0%” in paragraph (a) unless indicated otherwise on the face of this order	52.222-2
9. Fair Labor Standards Act and Service Contract Act – Price Adjustment (Multiple Year and Option Contracts)	52.222-43
10. Fair Labor Standards Act and Service Contract Act – Price Adjustment	52.222-44
11. State of New Mexico Gross Receipts and Compensating Tax	52.229-10
12. Limitation of Cost (if fully funded)	52.232-20
13. Limitation of Funds (if incrementally funded)	52.232-22
14. Changes – Cost-Reimbursement – applicable if this is a cost-reimbursement order	52.243-2
15. Changes – Time and Material or Labor-Hours – applicable if this is a time and material or labor hour order	52.243-3
16. Inspection of Supplies (Cost-Reimbursement) – “Contracting Officer” means “Buyer’s purchasing representative” and “Government” means “Buyer and Government” (provided that an inspection system accepted by the Government will be deemed accepted by the Buyer), and where “Government” first appears in paragraph (k) it shall mean “Government or Buyer.” The provisions in this clause for access, right to inspect, safety protection, and relief from liability applies equally to Buyer and the Government.	52.246-3
17. Inspection of Services (Cost –Reimbursement) – “Contracting Officer” means “Buyer’s purchasing representative” and “Government” means “Buyer and Government”(provided that an inspection system accepted by the Government will be deemed accepted by the Buyer), and where “Government” first appears in paragraph (k) it shall mean “Government and Buyer.” The provisions in this clause for access, right to inspect, safety protection, and relief from liability apply equally to Buyer and the Government.	52.246-5

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18. Inspection – Time and Material and Labor Hour – “Contracting Officer” means “Buyer’s purchasing representative” and “Government” means “Buyer and Government” (provided that an inspection system accepted by the Government will be deemed accepted by the Buyer), and where “Government” first appears in paragraph (k) it shall mean “Government and Buyer.” The provisions in this clause for access, right to inspect, safety protection, and relief from liability apply equally to Buyer and the Government. 52.246-6
19. Submission of Transportation Documents for Audit 52.247-67
20. Termination (Cost-Reimbursement) – “Government” means “Buyer” and “Contracting Officer” means “Buyer’s purchasing representative.” In paragraph (d) change “15 days” and “45 days” to “30 days” and “90 days,” respectively. In paragraph (e) change “1 year” to “six months.” Alternate IV is applicable to time and material or labor-hour orders only. 52.249-6 Alt IV
21. Excusable Delay 52.249-14
- G. APPLICABLE TO CONSTRUCTION ORDERS**
1. Subcontracts (Labor Standards). 52.222-11
2. Affirmative Action Compliance Requirements for Construction (over \$10,000) 52.222-27
3. Notice of Requirement for Project Labor Agreement 52.222-33
4. Project Labor Agreement 52.223-34
5. Affirmative Procurement of Biobased Products Under Service and Construction Contracts 52.223-2
6. Buy American Act – Construction Materials 52.225-9
7. Notice of Buy American Act / Balance of Payments Program Requirement – Construction Materials 52.225-10
8. North Carolina State and Local Sales and Use Tax 52.229-2
9. Prompt payment for construction contracts 52.232-27
10. Inspection of Construction 52.246-12
11. Value Engineering – Construction (over \$10,000) 52.248-3
- 3. Certifications**
- The offeror, by signing its offer, hereby certifies compliance with the following clauses and is therefore eligible for award.
- A. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (over \$100,000) 52.203-11
- B. Certification Regarding Responsibility Matters 52.209-5
- C. Protecting the Government’s Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (over \$30,000) 52.209-6
- D. Certification Regarding Knowledge of Child Labor for Listed End Products 52.222-18
- E. Previous Contracts and Compliance Reports (over \$10,000) 52.222-22
- F. Affirmative Action Compliance 52.222-25
- G. Affirmative Action for workers with Disabilities (over \$100K) 52.222-36
- H. Bio-based Product Certification 52.223-1
- I. Recovered Material Certification 52.223-4
- J. Certification of Toxic Chemical Release Reporting (competitively awarded; over \$100K) 52.223-13
- K. Prohibition on Conducting Restricted Business Operations in Sudan Certification 52.225-20
- L. Cost Accounting Standards Notices and Certifications 52.230-1
- 4. Applicable to all contracts that are funded in whole or in part by the American Recovery and Reinvestment Act of 2009 (“Recovery Act”):**
1. Whistleblower Protections under the Recovery Act 52.203-15
2. Reporting Requiring 52.204-11
3. Audit and Records (Sealed Bidding) 52.214-26
- 5. Additional Clauses**
- A. **COST ACCOUNTING STANDARDS (Applicable unless otherwise exempt)**
Seller shall communicate and otherwise deal directly with the Contracting Officer to the extent practicable and permissible as to all matters relating to Cost Accounting Standards. Seller shall provide Buyer with copies of all Communications between Seller and the Contracting Officer respecting Cost Accounting Standards, FAR 52.230-2; Disclosure and Consistency of Cost Accounting Practices, FAR 52.230-3; and Administration of Cost Accounting Standards, FAR 52.230-6, provided Seller shall not be required to disclose to Buyer such communications containing information which is privileged and confidential to Seller. In addition to any other remedies provided by law or under this Order, Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage, or expense if Buyer is subject to any liability as the result of a failure of the Seller or

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its lower-tier subcontractors to comply with the requirements of FAR 52.230-2, 52.230-3, 52.230-5 or 52.230-6. Paragraph (b) is deleted in each of the foregoing clauses.

B. TRUTH IN NEGOTIATIONS

Cost or Pricing Data (applicable only if certified cost or pricing data has been provided). The clause entitled "Subcontractor Cost or Pricing Data" is a part of this Order if the Seller was required to furnish cost and pricing data and a Certification of Current Cost or Pricing Data for this Order. If it was not required to furnish such data and Certificate, the clause entitled "Subcontractor Cost or Pricing Data-Modification" is a part of this Order. Seller shall update its proposal and re-certify its cost or pricing data whenever costs, factors, or prices change such that cost or pricing data previously furnished is no longer, accurate, current, or complete.

1. Indemnification

If any price (including profit or fee) negotiated in connection with the prime contract between the Government and the Buyer or any cost that is reimbursable under said contract is reduced because cost or pricing data furnished by the Seller in connection with any proposal submitted by the Buyer relating to said contract or in connection with this Order was not accurate, complete, or current, the Seller shall indemnify the Buyer in the amount of said reduction.

The phrase "cost or pricing data" as used herein shall be deemed to include any such data, which related to a lower-tier prospective or actual subcontract, at any level, which was submitted by the Seller or which it procured by submission of, in connection with the aforesaid proposal or this Order in support of its cost estimate.

If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Seller shall be liable and shall pay the Buyer at the time such overpayment is repaid:

- i. Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Seller to the date the Buyer is repaid by the Seller at that applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C 6621(a)(2); and
- ii. For Department of Defense contracts only, a penalty equal to the amount of the overpayment, if the Seller knowingly submitted cost or pricing data which were incomplete, inaccurate, or non-current.

2. Cost or Pricing Data for Changes

Prior to the pricing of any change or other modification to this Order which involves, increases and/or decreases in costs plus applicable profit in excess of the contractually required threshold (e.g. \$100,000, \$500,000, \$550,000 or \$650,000) and resulting from a change in the prime contract, subcontractors shall submit cost or pricing data and shall certify that the data, as defined in Federal Acquisition Regulation 15.406-2, submitted either actually or by specific identification in writing are accurate, complete, and current as of the date of completion of negotiations.

When required to obtain cost or pricing data from its subcontractors, pursuant to the provisions of this Order, Seller shall obtain such data.

6. DISPUTES – GOVERNMENT CONTRACTS

Any reference to the "Disputes clause" in any applicable FAR Clause under paragraph 2 above shall mean this paragraph 6, Disputes – Government Contracts.

- i. Any dispute arising under this purchase order relating to any decision of the Contracting Officer under the prime contract shall be resolved in accordance with Paragraph (ii) below. All other disputes will be resolved in accordance with Section 23, Disputes, in the General Terms and conditions for Supply and Services Subcontracts.
- ii. 1. Notwithstanding any other provisions in this purchase order, any decision of the Contracting Officer under the prime contract which binds Buyer shall bind both Buyer and Seller to the extent that it relates to this purchase order –provided that:
 - a. The Buyer notifies with reasonable promptness the Seller of such decision
 - b. The Buyer, at its sole discretion, authorizes in writing the Seller to appeal in the name of the Buyer such decision at its own expense, or

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- c. If Buyer should appeal such decision, Buyer at its sole discretion offers to the Seller the opportunity at its own expense to join Buyer in such appeal.
 2. Any decision upon such appeal, when final, shall be binding upon the Seller.
 3. The Seller shall keep Buyer informed of any appeal it makes by providing copies of all pertinent documents to Buyer.
 4. The Seller shall indemnify and save harmless from any and all liability of any kind incurred by or imputed to Buyer under Section 5, "Fraudulent Claims," of the Contract Disputes Act of 1978, as amended, if Seller is unable to support any part of its claim and it is determined that such inability is attributable to fraud or misinterpretation of fact on the part of Seller.
- iii. Pending any prosecution, appeal, or final decision or settlement of any dispute arising under this purchase order, the Seller shall proceed diligently, as directed by Buyer, with the performance of this purchase order.
 - iv. Nothing in this clause nor any authorization or offer that may be made shall be deemed to constitute acceptance or acknowledgement by Buyer of the validity of Seller's claim or any part thereof, nor be deemed to limit or in any way restrict Buyer from taking any actions, included available remedies, it deems appropriate to protect its own interests.
 - v. As used in this clause, the word "appeal" means an appeal taken under the contract Disputes Act of 1978, as amended.