

**General Terms and Conditions of Purchase – Supplement 1
Government Contract Provisions from the Federal Acquisition Regulation (FAR)
TC-002 (02/07)**



<p>1. When the materials, products or services furnished are for use in connection with a U.S. Government prime contract or higher-tier subcontract, in addition to the General Provisions (TC-001), the following FAR clauses and provisions (TC-002) shall apply, as required by the terms of the prime contract or by operation of law or regulation. The effective version of each FAR provision shall be the same version as that which appears in Buyer's Prime Contract, or higher-tier subcontract under which this Order is a subcontract. In the event of a conflict between these FAR provisions (TC-002) and the General Provisions (TC-001), the FAR provisions (TC-002) shall control.</p> <p>2. The following clauses set forth in the FAR in effect as of the date of the prime contract or higher-tier subcontract 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 clause or provision except where further clarified or modified below. "Subcontractor", however, shall mean "Seller's Subcontractor" under this Purchase Order.</p> <p>A. APPLICABLE TO ALL ORDERS:</p> <p>1. Gratuities 52.203-3</p> <p>2. Covenant Against Contingent Fees 52.203-5</p> <p>3. Price or Fee Adjustment for Illegal or Improper Activity 52.203-10</p> <p>4. Security Requirements 52.204-2</p> <p>5. Personal Identity Verification of Contractor Personnel 52.204-9</p> <p>6. Material Requirements 52.211-5</p> <p>7. Defense Priority and Allocation Requirements 52.211-15</p> <p>8. Utilization of Small Business Concerns 52.219-8</p> <p>9. Notice to the Government of Labor Dispute 52.222-1</p> <p>10. Contract Work Hours and Safety Standards Act-Overtime Compensation 52.222-4</p> <p>11. Combating Trafficking in Persons 52.222-50</p> <p>12. Hazardous Material Identification and Material Safety Data – "Government" means "Government and Buyer" 52.223-3</p> <p>13. Pollution Prevention and Right-to-Know Information (Applicable in contracts that provide for performance on a Federal facility.) 52.223-5</p> <p>14. Notice of Radioactive Materials (Applicable in contracts for supplies which are, or which contain radioactive materials.) 52.223-7</p> <p>15. Ozone-Depleting Substances 52.223-11</p> <p>16. Privacy Act 52.224-2</p> <p>17. Buy American Act - Supplies 52.225-1</p> <p>18. Duty-Free Entry 52.225-8</p> <p>19. Restrictions on Certain Foreign Purchases 52.225-13</p> <p>20. Authorization and Consent - Alternate I 52.227-1</p> <p>21. Refund of Royalties 52.227-9</p> <p>22. Filing of Patent Applications-Classified Subject Matter 52.227-10</p> <p>23. Patent Rights-Retention by the Contractor (Short Form) 52.227-11</p> <p>24. Patent Rights-Retention by the Contractor (Long Form) 52.227-12</p> <p>25. Rights in Data - General 52.227-14</p> <p>26. Commercial Computer Software-Restricted Rights 52.227-19</p> <p>27. Insurance-Work on a Government Installation 52.228-5</p> <p>28. Industrial Resources Developed Under Defense Production Act Title III 52.234-1</p> <p>29. Accident Prevention 52.236-13</p> <p>30. Protection of Government Buildings, Equipment, and Vegetation 52.237-2</p> <p>31. Change Order Accounting 52.243-6</p> <p>32. Competition in Subcontracting 52.244-5</p> <p>33. Subcontracts for Commercial Items 52.244-6</p> <p>34. Government Property (Fixed-Price Contracts) "Government" means "Government" and/or "Buyer". The fourth sentence of paragraph (h) is changed to read: "Neither the Government nor the Buyer shall be liable..." 52.245-2</p> <p>35. Special Tooling - In paragraph (c) "Government" means "Government or Buyer" 52.245-17</p> <p>36. Special Test Equipment - In paragraph (b)(4) "Government" means "Government or Buyer" 52.245-18</p> <p>37. Government Property Furnished "As Is" 52.245-19</p> <p>38. Inspection of Supplies – Fixed-Price 52.246-2</p> <p>39. Responsibility for Supplies 52.246-16</p> <p>40. Preference for U.S.-Flag Air Carriers 52.247-53</p> <p>41. Preference for Privately Owned U.S.-Flag Commercial Vessels 52.247-54</p> <p>42. Termination for Convenience of the Government (Fixed-Price) "Government" shall mean "Buyer." In paragraph (d) the term "45 days" is changed to "90 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." 52.249-2</p> <p>B. ORDERS OVER \$10,000 ALSO INCLUDE THE FOLLOWING:</p> <p>1. Walsh-Healy Public Contracts Act 52.222-20</p> <p>2. Prohibition of Segregated Facilities 52.222-21</p> <p>3. Equal Opportunity 52.222-26</p> <p>4. Affirmative Action for Workers with Disabilities 52.222-36</p> <p>C. ORDERS OVER \$100,000 ALSO INCLUDE THE FOLLOWING:</p> <p>1. Restrictions on Subcontractor Sales to the Government 52.203-6</p> <p>2. Anti-Kickback Procedures (less paragraph (c)(1)) 52.203-7</p> <p>3. Limitation on Payments to Influence Certain Federal Transactions 52.203-12</p> <p>4. Audit and Records–Negotiation 52.215-2</p> <p>5. Integrity of Unit Prices (less paragraph b) 52.215-14</p> <p>6. Notification of Employee Rights Concerning Payment of Union Dues or Fees 52.222-39</p> <p>7. Toxic Chemical Release Reporting (less paragraph (e)) 52.223-14</p> <p>8. Notice and Assistance Regarding Patent and Copyright Infringement 52.227-2</p> <p>9. Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans 52.222-35</p> <p>10. Employment Reports on Disabled Veterans and Veterans of the Vietnam Era, 52.222-37</p>	<p>and other Eligible Veterans</p> <p>11. Value Engineering 52.248-1</p> <p>D. ORDERS OVER \$550,000 ALSO INCLUDE:</p> <p>1. Small Business Subcontracting Plan – (Note to Seller: This clause requires adoption of small business subcontracting plan and reporting) 52.219-9</p> <p>E. UNLESS OTHERWISE EXEMPT ALSO INCLUDES THE FOLLOWING:</p> <p>1. Price Reduction for Defective Cost or Pricing Data 52.215-10</p> <p>2. Price Reduction for Defective Cost or Pricing Data-Modifications 52.215-11</p> <p>3. Subcontractor Cost or Pricing Data 52.215-12</p> <p>4. Subcontractor Cost or Pricing Data-Modifications 52.215-13</p> <p>5. Pension Adjustments and Asset Reversions 52.215-15</p> <p>6. Reversion or Adjustment of Plans for Post-retirement Benefits (PRB) Other Than Pensions 52.215-18</p> <p>7. Notification of Ownership Changes 52.215-19</p> <p>8. Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data 52.215-20</p> <p>9. Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data-Modification 52.215-21</p> <p>F. APPLICABLE TO COST REIMBURSEMENT, TIME & MATERIAL OR LABOR HOUR ORDERS:</p> <p>1. Facilities Capital Cost of Money 52.215-16</p> <p>2. Allowable Cost and Payment (cost reimbursement) – Seller agrees to execute assignment documents in order to comply with subsection (h) 52.216-7</p> <p>3. Fixed Fee – applicable if this is a cost plus fixed fee order 52.216-8</p> <p>4. Incentive Fee – applicable if this is a cost plus incentive fee order 52.216-10</p> <p>5. Cost Contract – No Fee – applicable if this is a cost no fee order 52.216-11</p> <p>6. Cost Sharing Contract – No Fee – applicable if this is a cost sharing, no fee order 52.216-12</p> <p>7. Payment for Overtime Premiums – insert "0%" in paragraph (a) unless indicated otherwise on the face of this order 52.222-2</p> <p>8. Payments under Time-and-Materials and Labor-Hour Contracts, in which "schedule" means this order, "voucher(s)" means invoice(s), "Government" means Buyer and "Contracting Officer" means Buyer's Purchasing Representative. 52.232-7</p> <p>9. Limitation of Cost (if fully funded) 52.232-20</p> <p>10. Limitation of Funds (if incrementally funded) 52.232-22</p> <p>11. Changes – Cost-Reimbursement – applicable if this is a cost-reimbursement order 52.243-2</p> <p>12. Changes – Time and Material or Labor-Hours – applicable if this is a time and material or labor hour order 52.243-3</p> <p>13. Subcontracts (paragraphs (h) and (i) only apply) 52.244-2</p> <p>14. Government Property (Cost-Reimbursement, Time and Material or Labor Hour Contracts) - "Government" means "Government and Buyer". The following is substituted for paragraph (g) in cost reimbursable orders only: "Seller shall return all Government-furnished property in as good condition as when received, except for reasonable wear and tear for use of the property in accordance with the provisions hereof." 52.245-5</p> <p>15. 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 and/or Buyer". The provisions in this clause for access, right to inspect, safety protection, and relief from liability apply equally to Buyer and the Government 52.246-3</p> <p>16. 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). 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</p> <p>17. Inspection of 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/or Buyer". The provisions in this clause for access, right to inspect, safety protection, and relief from liability apply equally to Buyer and the Government. 52.249-6;</p> <p>18. Termination (Cost-Reimbursement) – "Government" means "Buyer" and "Contracting Officer" means "Buyer's purchasing representative". In paragraph (e) Change "15 days" and "45 days" to "30 days" and "90 days", respectively. In paragraph (f) change "1 year" to "six months". Alternate IV is applicable to time and material or labor hour orders only. Alt IV</p> <p>19. Excusable Delays 52.249-14</p>
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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

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- B. Certification Regarding Debarment, Suspension, Proposed Debarment and Other Responsibility Matters (over \$30,000) 52.209-5
- C. Previous Contracts and Compliance Reports (over \$10,000) 52.222-22
- D. Certification of Toxic Chemical Release Reporting (over \$100,000) 52.223-13

- 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
- 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.

4. ADDITIONAL CLAUSES:

A. COST ACCOUNTING STANDARDS (Applicable if noted in the Purchase Order)

- Cost Accounting Standards 52.230-2
- Disclosure and Consistency of Cost Accounting Practices 52.230-3
- Cost Accounting Standards – Educational Institution 52.230-5
- Administration of Cost Accounting Standards 52.230-6

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 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 legally privileged and confidential to the Seller. In addition to any other remedies provided by law or under this Purchase Order, Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage, or expense if Buyer is subjected to any liability as the result of a failure of the Seller or 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 and Pricing Data)

Unless exempt, Seller shall submit a FAR Part 15 compliant cost proposal inclusive of appropriate updates throughout the negotiation process. At the conclusion of negotiations, and regardless of any prior certification, Seller must certify as to the accuracy, currency and completeness of its information in accordance with the FAR required Certificate of Current Cost or Pricing Data.

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 Purchase 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 Purchase 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:

- a. 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 the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and
- b. 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 Purchase Order which involves increases and/or decreases in costs plus applicable profit expected to exceed the threshold for submission of cost or pricing data, 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 Purchase Order, Seller shall obtain such data.

5. DISPUTES – GOVERNMENT CONTRACTS

Any reference to "Disputes" in any applicable FAR Clause contained herein shall mean this paragraph, Disputes – Government Contracts

- A. 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 (B) below. All other disputes will be resolved by the Disputes Clause in the General Terms and Conditions of Purchase.
- B. 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 and

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 misrepresentation of fact on the part of Seller.

C. 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.

D. Nothing in this clause nor any authorization or offer that may be made shall be deemed to constitute acceptance or acknowledgment 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, including available remedies, it deems appropriate to protect its own interests.

E. As used in this clause, the word "appeal" means an appeal taken under the Contract Disputes Act of 1978, as amended.