



## General Terms and Conditions of Purchase

### Supplement 1 – Federal Acquisition Regulation (FAR) Government Contract Provisions

1. When the products or services furnished are for use in connection with a U.S. Government prime contract or subcontract, in addition to the Pro-Active Engineering General Purchase Order Terms and Conditions, the following provisions shall apply, as required by the terms of the prime contract or a subcontract, including POs and changes and mods to POs. The effective version of each Federal Acquisition Regulation (hereinafter "FAR") clause shall be the same version as that which appears in Buyer's prime contract (as amended) or higher tier subcontract (as amended) under which this Order is a subcontract. For the acquisition of commercial items under Orders placed in support of, and charged to, a U.S. Government prime contract or subcontract, the only FAR clauses that are required by FAR 52.244-6 are those annotated with \* after the FAR clause number. For the definition of a commercial item see FAR 2.101.
2. In the event of a conflict between these FAR provisions and the General Terms and Conditions of Purchase, the FAR provisions shall supercede.
3. Seller shall insert these provisions in selected lower tier subcontracts, either verbatim or in substance, and by incorporation-by-reference or otherwise as appropriate.
4. In all clauses listed herein, the terms "Government," "Contracting Officer," and "Contractor" shall be deemed revised to suitably identify the contracting parties herein and effect the proper intent of the provision except where further clarified or modified below. However, clauses identified by \*\* after the title shall have their original meaning as written in the FAR, and when identified by \*\*\* after the title shall not only have their original meaning as written in the FAR, but "Government," "Contracting Officer," and "Contractor" shall also mean Buyer. "Subcontractor," however, shall mean "Seller's Subcontractor" under the Order.
5. If any FAR clauses do not apply to a specific Order, such clauses are considered to be self-deleting.

#### A. Applicable to all Purchase Orders:

52.202-1	Definitions
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity
52.203-15*	Whistleblower Protection Under the American Recovery and Reinvestment Act of 2009
52.203-19	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements.
52.204-2	Security Requirements**
52.204-9	Personal Identity Verification of Contractor Personnel (applies where Seller will have physical access to a federally-controlled facility or access to a Federal information system)



52.204-21*	Basic Safeguarding of Covered Contractor Information Systems (applies if Seller may have Federal contract information residing in or transitioning through its information system; inapplicable to Orders for commercially available off-the-shelf items)
52.211-5	Material Requirements
52.211-15	Defense Priority and Allocation Requirements
52.212-5	Contract Terms Required to Implement Executive Orders – Commercial Items
52.217-9	Option to Extend the Term of the Contract
52.219-8*	Utilization of Small Business Concerns
52.222-1	Notice to Government of Labor Disputes
52.222-21*	Prohibition of Segregated Facilities
52.222-22	Previous Contracts and Compliance Reports
52.222-26*	Equal Opportunity
52.222-41	Service Contract Act of 1965, as amended
52.222-50*	Combating Trafficking in Persons (include Alternate I if it is included in the prime contract)
52.222-51	Exemption From Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment - Requirements
52.222-53	Exemption From Application of the Service Contract Act to Contracts for Certain Services – Requirements
52.222-54	Employment Eligibility Verification (applies if Order exceeds the micro-purchase threshold and includes work performed in the US)
52.222-55*	Minimum Wages Under Executive Order 13658 (applies if Order is subject to the Service Contract Act Standards statute or Wage Rate Requirements statute, and the work is performed in whole or in part in the US)
52.223-3	Hazardous Material Identification and Material Safety Data
52.223-7	Notice of Radioactive Materials***
52.223-11	Ozone-Depleting Substances
52.223-12	Refrigeration Equipment and Air Conditioners
52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving (applies if Order exceeds the micro-purchase threshold)



52.225-1	Buy American Act – Supplies
52.225-8	Duty-Free Entry
52.225-13	Restrictions on Certain Foreign Purchases**
52.225-20	Prohibition on Conducting Restricted Business Operations in Sudan
52.225-26*	Contractors Performing Private Security Functions Outside the United States (as applicable in accordance with paragraph (f))
52.227-3	Patent Indemnity***
52.227-9	Refund of Royalties (applies if royalties reported during the negotiation of the Order exceed \$250)
52.227-10	Filing of Patent Applications – Classified Subject Matter**
52.227-11	Patent Rights – Ownership by the Contractor** (applies to subcontracts for experimental, developmental, or research work performed by a small business concern or domestic non-profit organization; reports required by this clause shall be filed with the agency identified by the Buyer’s Procurement representative on the face of this Order)
52.227-14	Rights in Data – General (does not apply if DFARS 252.227-7013 applies; certain other exceptions apply – e.g., work is to be performed outside the U.S.)
52.227-19	Commercial Computer Software License (only applies for the acquisition of commercial computer software; does not apply under Department of Defense procurements)
52.228-3	Worker’s Compensation Insurance (Defense Base Act)
52.228-4	Workers Compensation and War-Hazard Insurance Overseas
52.228-5	Insurance – Work on a Government Installation
52.232-40*	Providing Accelerated Payments to Small Business Subcontractors
52.234-1	Industrial Resources Developed Under Defense Production Act Title III
52.236-13	Accident Prevention
52.242-15	Stop Work Order (the words “ninety (90) days” are changed to “one hundred (100) days” and the words “thirty (30) days” are changed to “twenty (20) days” whenever they appear; if the Stop Work Order is issued based on a bid protest, the 100-day period may be extended by Buyer until the protest is resolved; and any equitable adjustment is subject to Buyer’s recovery from the Government)
52.244-5	Competition in Subcontracting



- 52.244-6\* Subcontracts for Commercial Items
- 52.245-1 Government Property (“Contracting Officer” means “Buyer” except in the definition of Property Administrator and in paragraph (h)(1)(iii) where it is unchanged, and in paragraphs (c) and (h)(4) where it includes “Buyer”; “Government” is unchanged in the phrases “Government property” and Government furnished property” and where elsewhere used except in paragraph (d)(1) where it means “Buyer” and except in paragraphs (d)(2) and (g) where it means “Government and Buyer”; the following is added as paragraph (n): “Seller shall immediately notify Buyer in writing if the government or other customer (i) revokes its assumption of loss under any direct contracts with Seller or (ii) makes a determination that Seller’s property management practices are inadequate, and/or present an undue risk, or that Seller has failed to take corrective action when required”)
- 52.245-2 Government Property Installation Operation Services (“Government” means “Government” and/or “Buyer” except in the phrase “Government property”)
- 52.245-9 Use and Changes (“Government” means “Government” and/or “Buyer” except in the phrase “Government property”)
- 52.246-2 Inspection of Supplies – Fixed Price (in paragraphs (b), (c), and (d), “Government” means “Buyer and Government”)
- 52.246-4 Inspection of Services – Fixed Price (same as above)
- 52.246-7 Inspection of Research and Development -- Fixed Price (same as above)
- 52.246-16 Responsibility for Supplies
- 52.247-63 Preference for U.S. Flag Air Carriers
- 52.247-64\* Preference for Privately Owned U.S.-Flag Commercial Vessels
- 52.249-2 Termination for Convenience of the Government (Fixed Price) (“Government” means “Buyer or Government” the first time it appears in paragraphs (b)(4) and (b)(6), in all of (b)(8), and the second time it appears in (d); in paragraph (n), “Government” means “Buyer and Government”; in paragraph (c), “120” is changed to “60”; in paragraph (d), “15 days” is changed to “30 days” and “45 days” is changed to “60 days”; in paragraph (e), “1 year” is changed to “6 months” and “1-year” is changed to “6-month”; paragraph (j) is deleted; in paragraph (l), “90 days” is changed to “60 days”; settlements and payments under this clause may be subject to Contracting Officer approval)

**B. Orders Over \$10,000 Shall Also Include the Following:**

- 52.222-40\* Notification of Employee Rights Under the National Labor Relations Act (applies only if the work under the Order will be performed in the US)



**C. Orders Over \$15,000 Shall Also Include the Following:**

- 52.222-20 Contracts for Materials, Supplies, Articles and Equipment Exceeding \$15,000
- 52.222-36\* Equal Opportunity for Workers with Disabilities

**D. Orders Of \$30,000 Or More Shall Also Include the Following:**

- 52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards (subparagraph (d)(2) does not apply)

**E. Orders Of \$150,000 Or More Shall Also Include the Following:**

- 52.222-35\* Equal Opportunity for Veterans
- 52.222-37\* Employment Reports on Veterans
- 52.248-1 Value Engineering

**F. Orders Over \$150,000 Shall Also Include the Following:**

- 52.203-3 Gratuities\*\* (the term "agency head" shall mean "Buyer")
- 52.203-5 Covenant Against Contingent Fees
- 52.203-6 Restrictions on Subcontractor Sales to the Government (for commercial items, Alternate I applies)
- 52.203-7 Anti-Kickback Procedures (paragraph (c)(1) does not apply)
- 52.203-12 Limitation on Payments to Influence Certain Federal Transactions\*\*
- 52.203-16 Preventing Personal Conflicts of Interest
- 52.203-17 Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights
- 52.215-2 Audit and Records – Negotiation\*\* (applies if Order exceeds threshold for submission of cost or pricing data at FAR 15.403-4(a)(1))
- 52.215-14 Integrity of Unit Prices (paragraph (b) does not apply; does not apply to construction or architect-engineer services under FAR Part 36, utility services under FAR Part 41, services where supplies are not required, commercial items, and petroleum products)
- 52.215-23 Limitations on Pass-Through Charges



- 52.222-4 Contract Work Hours and Safety Standards Act – Overtime Compensation (paragraphs (a) through (d) apply only if Order requires employment of laborers or mechanics)
- 52.222-17 Nondisplacement of Qualified Workers
- 52.222-54 Employment Eligibility Verification
- 52.227-1 Authorization and Consent\*\* (applies only if this clause is in the prime contract; use Alternate I for Research and Development solicitations and contracts for which primary purpose is Research and Development work)
- 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement\*\*\*
- 52.228-5 Insurance – Work on a Government Installation (applies only if work on a Government installation)
- 52.229-3 Federal, State, and Local Taxes
- 52.229-4 Federal, State, and Local Taxes (State and Local Adjustments)
- 52.229-6 Taxes – Foreign Fixed-Price Contracts (applies only if the prime contract is to be performed wholly or partly in a foreign country)
- 52.229-7 Taxes – Fixed-Price Contracts with Foreign Governments (applies only under a prime contract with a foreign government)
- 52.229-8 Taxes - Foreign Cost-Reimbursement Contracts (applies only if the prime contract is to be performed wholly or partly in a foreign country)
- 52.229-9 Taxes – Cost-Reimbursement Contracts with Foreign Governments (applies only under a prime contract with a foreign government)
- 52.232-17 Interest

**G. Orders Over \$700,000 Shall Also Include the Following:**

- 52.219-9 Small Business Subcontracting Plan
- 52.219-16 Liquidated Damages – Subcontracting Plan

**H. Orders Over \$750,000 and/or the Applicable Cost or Pricing Data Threshold Shall Also**

**Include the Following:**

- 52.214-26 Audit and Records – Sealed Bidding
- 52.214-27 Price Reduction for Defective Cost or Pricing Data – Modifications – Sealed Bidding (in paragraph (d), the term “Contracting Officer” does not change; Seller shall provide cost or pricing data and execute a Certificate of Current Cost or Pricing Data in substantially the form prescribed in the FAR)



- 52.214-28 Subcontractor Cost or Pricing Data – Modifications – Sealed Bidding (applicable if this Order, at the time it was entered into, exceeded the threshold for submission of certified cost or pricing data at FAR 15.403- 4(a)(1))
- 52.215-12 Subcontractor Certified Cost or Pricing Data
- 52.215-13 Subcontractor Certified Cost or Pricing Data – Modifications
- 52.215-15 Pension Adjustments and Asset Reversions
- 52.215-18 Reversion or Adjustment of Plans for Post-Retirement Benefits Other Than Pensions
- 52.215-19 Notification of Ownership Changes
- 52.215-20 Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost of Pricing Data\*\*\* (Required for Orders for commercial items in accordance with FAR 52.244-6(c)(2))
- 52.215-21 Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data – Modifications\*\*\* (Required for Order modifications for commercial items in accordance with FAR 52.244-6(c)(2))

**I. Unless Otherwise Exempt, Also Include the Following:**

- 52.203-13\* Contractor Code of Business Ethics and Conduct (applies to contracts exceeding \$5,500,000 with a period of performance greater than 120 days; disclosures under this clause shall be made directly to the Government entities identified in the clause)
- 52.203-14 Display of Hotline Posters (applies to contracts exceeding \$5,500,000 except when the contract is (1) for commercial items, or (2) is performed entirely outside the United States)
- 52.209-6 Protecting Government Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (applies to Orders exceeding \$35,000)
- 52.215-10 Price Reduction for Defective Certified Cost or Pricing Data (applies if the prime contract was awarded through negotiations and certified cost or pricing data is required; in paragraph (c), the term “Contracting Officer” does not change; Seller shall provide cost or pricing data and execute a Certificate of Current Cost or Pricing Data in substantially the form prescribed in the FAR)
- 52.215-11 Price Reduction for Defective Certified Cost or Pricing Data – Modifications (applies if certified cost or pricing data is required for the pricing of modifications; Seller shall provide cost or pricing data and execute a Certificate of Current Cost or Pricing Data in substantially the form prescribed in the FAR)



- 52.222-24 Pre-Award On-site Equal Opportunity Compliance Evaluation
- 52.225-3 Buy American Act – Free Trade Agreements – Israeli Trade Act
- 52.225-5 Trade Agreements
- 52.225-19 Contractor Personnel in a Designated Operational Area
- 52.227-13 Patent Rights – Ownership By the Government\*\* (applies in Purchase Orders for experimental, developmental, or research work where Seller is not located in the United States or does not have a place of business located in the United States or is subject to the control of a foreign government; paragraph (g) is deleted; Seller has all rights and obligations to the Buyer in the clause; reports required by this clause shall be filed with the agency identified by the DRS procurement representative identified on the face of this Order)

**J. Applicable to Cost-Reimbursement, Time and Material, or Labor Hour Purchase Orders:**

- 52.216-7 Allowable Cost and Payment (applies to cost reimbursement and time-and-materials Orders; Seller agrees to execute assignment documents in order to comply with subsection (h))
- 52.216-8 Fixed-Fee (applies to cost-plus-fixed-fee Orders)
- 52.216-10 Incentive Fee (applies to cost-plus-incentive-fee Orders)
- 52.216-11 Cost Contract – No Fee (applies to cost-reimbursement no fee Orders)
- 52.216-12 Cost Sharing Contract – No Fee (applies to cost-sharing Orders )
- 52.222-2 Payment for Overtime Premiums (insert “0%” in paragraph (a) unless indicated otherwise on the face of the Order)
- 52.228-7 Insurance – Liability to Third Persons
- 52.232-7 Payments Under Time-and-Materials and Labor-Hour Contracts (applies if the prime contract is a labor-hour or time-and-materials contract; the third sentence of paragraph (a)(8) is deleted; in paragraph (f), “120 days” is changed to “60 days” and in paragraph (g)(2), “6 years” is changed to “five years”; paragraph (c) and (i) are deleted)
- 52.232-20 Limitation of Cost (applies if the Order is fully funded)
- 52.232-22 Limitation of Funds (applies if the Order is incrementally funded)
- 52.246-3 Inspection of Supplies – Cost Reimbursement (in paragraphs (b), (c), and (d), “Government” means “Buyer and Government” and in paragraph (k), “Government” means “Government”; in paragraph (e), change “60 days” to “120 days,” and in paragraph (f), change “6 months” to “12 months”)



- 52.246-5 Inspection of Services – Cost Reimbursement (in paragraphs (b) and (c), “Government” means “Buyer and Government”)
- 52.246-6 Inspection – Time-and-Material and Labor-Hours (in paragraphs (b), (c), and (d), “Government” means “Buyer and Government”)
- 52.249-6 Termination (Cost Reimbursement) (in paragraph (d), substitute “90 days” for “120 days” and “90-day” for “120-day”; in paragraph (f), substitute “180 days” for “1 year”; in paragraph (j), “right of appeal” shall mean the right to proceed under the “Disputes” clause of this Order; settlements and payments under this clause may be subject to the approval of the Contracting Officer; Alternate IV applies if this is a time and material or labor hours Order.)

#### **K. Certifications**

The Seller, by accepting this Order, hereby certifies compliance with the following clauses and represents that any representations with its offer are current, accurate, and complete as of the date of the offer for the Order:

- 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (applies if Order exceeds \$150,000)
- 52.209-5 Certification Regarding Responsibility Matters (applies if Order exceeds \$150,000)
- 52.219-1 Small Business Program Representations
- 52.225-2 Buy American Certificate
- 52.225-4 Buy American – Free Trade Agreements – Israeli Trade Act Certificate
- 52.225-6 Trade Agreements Certificate

#### **L. Additional Clauses:**

Cost Accounting Standards (Applicable unless otherwise exempt):

- 52.230-2 Cost Accounting Standards (applies only when referenced in Order that full CAS coverage applies; “United States” means “United States or Buyer”; delete paragraph (b) of the clause)
- 52.230-3 Disclosure and Consistency of Cost Accounting Standards (applies only when referenced in Order that modified CAS coverage applies; “United States” means “United States or Buyer”; delete paragraph (b) of this clause)
- 52.230-4 Disclosure and Consistency of Cost Accounting Practices -- Foreign Concerns
- 52.230-5 Cost Accounting Standards -- Educational Institution



52.230-6 Administration of Cost Accounting Standards (applies if FAR 52.230-2, FAR 52.230-3, FAR 52.230-4 or FAR 52.230-5 applies)

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 FAR 52.230-2 (Cost Accounting Standards) and FAR 52.230-6 (Administration of Cost Accounting Standards), provided Seller shall not be required to disclose to Buyer such communications containing information that is legally privileged and/or proprietary 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 its lower-tier subcontractors to comply with the requirements of FAR 52.230-2, 52.230-3, 52.230-4, 52.230-5 or 52.230-6, as applicable. Paragraph (b) is deleted in each of the foregoing clauses.

#### **M. Truth in Negotiations (Certified Cost or Pricing Data)**

Unless exempt, Seller shall submit a FAR Part 15 compliant cost proposal inclusive of any appropriate updates throughout the negotiation process. At the conclusion of negotiations, and regardless of any prior certification, Seller shall 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 cost or price (including profit or fee) negotiated in connection with the prime contract between the Government and 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 Buyer relating to said contract or in connection with this Order was not accurate, complete, or current, the Seller shall indemnify Buyer in the amount of said reduction. The phrase "cost or pricing data" as used herein shall be deemed to include any such data 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 or in connection with the aforesaid proposal or this Order in support of its cost estimate. If any reduction of 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 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 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 Order which involves increases and/or decreases in costs plus applicable profit expected to exceed the threshold for submission of



cost or pricing data, Seller shall submit cost or pricing data and shall certify that such data, as defined in Federal Acquisition Regulation 2.101, 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.