

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 L-3 General Terms and Conditions (Corp Form CC008), the following provisions shall apply, as required by the terms of the prime contract, or by operation of law or regulation. Otherwise, the L-3 General Terms and Conditions shall govern in the event of a conflict between these FAR provisions and the General Provisions.

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

3. Clauses in this document may not be applicable to specific orders due to the type of subcontract/purchase order to be issued, dollar thresholds under requirements of the FAR, DFARS or Public Law or Mandatory Flow Down requirements of a particular prime contract. Clauses not applicable for these reasons shall not be removed from this document and will be considered by all parties to be without force and effect.

A. APPLICABLE TO ALL ORDERS:

1. Definitions	52.202-1
2. Security Requirements	52.204-2
3. Personal Identify Verification of Contractor Personnel	52.204-9
4. Service Contract Reporting Requirements (subject to the thresholds and contracts types specified in FAR 4.1703)	52.204-14
5. Service Contract Reporting Requirements for Indefinite Delivery Contracts (subject to the thresholds and contract types specified in FAR 4.1703)	52.204-15
6. Material Requirements	52.211-5
7. Alternatives to Government – Unique Standards	52.211-7
8. Defense Priority and Allocation Requirements	52.211-15
9. Contract Terms and Conditions Required to Implement Statutes or Executive Orders – Commercial Items (DEVIATION) (includes all Statutes or Orders issued)	52.212-5
10. Terms and Conditions – Simplified Acquisitions (other than Commercial items)	52.213-4
11. Small Business Program Representations	52.219-1
12. Post –Award Small Business Program Representation (over \$3000)	52.219-28
13. Notice to the Government of Labor Disputes	52.222-1
14. Convict Labor	52.222-3
15. Child Labor – Cooperation with Authorities and Remedies	52.222-19
16. Service Contract Act of 1965, as Amended	52.222-41
17. Combating Trafficking in Persons	52.222-50
18. Employment Eligibility Verification	52.222-54
19. Hazardous Material Identification and Material Safety Data – "Government" means "Government and Buyer"	52.223-3
20. Notice of Radioactive Materials	52.223-7
21. Ozone Depleting Substances	52.223-11
22. Energy Efficiency in Energy-Consuming Products	52.223-15
23. IEEE 1680 Standard for the Environmental Assessment of personal Computer Products	52.223-16
24. Contractor Policy to Ban Text Messaging While Driving	52.223-18
25. Privacy Act	52.224-2
26. Buy American Act – Supplies	52.225-1
27. Buy American Act Certificate	52.225-2
28. Trade Agreement	52.225-5
29. Trade Agreements – Certificate	52.225-6
30. Duty-Free Entry	52.225-8
31. Restrictions on Certain Foreign Purchases	52.225-13
32. Place of Manufacturer (applicable to solicitations)	52.225-18
33. Contractors Performing Private Security Functions Outside the United States	52.225-26
34. Authorization and Consent – Alternate I	52.227-1
35. Royalty Information	52.227-6
36. Additional Data Requirements	52.227-16
37. Refund of Royalties	52.227-9
38. Filing of Patent Applications – Classified Subject Matter	52.227-10
39. Patent Rights – Ownership by the Contractor	52.227-11

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40. Rights in Data – General	52.227-14
41. Commercial Computer Software License	52.227-19
42. Workers Compensation Insurance (Defense Base Act)	52.228-3
43. Workers Compensation and War-Hazard Insurance Overseas	52.228-4
44. Insurance – Work on a Government Installation	52.228-5
45. Limitation on the Withholding of Payments	52.232-9
46. Progress Payments	52.232-16
47. Performance-based Payments	52.232-32
48. Unenforceability of Unauthorized Obligations	52.232-39
49. Protest After Award	52.233-3
50. Applicable Law for Breach of Contract Claim	52.233-4
51. Industrial Resources Developed Under Defense Production Act Title III	52.234-1
52. Accident Prevention	52.236-13
53. Protection of Government Buildings, Equipment, and Vegetation	52.237-2
54. Privacy or Security Safeguards	52.239-1
55. Stop Work Order	52.242-15
56. Government Delay of Work	52.242-17
57. Changes – Fixed Price Contracts	52.243-1
58. Competition in Subcontracting	52.244-5
59. Subcontracts for Commercial Items	52.244-6
60. Government Property (or Alt I or Alt II, the Buyer shall so specify. If the Buyer does not specify the requirement will default to the basic clause)	52.245-1
61. Government Property Installation Operation Services	52.245-2
62. Use and Charges	52.245-9
63. Preference for U.S. – Flag Air Carriers	52.247-63
64. Preference for Privately Owned U.S. – Flag Commercial Vessels	52.247-64
65. Termination for Convenience of the Government (Fixed-Price) (Short Form)	52.249-1
66. Computer Generated Form	52.253-1
B. <u>ORDERS OVER \$10,000 ALSO INCLUDE THE FOLLOWING:</u>	
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. Notification of Employee Rights Under the National Labor Relations Act (para (f) only)	52.222-40
7. Buy American Act – North American Free Trade Agreement – Israeli Trade Act (over \$25,000)	52.225-3
8. Buy American Act North American Free Trade Agreement – Israeli Trade Act Certificate (over \$25,000)	52.225-4
C. <u>ORDERS OVER THE SIMPLIFIED ACQUISITION PROGRAM (SAP) THRESHOLD (or amounts as specified) ALSO INCLUDE THE FOLLOWING:</u>	
1. Certificate of Independent Price Determination	52.203-2
2. Gratuities	52.203-3
3. Covenants Against Contingent Fees	52.203-5
4. Restrictions on Subcontractor Sales to the Government	52.203-6
5. Anti-Kickback Procedures (less paragraph (c) (1))	52.203-7
6. Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity	52.203-8
7. Price or Fee Adjustment for Illegal or Improper Activities	52.203-10
8. Limitation on Payments to Influence Certain Federal Transactions	52.203-12
9. Preventing Personal Conflicts of Interest for Contractor Employees Performing Acquisition Functions	52.203-16
10. Contractor Employee Whistleblower Rights and Requirements to Inform Employees of Whistleblower Rights	52.203-17
11. Women-Owned Business (Other than Small Business)	52.204-5
12. Audit and Records – Negotiation	52.215-2
13. Integrity of Units Prices	52.215-14
14. Utilization of Small Business Concerns	52.219-8
15. Contract Work Hours and Safety Standards Act – Overtime Compensation	52.222-4
16. Non-displacement of Qualified Workers (Service Contracts)	52.222-17
17. Equal Opportunity for Veterans (\$100K)	52.222-35

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18. Employment Reports Veterans (\$100K)	52.222-37
19. Compliance with Veterans' Employment Reporting Requirements	52.222-38
20. Drug-Free Workplace	52.223-6
21. Estimate of Percentage of Recovered Material Content for EPA-Designated Products	52.223-9
22. Notice and Assistance Regarding Patent and Copyright Infringement	52.227-2
23. Federal, State, and Local Taxes	52.229-3
24. Bankruptcy	52.242-13
25. Change Order Accounting	52.243-6
26. Subcontracts (paragraphs (h) notice to L-3 and (i) only apply)	52.244-2
27. Inspection of Supplies, Fixed Price Contracts	52.246-2
28. Inspection of Services, Fixed Price Contracts	52.246-4
29. Responsibility for Supplies	52.246-16
30. Value Engineering	52.248-1
31. 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
32. Default (Fixed Price Supply and Service)	52-249-8
D. <u>ORDERS OVER \$650,000 ALSO INCLUDE THE FOLLOWING:</u>	
1. Code of Business Ethics and Conduct (over \$5 million and the period of performance is Over 120 days)	52.203-13
2. Display of Hotline Poster (over \$5 million)	52.203-14
3. Pension Adjustment and Asset Reversions (\$700,000)	52.215-15
4. Reversion or Adjustment of Plans for Postretirement Benefits (PRB) other than Pensions	52.215-18
5. Notification of Ownership Changes	52.215-19
6. Small Business Subcontracting Plan (\$650,000) (Construction \$1.5M)	52.219-9
7. Liquidated Damages – Subcontracting Plan	52.219-16
8. Pre-award On-Site Equal Opportunity Compliance Evaluation (over \$10 million)	52.222-24
E. <u>UNLESS OTHERWISE EXEMPT ALSO INCLUDE THE FOLLOWING:</u>	
1. Audit and Records – Sealed Bidding (exceeds \$700,000)	52.214-26
2. Price Reduction for Defective Certified Cost or Pricing Data – Modifications – Sealed Bidding (\$700,000)	52.214-27
3. Subcontractor Certified Cost or Pricing Data – Modifications – Sealed Bidding (exceeds \$700,000)	52.214-28
4. Price Reduction for Defective Certified Cost or Pricing	52.215-10
5. Price Reduction for Defective Certified Cost or Pricing Data – Modifications	52.215-11
6. Subcontractor Certified Cost or Pricing Data	52.215-12
7. Subcontractor Certified Cost of Pricing Data – Modifications	52.215-13
8. Requirements for Certified Cost or Pricing Data or Information Other Than Cost or Pricing Data	52.215-20
9. Requirements for Certified Cost or Pricing Data or Information Other Than Cost or Pricing Data – Modifications	52.215-21
10. Limitation on Pass-Through Charges – Identification of Subcontract Effort	52.215-22
11. Limitation on Pass-Through Charges (see application and exceptions in FAR 15.408(n)(2))	52.215-23
12. Contract Definitization	52.216-25
13. Prospective Subcontractor Requests for Bonds	52.228-12
14. Earned Value Management System	52.234-4
F. <u>APPLICABLE TO COST REIMBURSEMENT, TIME & MATERIAL OR LABOR HOUR ORDERS:</u>	
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 (d)(5)	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	

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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. Payments under Time-and Materials and Labor-Hour Contracts ("schedule" means Purchase order, "voucher(s)" means Purchase order. "Government" means Buyer And "Contracting Officer" means Buyer Purchasing Representative	52.232-7
13. Limitation of Cost (if fully funded)	52.232-20
14. Limitation of Funds (if incrementally funded)	52.232-22
15. Stop Work Order	52.242-15 Alt I
16. Changes – Cost-Reimbursement – applicable if this is a cost-reimbursement order	52.243-2
17. Changes – Time and Material or Labor-Hours – applicable if this is a time and material or labor hour order	52.243-3
18. 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 apply equally to Buyer and the Government.	52.246-3
19. 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
20. 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
21. Submission of Transportation Documents for Audit	52.247-67
22. 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
23. 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	52.222-34
5. Affirmative Procurement of Bio-based 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. Buy American Act – Construction Materials Under Trade Agreements	52.225-11
9. Required Use of American Iron, Steel, and Manufactured Goods, Buy American Act – Construction Materials	52.225-21
10. Notice of Required Use of American Iron, Steel, and Manufactured Goods – Buy American Act – Construction Materials	52.225-22
11. Required Use of American Iron, Steel, and Manufactured Goods, Buy American Act – Construction Materials Under Trade Agreements	52.225-23
12. Notice of Required Use of American Iron, Steel, and Manufactured Goods – Buy American Act – Construction Materials Under Trade Agreements	52.225-24
13. North Carolina State and Local Sales and Use Tax	52.229-2
14. Prompt payment for construction contracts	52.232-27
15. Inspection of Construction	52.246-12
16. Value Engineering – Construction over \$65K	52.248-3

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4. 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 \$150,000)	52.203-11
B. Certification for Federal Funding Accountability and Transparency Act (FFATA)	52.204-10
C. Certification Regarding Responsibility Matters	52.209-5
D. Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (over \$30,000)	52.209-6
E. Certification Regarding Knowledge of Child Labor for Listed End Products	52.222-18
F. Previous Contracts and Compliance Reports (over \$10,000 and includes 52.222-26)	52.222-22
G. Affirmative Action Compliance	52.222-25
H. Affirmative Action for workers with Disabilities (over \$15K)	52.222-36
I. Bio-based Product Certification	52.223-1
J. Recovered Material Certification	52.223-4
K. Prohibition on Conducting Restricted Business Operations in Sudan Certification	52.225-20
L. Prohibition on Contracting with Entities Engaging in Certain Activities Relating to Iran	52.225-25
M. Cost Accounting Standards Notices and Certifications	52.230-1

5. 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

6. ADDITIONAL CLAUSES

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 its lower-tier subcontractors to comply with the requirements of FAR 52.230-2, 52.230-3, 52.230-4(if applicable), 52.230-5 or 52.230-6. Paragraph (b) is deleted in each of the foregoing clauses.

TRUTH IN NEGOTIATIONS

Certified Cost or Pricing Data (applicable only if certified cost or pricing data has been provided). The clause entitled "Subcontractor Certified 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 "certified 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.

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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. Certified 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 \$700,000) 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 certified cost or pricing data or "Other Cost and Pricing Data" from its subcontractors, pursuant to the provisions of this Order, Seller shall provide such data.

DISPUTES – GOVERNMENT CONTRACTS

Any reference to the "Disputes clause" in any applicable FAR Clause under paragraph 2 above shall mean this paragraph, 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 under the Article entitled, "DISPUTES", as found in Corporate Form CC008 of the Subcontract.
- 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
 - 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.