

Battelle Standard Terms & Conditions

1. Acknowledgement/Entire Agreement:

Except as may be expressly set forth in the following terms and conditions with the Government Contracting Officer's express consent, the subcontractor shall not acquire any direct claim or direct course of action against the US Government. None of the following terms and conditions shall be construed in a manner that would adversely affect the interests of the United States Government, and in no event shall the terms of this subcontract give the Subcontractor the ability to directly pursue a claim or course of action against the United States Government.

These terms, the terms on the face of this Purchase Order and other Battelle supplemental terms and conditions attachments (if any) constitute the entire agreement between the parties, and no other additional or conflicting terms submitted by Seller shall be deemed a part hereof unless accepted in writing by Buyer's Purchasing Agent. Seller's commencement of performance shall constitute acceptance of these terms and conditions without modification. Any change, amendment or modification must be in writing and executed by Buyer's authorized Purchasing Agent.

Seller shall include in each lower-tier subcontract the appropriate flow down clauses as required by FAR and DFARS.

Subcontractor shall comply with DFARS 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting, and any other cybersecurity requirements applicable to this Subcontract. Battelle reserves the right to audit and assess Subcontractor's compliance with DFARS 252.204-7012, NIST SP 800-171 requirements, and any other cybersecurity requirements applicable to this Subcontract. Failures by Subcontractor to comply with these requirements shall constitute a breach of Subcontract.

Nothing in these Terms and Conditions shall be construed or interpreted to limit or in any way restrict the rights of the Government in regard to data, tooling and other information it owns or has a right to use, including the right to authorize the supplier's use of such data, tooling or other information in direct contracts between the supplier and the Government.

2. Delivery/FOB:

All deliveries shall be F.O.B. destination unless otherwise specified on the face of the purchase order.

3. Changes:

Buyer may, at any time, by a written order and without notice to the sureties, if any, make changes within the general scope of this Purchase Order. If any such change causes an increase or decrease in the cost of, or the time required for, the performance of any part of the work under this Purchase Order, whether changed or not changed by any such order, an equitable adjustment shall be made in the Purchase Order price or delivery schedule, or both, and the Purchase Order shall be modified in writing accordingly. Any claim by the Seller for adjustment under this clause must be asserted in writing within 30 days from the date of receipt by

the Seller of a written notification of change from the Buyer. Battelle's Buyer is the only employee authorized to make changes to this Purchase Order. Seller shall not take contractual direction from any other Battelle employee. Buyer may receive and act upon any such claim asserted at any time prior to final payment under this Purchase Order. Where the cost of property made obsolete or excess as a result of a change is included in the Seller's claim for adjustment, Buyer shall have the right to prescribe the manner of disposition of such property. Nothing in this clause shall excuse the Seller from proceeding with the Purchase Order as changed.

4. Warranty and Inspection:

(a) Goods. In addition to the warranties provided for under the Uniform Commercial Code, Seller warrants that all goods furnished under this Agreement will be free from defects, will conform with all requirements of this Order, and, unless manufactured solely in accordance with Buyer-certified manufacturing designs, will be free from defects in design. Any goods corrected or replaced will be covered by this warranty. Seller agrees to notify Buyer immediately upon becoming aware of a potential problem with goods previously delivered to Buyer. (b) Services. Seller warrants that all services will be performed with the highest standard of professional service, be free from defects, conform to the requirements of this Purchase Order, and be performed in strict compliance with any specified regulatory or international standards. Any services corrected or re-performed will be covered by this warranty. Buyer's rights regarding Inspection and acceptance of services under this agreement shall be equivalent to those provided for inspection of goods under the Uniform Commercial Code. Nonconforming goods or services will be replaced, corrected or re-performed at Seller's expense.

5. Counterfeit Parts

For the purposes of this clause, (i) the meaning of "Counterfeit Electronic Part" and "Electronic Part" are as defined in the Defense Acquisition Regulation Supplement clause 252.246-7007, Contractor Counterfeit Electronic Part Detection and Avoidance System (Aug 2016); and (ii) "Work" means parts delivered under this Purchase Order that are the lowest level of separately identifiable items (e.g., articles, components, goods, and assemblies).

Seller warrants that the Work delivered under this Purchase Order shall not be or contain Counterfeit Electronic Parts. Seller shall obtain and retain all documentation required to fully trace the distribution and sale of the Work delivered hereunder back to the relevant original manufacturer, and, on request of Buyer, shall provide such authenticating documentation. Buyer shall have the right to audit, inspect, and/or approve Seller's counterfeit parts processes and supporting documentation at any time before or after delivery of the Work ordered hereunder.

Should Seller become aware of a confirmed or suspect Counterfeit Electronic Part that, by any means, has been delivered to Buyer, or acquired for this Purchase Order whether or not delivered to Buyer, Seller shall provide notification to Buyer's Procurement Officer as soon as possible but not later than 7 days of discovery. This requirement will survive this Purchase Order. Seller shall quarantine suspect Counterfeit Electronic Parts and make them available for investigation by appropriate government authorities.

In the event that Work delivered under this Purchase Order constitutes or includes Counterfeit Electronic Parts, Seller shall, at its expense, promptly replace such unauthorized Work with Work from authorized sources conforming to the requirements of this Purchase Order. Notwithstanding any other provision in this Purchase Order, Seller shall be liable for all costs relating to the inclusion, removal, and replacement of the Counterfeit Electronic Parts, including without limitation Buyer's costs of removing the Counterfeit Electronic Parts, of reinserting replacement components, and of any testing necessitated by the reinstallation of components after the Counterfeit Electronic Parts have been exchanged. The remedies in this paragraph are in addition to any remedies Buyer may have at law, equity, or under other provisions of this Purchase Order. Seller shall flow the substance of this clause, including this sentence, in all lower-tier subcontracts or purchase orders performed under this Purchase Order involving Electronic Parts.

6. Access:

If Seller is granted access to Buyer facilities, Seller agrees to execute a Buyer access agreement and shall comply with all Buyer rules and policies regarding conduct, security, and safety.

7. Insurance and Indemnity:

Seller shall maintain workers' compensation (statutory minimum) and comprehensive general liability insurance in form and amount(s) reasonable and customary for the industry in which Seller is engaged. Seller's insurance shall not be deemed to limit Seller's liability. Seller agrees to indemnify, defend and hold harmless Buyer, its officers, trustees, agents and employees, from any and all damages, liabilities, claims, suits, demands, and all expenses and costs including reasonable attorney's fees and costs, arising out of the Seller's performance hereunder that are caused, in whole or in part, by the negligent or wrongful acts or omissions of Seller or anyone employed by Seller for whose acts Seller may be liable.

8. Compliance with Laws:

Seller shall comply with all applicable federal, state and local laws, regulations and ordinances. Seller will indemnify and hold Buyer and its directors, officers, employees and representatives harmless from and against any claims, demands, suits, losses, damages, costs and expenses arising out of any non-compliance, violation or alleged non-compliance or violation by Seller of any such laws, regulations and/or ordinances. Seller shall not offer or provide any bribe or kickback to any person, nor shall Seller offer or provide any illegal gratuity of any type or nature to any Federal, State, or local government employees or officials. If Seller has reasonable grounds to believe that a violation of this provision may have occurred, Seller shall promptly report in writing the possible violation. Seller shall cooperate fully with Battelle or any federal agency investigating a possible violation of this provision. Without limiting the foregoing, Seller specifically acknowledges the importance of strict adherence to those laws and professional standards related to doing business for the Federal government, adhering to ethical business practices, complying with anti-fraud requirements and assuring scientific integrity.

9. Travel Expenses

For flexibly priced Purchase Orders (T&M or Cost type) and if travel is authorized as a part of this Purchase Order, reimbursement of travel related costs shall be subject to U.S. General Service Administration (GSA) Federal Travel Regulation (FTR) chapter 301 for any authorized travel relating to the business purposes of this Agreement.

- a. Claims for travel expenses must be invoiced within thirty (30) days of completion of travel with receipts. An itemized list of travel charges with copies of receipts for each day is required. Failure to do so may result in non-reimbursement of the expenses.
- b. All claims for travel expenses must be accompanied by a detailed summary report indicating the purpose for which the expense was incurred, where it was incurred and when it was incurred.
- c. Meals and Incidental Expenses (M&IE) and Lodging Per Diem Expenses, if approved, shall be reimbursed in accordance with FAR 31.205-46 at the applicable United States Government rate found at www.gsa.gov/portal/content/104877 that was in effect at the time the expenses were incurred. On travel days, only 75% of the Meal Per Diem is allowable. Meal Per Diem charges do not require a receipt but do require itemization by day. Meals that are provided by Battelle must be deducted at the appropriate GSA amount for that meal. Amounts incurred for lodging and/or meals that exceed the applicable federal per diem will not be reimbursed.
- d. Only coach-class air travel will be allowable and reimbursable, unless another category of air travel has been approved in writing in accordance with this Article.
- e. Travel expenses related to personal use, entertainment, or that ultimately benefit the individual are NOT reimbursed.
- f. Seller shall not be reimbursed for normal commuting time to and from work locations.

g. If travel expenses are included in the Purchase Order as an allowable expense to be incurred, the Seller may be reimbursed for non-luxury, standard mid-size sedan or smaller sized models. Sport utility vehicles (SUV)/minivans are allowable when utilized for a group of greater than three persons.

10. Termination:

Buyer may at any time, by written notice to the Seller, terminate this Purchase Order in whole or in part either for the convenience of Buyer or for default. In the event of termination for convenience, Buyer shall be liable for payments to Seller only for cost for performance rendered up to the effective date of termination. In no event will payments be made for anticipatory profits or consequential damages as a result of a termination of this Agreement. Buyer may terminate this order in whole or in part for default if Seller fails to deliver goods or services conforming to the requirements of this order, or in the event of the suspension, or debarment of Seller from participation in Federal or state procurement(s). Seller shall provide immediate notice to Buyer's authorized procurement officer in the event of being suspended, debarred or declared ineligible by any agency or department of the U.S. Government, or upon receipt of a notice of proposed debarment from any agency or department of the U.S. Government or any State Government, during the performance of this Agreement. In the event that this order is terminated for default, Seller shall be liable to pay to Buyer all amounts incurred for re-procurement of items or services provided for in this Purchase Order, in addition to any other remedies provided by law or this Agreement.

11. Buyer Rights and Remedies:

The rights and remedies of Buyer set forth herein are cumulative and in addition to any other rights or remedies that Buyer may have at law and/or in equity.

12. Public Releases:

No public releases including those for news, advertising, information, technical or scientific purposes relating to this Purchase Order shall be issued by Seller or by any second or lower tier contractor. Buyer does not endorse products or services. Accordingly, Seller shall not use or imply Buyer's or its client's name, or use Buyer's or its client's information or reports, for advertising, promotional purposes, raising of capital, recommending investments, sale of securities or in any way that implies endorsement by Buyer.

13. Ohio Law:

The agreement shall be construed in accordance with the laws of and enforced within the jurisdiction of the State of Ohio, without regard to its principles of conflicts of laws. The federal common law of government contracts, as enunciated and applied by federal judicial bodies, boards of contracts appeals, and quasi-judicial agencies of the Government, shall be used to construe and interpret any U.S. Government contract clauses and certifications.