

BDS Terms and Conditions Guide

Clause Number: H933

Effective: 10/04/2022

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Undefinitized Purchase Contract Terms and Conditions - Cost Reimbursable (Variable)

1. PERFORMANCE OF THE PARTIES

By Seller's acceptance of this Contract, Seller agrees to proceed immediately to procure the necessary materials and to commence the manufacture of the Goods/Services or the performance of the services called for by this Contract, and to pursue such work with all diligence to the end that the Goods/Services may be delivered or services performed in accordance with this Contract. Subject to the terms of this clause, Buyer agrees to pay Seller in accordance with the terms of this Contract for conforming Goods/Services tendered in accordance with this Contract.

2. MAXIMUM COST

This is a cost reimbursable Contract with a maximum cost and contains a maximum fee and is subject to the conditions set forth in General Provisions 4 (GP4) article 14. Seller agrees to negotiate promptly and in good faith with Buyer for the purpose of definitizing this Contract for the Goods/Services set forth herein. The maximum cost and maximum fee is subject to negotiation and downward adjustment only. The maximum cost breakdown is as follows:

A. Estimated Cost:	\$
B. Cost of Money (COM):	\$
C. Fee:	\$
Total Estimated Price (A. plus B. plus C.):	\$

3. FUNDING LIMITATION

- (a) Seller's current funding for any line item(s) subject to a funding limitation is stated on the Contract. These line item(s) are subject to that funding limitation through the date identified in clause F216 or the "Funding Through Date" specified on the Contract.
- (b) Seller shall notify Buyer in writing whenever it has reason to believe that the costs it expects to incur under this contract in the next sixty (60) days, when added to all costs previously incurred will exceed seventy-five (75) percent of the total Contract funding. The notice shall state the estimated amount of additional funds required to continue performance for the period specified in clause F216 or the "Funding Through Date" specified in the Contract. If Seller fails to give notice at least thirty (30) days before the date specified in clause F216 or the "Funding Through Date", Seller agrees to continue performance of the work under this contract with no additional funding amount authorized for thirty (30) days from the date that the notice is received by Buyer in order to allow Buyer time to authorize additional funding.
- (c) Sixty days before the end of the period specified in clause F216 or the "Funding Through Date" specified in the Contract, Seller shall notify Buyer in writing of the estimated amount of additional funds, if any, required to continue timely performance of the work under this

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contract or for any further period specified in the Contract or otherwise agreed upon, and when the funds will be required.

- (d) If, after notification, additional funds are not allotted by the end of the period specified in the Contract or another agreed-upon date, upon the Seller's written request Buyer will terminate this Contract on that date in accordance with the provision of the Termination clause of this Contract. If Seller estimates that the funds available will allow Seller to continue to discharge its obligations beyond that date, Seller may specify a later date in its request, and Buyer may terminate this contract on that later date.

3. EXPENDITURE PROFILE

This Contract is subject to the Expenditure Profile incorporated in Clause F219.

4. TYPE OF CONTRACT

It is expected that the definitized Contract will be a cost reimbursable Contract.

5. TERMS AND CONDITIONS (applicable when contract terms are undefinitized) Seller and Buyer recognize that the parties are currently negotiating, in good faith, revised terms and conditions to definitize this Contract. Seller agrees to negotiate promptly and in good faith with Buyer for the purpose of definitizing the terms and conditions of this Contract. Upon conclusion of negotiations the parties agree to incorporate the resulting agreed upon revised terms and conditions, if any, so as to be made a part of a definitized Contract.

6. DEFINITIZATION SCHEDULE

The following is the schedule for definitization of this Contract:

Submission of Proposal _____

Fact Finding _____

Negotiation Start Date _____

Definitization Target Date _____

7. EXTENSION OF DEFINITIZATION SCHEDULE

Buyer's Authorized Procurement Representative may by written notice to Seller extend this definitization schedule if the parties are unable to begin or conclude negotiations in accordance with the definitization schedule set forth in this clause. Seller shall, subject to the conditions set forth in GP4, continue performance hereunder in accordance with the terms of this Contract.

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8. TERMINATION

In the event this Contract is not definitized by the definitization target date specified in this clause, or any extension of such date, because of the inability of the parties to agree upon the terms of a definitized Contract, Buyer may, at its sole discretion, terminate this Contract in accordance with the Termination for Convenience clause of this Contract and subject to the conditions set forth in GP4.

9. CONTRACT DEFINITIZATION

Upon definitization of this Contract, this clause will be removed and replaced with F212.

