

GENERAL TERMS AND CONDITIONS

1 ASSIGNMENT

The Contractor is prohibited from assigning, transferring, conveying, subletting, or otherwise disposing of the Contract or its rights, title, or interests therein, or its power to execute such agreement to any other person, company, or corporation without the prior approval, in writing, by the Dallas Fort Worth International Airport Board's (Airport) Vice President of Procurement and Materials Management Department (PMM), whose approval shall be discretionary. Such consent shall not relieve the assignor of liability in the event of default by its assignee.

2 CHANGES IN CONTRACT

The Airport reserves the right to make changes in the scope of the Work as may be considered necessary or desirable, and Contractor shall perform the Work as altered, whether increased or decreased, for a new Contract price equitably adjusted to reflect the changes. No allowance will be made for anticipated profits where the scope of the Work has been diminished. All Contract changes must be executed in writing by Contract Change Order signed by the Vice President of PMM or designee from the PMM Department. Payment will be made only for actual quantities of products delivered or Work performed.

3 CODES OF BUSINESS ETHICS

- 3.1 All Airport employees must adhere to the Airport's Code of Business Ethics, which is included in this Section by reference. The Contractor is therefore prohibited from offering or providing Airport employees, directly or indirectly, any gifts or other items that the Airport's Code of Business Ethics does not allow the employee to accept. The Contractor shall ensure that all of its management and other Fair Labor Standard Act-exempt employees associated with this Contract read and understand the Airport's Code of Business Ethics. The Airport may require each such employee of the Contractor to acknowledge in writing that they have read and do understand the Airport's Code of Business Ethics found online at <https://www.dfairport.com/business/about/publications/>.
- 3.2 Additionally, the Airport frequently uses outside contractors to perform functions similar to those performed by Airport employees (e.g., project managers, quality assurance inspectors, payment analysts, contract administrators, etc.). Contractor employees who perform work associated with this Contract (including any supplemental agreements, extra work authorizations, delivery orders, change orders, etc.) shall comply, in all respects, with the Airport's Code of Business Ethics as it relates to their assigned scope of work on this Contract. For example, a quality assurance inspector may not accept a gift from a subcontractor that he or she is monitoring, if the Airport's Code of Business Ethics would prohibit a Airport employee performing the same duties from accepting the gift.
- 3.3 Any questions related to the interpretation of this Section shall be directed to the Airport Board's General Counsel.
- 3.4 The Contractor shall insert an Article containing all the provisions of this Section, including this paragraph, in all subcontracts hereunder executed except altered as necessary for the proper identification of the contracting parties and the Airport under this Contract.

4 COMPLIANCE WITH LAWS

Contractor shall comply with all applicable Federal, State and Local laws, statutes and ordinances, and with all applicable regulations or orders of any governmental department, board, bureau or agency, including the Airport.

5 CONFIDENTIAL OR PROPRIETARY INFORMATION

Any portion of the Contractor's Bid that is marked confidential or proprietary, or clearly states contains trade secrets of the Contractor may not necessarily guarantee the non-release of the information under the Public Information Act or as otherwise required by law. If access is requested to information in the Contractor's Bid so marked, the Airport shall review the issues thoroughly and, if justified, shall request an opinion by the Attorney General's office prior to releasing any information requested under the Public Information Act.

6 CONTRACTING PROHIBITIONS: AS REQUIRED BY STATE LAW

6.1 **Bid Rejection:** Airport will reject any bid from a bidder that:

6.1.1 Boycotts Israel;

6.1.2 Contracts with or provides supplies or services to a foreign terrorist organization;

6.1.3 Engages in certain scrutinized business operations in Sudan, Iran or with a designated foreign terrorist organization; or

6.1.4 Has been complicit in the Darfur genocide during any preceding 20-month period. ¹

6.2 **"Boycott Israel" Defined:** "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

6.3 **Verification:** Each Bidder must execute and submit with its bid the verification included. That verification will:

6.3.1 Form a material part of its bid; and

6.3.2 Will be incorporated into any awarded contract.

6.4 Pursuant to Section 2274.002, Texas Government Code, enacted by SB 13 in the 2021 Regular Session, the Contractor hereby represents that it (i) does not boycott energy companies; and (ii) will not boycott energy companies.

6.5 Pursuant to Section 2274.002, Texas Government Code, as enacted by SB 19 in the 2021 Regular Session, the Contractor hereby represents that it (i) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (ii) will not discriminate during the term of the contract against a firearm entity or firearm trade association.

7 DELIVERY / PERFORMANCE OF SERVICES

7.1 Performance will be made only upon authorization of the Airport's Vice President of PMM and shall thereafter be made if, as, and when required and ordered by the Airport.

- 7.2 Performance shall be at the location identified in the Contract or purchase order. When no location is specified, the Airport's Project Manager will provide direction.
- 7.3 The scope of this contract and requirements of the Airport as shown in the contract specifications and bid shall not be considered as binding on the Airport, and the work actually may be less than or greater than projected.
- 7.4 Bidder warrants that all work under the contract will be of the type and quality specified, and the Airport's Vice President of PMM or designee, may reject, and/or refuse work that falls below the quality required in the specifications.
- 7.5 Failure by the Contractor to make reasonable progress as and when requested shall entitle the Vice President of PMM or designee, to seek work from alternate sources wherever available, with the right to seek reimbursement from the Contractor for amounts, if any, paid by the Airport over and above the bid price.
- 7.6 All materials delivered shall be free of any and all liens and shall upon acceptance thereof become the property of the Airport, free and clear of any materialman's, supplier's, or other type liens.
- 7.7 All work performed under this Contract, as herein shown under the Specifications, shall be of the highest quality workmanship and shall in every respect meet or exceed the industry standards for this type contract.
- 7.8 Authorized Airport personnel on a routine basis will make inspections. The Contractor must correct any deficiencies in the work performance disclosed during such inspections following receipt of notification. Continued failure to take such corrective actions could, at the Airport's discretion, lead to termination of the Contract.
- 7.9 Failure of Contractor to fully comply with the terms and provisions of this Contract shall constitute grounds for declaring the Contractor in default.
- 7.10 Acceptance by the Airport of any delivery shall not relieve the Contractor/Supplier of any guarantee or warranty, express or implied, nor shall it be considered an acceptance of material not in accordance with the Specifications and shall not waive the Airport's right to request replacement of defective material.
- 7.11 The Contractor shall at all times when Work is in progress be represented in person, either by a qualified superintendent, or by other designated, qualified representative who is duly authorized to receive and execute orders of the Airport.

8 DISPUTE RESOLUTION

The Airport and Contractor agree that before either party files suit against the other to enforce, or otherwise relating to, the terms of this Contract, it shall notify the other party of its intent to sue. Upon delivery and receipt of such notice, the parties agree to submit the matter to be litigated to mediation before a mutually-agreed upon mediator and to diligently pursue a mediated settlement until such time as the parties mutually agree to terminate such mediation or the mediator declares an impasse. No lawsuit under or relating to this Contract by one party against the other may be filed until mediation of the issue has ended in accordance with the terms hereof. Notwithstanding the foregoing, this section may be enforced by action for specific performance or injunctive relief.

9 FINANCIAL INTEREST

Contractor understands that Article 11 of the Contract and Agreement between The City of Dallas and The City of Fort Worth, dated April 15, 1968, prohibits any officer or employee of the Airport from having any financial interest, direct or indirect, in any Contract with the Airport, or be financially interested, directly or indirectly, in the sale to the Airport of any land, materials, supplies, equipment or services, except on behalf of the Airport as an officer or employee thereof. Any violation of this prohibition shall constitute malfeasance in office, and any officer or employee adjudged guilty thereof shall thereby be subject to removal from his/her office or position by the Airport or the Chief Executive Officer. Any violation of this provision by a member of the Airport shall be grounds for removal by a vote of two-thirds (2/3rds) of the City Council appointing such member.

10 FISCAL YEAR FUNDING

The Airport's fiscal year begins October 1 and ends the following September 30th. Budget funds are approved by the Airport and the Cities of Dallas and Fort Worth on an annual basis. In the event the Board/Cities should fail to fund the Contract for any fiscal year during the Contract term, the Contract shall automatically terminate on the last day of the fiscal year for which funding has been approved. Contractor will be given no less than sixty-(60) days written notice of any such non-approval of Contract funding. Termination under this clause shall be without penalty to the Airport.

11 FORCE MAJEURE

Neither Contractor nor the Airport shall be responsible or deemed to be in default of its obligations to the other to the extent any failure to perform or delay in performing its obligations under this Contract is caused by events or conditions beyond the reasonable control of that party, and are not due to the negligence or willful misconduct of such party (hereinafter, "force majeure events"). For purposes of this Contract, force majeure events shall include, but not be limited to, acts of God or public enemy, war, riot or civil commotion, strikes, epidemic, fire, earthquake, tornado, hurricane, flood, explosion, or other catastrophes, or events or conditions due to governmental law, regulations, ordinances, order of a court of competent jurisdiction, executive decree or order. However, in the event of such delay(s) or nonperformance, the party so delayed shall furnish prompt written notice to the other party (including the date of inception of the force majeure event and the extent to which it will affect performance) and shall undertake all efforts reasonably possible to cure the delay or nonperformance and mitigate its effects or to otherwise perform. The Airport shall not be responsible for payment for any product or service delayed or foreclosed by any force majeure event unless and until such delayed or foreclosed product or service is provided. The provisions of this section shall not preclude the Airport from canceling or terminating this Contract (or any order for any goods or services included herein), or from revising the scope of the Work, as otherwise permitted under this Contract.

12 INDEMNIFICATION AND HOLD HARMLESS

- 12.1 CONTRACTOR COVENANTS AND AGREES TO FULLY INDEMNIFY AND HOLD HARMLESS, THE DALLAS FORT WORTH INTERNATIONAL AIRPORT BOARD AND CITIES OF DALLAS AND FORT WORTH AND THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, VOLUNTEERS AND REPRESENTATIVES OF THE DALLAS FORT WORTH INTERNATIONAL AIRPORT BOARD AND CITIES OF DALLAS AND FORT WORTH, INDIVIDUALLY OR COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING BUT NOT LIMITED TO, PERSONAL OR BODILY INJURY, DEATH AND PROPERTY DAMAGE, MADE UPON THE DALLAS FORT WORTH INTERNATIONAL AIRPORT BOARD AND CITIES**

OF DALLAS AND FORT WORTH DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO CONTRACTOR'S ACTIVITIES UNDER THIS CONTRACT, INCLUDING ANY ACTS OR OMISSIONS OF CONTRACTOR, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONTRACTOR OR SUBCONTRACTOR OF CONTRACTOR, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES WHILE IN THE EXERCISE OF PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE NEGLIGENCE OF DALLAS FORT WORTH INTERNATIONAL AIRPORT BOARD AND CITIES OF DALLAS AND FORT WORTH, ITS OFFICERS OR EMPLOYEES, IN INSTANCES WHERE SUCH NEGLIGENCE CAUSES PERSONAL OR BODILY INJURY, DEATH, OR PROPERTY DAMAGE. IN THE EVENT CONTRACTOR AND DALLAS FORT WORTH INTERNATIONAL AIRPORT BOARD AND CITIES OF DALLAS AND FORT WORTH ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE DALLAS FORT WORTH INTERNATIONAL AIRPORT BOARD AND CITIES OF DALLAS AND FORT WORTH UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

- 12.2 THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.
- 12.3 CONTRACTOR SHALL PROMPTLY ADVISE THE DALLAS FORT WORTH INTERNATIONAL AIRPORT BOARD AND CITIES OF DALLAS AND FORT WORTH IN WRITING OF ANY CLAIM OR DEMAND AGAINST THE DALLAS FORT WORTH INTERNATIONAL AIRPORT BOARD AND CITIES OF DALLAS AND FORT WORTH OR CONTRACTOR KNOWN TO CONTRACTOR RELATED TO OR ARISING OUT OF CONTRACTOR'S ACTIVITIES UNDER THIS CONTRACT.

13 INDEPENDENT CONTRACTOR

The relationship of Contractor to Airport is that of Independent Contractor. Under no circumstances shall Airport be considered in privity of Contract with any subcontractor or supplier hired by Contractor, and such subcontractor or supplier, if any, shall look solely to Contractor or to the Contract Bond Surety, if any, for recovery of any claims for monies owed for material supplied or labor performed relating to the Work hereunder.

14 JURISDICTION

This Contract shall be construed in accordance with the laws and court decisions of the State of Texas and be enforceable in Dallas County or Tarrant County, Texas, and if legal action is necessary by either party with respect to the enforcement of any and all of its terms and conditions, exclusive venue for same shall lie in Dallas and Tarrant Counties, Texas.

15 NON-COMPETE AGREEMENTS OR CLAUSES

By execution of this contract, Contractor agrees that the Airport will not be bound by any non-compete agreements or similar agreements that inhibit the Airport's right to award and execute a contract to any company that submits a bid or proposal to the Airport.

16 NOTICE OF DELAYS

Whenever the Contractor encounters any difficulty which is delaying or threatens to delay timely performance (including actual or potential labor disputes), the Contractor shall immediately give notice in writing to the Vice President of PMM, or designee, including all relevant information. Such notice shall not in any way constitute a basis for an extension of the delivery or performance schedule or be construed as a waiver by the Airport of any right or remedies to which it is entitled by law or pursuant to provisions herein. Failure to give such notice, however, may be grounds for denial of any request for an extension of the delivery or performance schedule because of such delay.

17 PERSONAL LIABILITY OF PUBLIC OFFICIALS

In carrying out any of the Contract provisions or in exercising any power or authority granted to him by this Contract, neither the Airport's Project Manager, his/her authorized representatives, nor any employees or officers of the Airport shall be personally liable.

18 SEVERABILITY

If any provision of the Contract is declared or found to be illegal, unenforceable or void, in whole or in part, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that it is illegal, unenforceable or void, it being the intent and agreement of the parties that the Contract shall be deemed amended by modifying such provision to the extent necessary to make it legal and enforceable while preserving its intent or, if that is not possible, by substituting therefore another provision that is legal and enforceable and achieves the same objectives. Any such invalidity, illegality, or unenforceability shall not affect any other provision of the Contract. The parties agree to negotiate in good faith for a proper amendment to the Contract in the event any provision thereof is declared illegal, invalid or unenforceable.

19 SUBLETTING OF CONTRACT

The Airport will not recognize any subcontractor on the Work. The Contractor shall at all times when Work is in progress be represented in person, either by a qualified superintendent, or by other designated, qualified representative who is duly authorized to receive and execute orders of the Airport's Project Manager.

20 TAX EXEMPTION STATUS

The Airport is a local governmental agency and exempt from all city, state, and federal sales and use taxes. However, it shall be understood this tax-exempt status cannot be utilized by the Contractor for its purchase, lease, or rental of a motor vehicle. Vehicles, equipment and other products that remain the property of the Airport after contract expiration will be tax exempt and the Airport will provide a State of Texas Sales Tax Exemption Certificate for these purposes. Additional sales tax requirements may pertain to this Contract and, if so, will be detailed in the Special Provisions contained herein.

21 TEMPORARY SUSPENSION OF THE WORK

- 21.1 The Airport Project Manager, in conjunction with PMM, shall have the authority to suspend the Work wholly, or in part, for such period or periods as he may deem necessary, due to unsuitable weather, or such other conditions as are considered unfavorable for the performance of the work, or for such time as is necessary due to the failure on the part of the Contractor to carry out orders given or perform any or all provisions of the Contract.

- 21.2 In the event that the Contractor is ordered by the Airport's Project Manager, in writing, to suspend Work, in whole or in part, for some unforeseen cause not otherwise provided for in the Contract and over which the Contractor has no control, the Contractor shall be paid that part of the Work, if any, not shut down, and for extended overhead, if any relating to the part of the Work suspended. No allowance will be made for anticipated profits. The period of shutdown shall be computed from the effective date of the Project Manager's order to suspend Work to the effective date of the Technical Representative's order to resume the Work. Claims for extended overhead shall be filed with the Airport's Project Manager within the time period stated in the Airport's Project Manager's order to resume Work. The Contractor shall submit with his/her claim information substantiating the amount shown on the claim. The Airport's Project Manager will forward the Contractor's claim to the Airport for consideration in accordance with local laws or ordinances. No provision of this article shall be construed as entitling the Contractor to compensation for delays due to inclement weather, for suspensions made at the request of the Contractor, or for any other delay provided for in the Contract, plans, or specifications.
- 21.3 If it should become necessary to suspend Work for an indefinite period, the Contractor shall store all materials in such manner that they will not become an obstruction nor likely to become damaged in any way.

22 TERMINATION OF CONTRACT: DEFAULT AND REMEDIES

In the event of a default by the Contractor of this Contract or of any one or more Delivery Orders issued hereunder, the Contractor shall be given written notice to cure. Such notice shall describe the default and may, but shall not be required to, recommend a remedy to the default. The Contractor shall have seven (7) days to respond to the notice in writing, which notice shall describe the cure and any associated plan of action. The Contractor shall have thirty (30) days from the date of its receipt of the notice of default to cure the default. If the Contractor has not cured the default on the 31st day after receipt of the notice, the Airport may terminate the contract and/or pursue any and all relief, at law or in equity, to which it may be entitled by reason of such default.

23 TERMINATION OF CONTRACT FOR AIRPORT CONVENIENCE

Whenever the Airport, in its discretion, deems it to be in the Airport's best interests, it may terminate this Contract for the Airport's convenience. Such termination shall be effective thirty (30) days after Airport delivers written notice of such termination for convenience to the Contractor. Upon receipt of such notice from Airport, Contractor shall not thereafter incur, and Airport shall have no liability for, any costs under this Contract that are not necessary for actual performance of the Contract between the date of the notice of termination for convenience and the effective date of that termination for convenience. In the event of a termination for convenience hereunder, Airport shall have no liability to Contractor for lost or anticipated profit resulting therefrom.

24 TERMS OF PAYMENT

- 24.1 Terms of payment to the successful Bidder will be contingent upon the terms provided in the Contract and based on invoices submitted to and approved by the Vice President of PMM or designee. Invoices shall be fully documented in accordance with the specifications. If no specific payment terms are stated, the terms shall be Net 30.
- 24.2 Payment may be delayed on invoices not listing the Contract number and/or Purchase Order number. Invoices shall be priced per unit prices as awarded unless Contractor invoices at a discounted unit price. If Contractor invoices for less than the contracted unit price, the Airport has

the right to accept invoice and pay the discounted price as full satisfaction of compensation due the Contractor.

- 24.3 Invoices will be paid following delivery and acceptance unless special arrangements are made through the Vice President of PMM for partial payment or progress payments. Progress payments will be made following receipt of a valid invoice submitted by the Contractor. Invoices must reflect only the amount due to the accepted portion of the services performed, materials, and equipment furnished for the period covered by each invoice.
- 24.4 Upon payment by the Airport, Contractor shall pay each subcontractor the appropriate share of the payment no later than the seventh (7th) calendar day after the day on which the Contractor receives payment from the Airport.
- 24.5 Unless otherwise directed, invoices shall be submitted by mail or email to:

Dallas Fort Worth International Airport Board
Procurement and Materials Management Department
Attn: Contract Accounts Payable
P. O. Box 619428
Dallas Fort Worth Airport, Texas 75261-9428
Email: imaging@dfwairport.com

25 THIRD-PARTY BENEFICIARY CLAUSE

It is specifically agreed between the parties executing the Contract that it is not intended by any of the provisions of any part of the contract to make the public or any member thereof a third-party beneficiary or to authorize anyone not a party to the contract to maintain a suit on or under the Contract.

END OF GENERAL TERMS AND CONDITIONS