



Terms & Conditions for Commercial Item Purchases Under U.S. Government Contracts

INCORPORATION OF FAR and DFARS CLAUSES

The following terms and conditions apply to purchase orders, subcontracts, or other applicable agreements issued in support of a US Government contract:

The Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS) clauses referenced below are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable, including any notes following the clause citation, to this Contract. The Seller agrees to flow down all applicable FAR and DFARS clauses to its lowest tier suppliers/subcontractors.

DEFINITIONS

1. *Commercial Item* means a commercial item as defined in FAR 2.101.
2. *Contract* means this Purchase Order (PO).
3. *Substitute Buyer for Government or United States*.
4. *Contracting Officer* shall mean the Buyer or Contract Specialist/Administrator.
5. *Contractor or Offeror* means the SELLER, acting as (first tier) subcontractor to Buyer.
6. *Prime Contract* means the contract between Buyer and the US Government or between Buyer and its higher-tier contractor who has a contract with the US Government.
7. *Subcontract* means any contract placed by the Buyer or lower-tier subcontractors under a US Government Prime Contract.

PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (FAR 52.204-25).

Section 889(a)(1)(A) and Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the Seller from **providing** to the Government or from **using** any equipment, system, or service that uses **covered telecommunications equipment or services**, as defined under FAR 52.204-25(a), as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of FAR 52.204-25 applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract.

In the event the Seller identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Seller is notified of such by a subcontractor at any tier or by any other source, the Seller shall report the information outlined in FAR 52.204-25(d)(2) to the Buyer within one business day from the date of such identification or notification.

DEBARMENT OR SUSPENSION

Seller, by signing any Purchase Order into which these terms and conditions are incorporated, certifies that, as of the date of award, seller, or its principals, is not currently debarred, suspended, or proposed for debarment by the Federal Government.

ANTI-LOBBYING

Supplier also certifies that it is in full compliance with FAR 52.203-11 and 52.203-12 and certifies to the best of its knowledge and belief that no Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, an officer or employee of a Member of Congress on its behalf in connection with the awarding of this Order. Supplier certifies that it will notify Buyer immediately if its status changes during performance of this Order.

AMENDMENTS REQUIRED BY THE PRIME CONTRACT

Seller agrees that upon the request of Buyer it will negotiate in good faith with Buyer relative to amendments to this Contract to incorporate additional provisions herein or to change provisions hereof, as Buyer may reasonably deem necessary in order to comply with the provisions of the applicable Prime Contractor with the provisions of amendments to such Prime Contract. If any such amendment to this Contract causes an increase or decrease in the cost of, or the time required for, performance of any part of the Work under this Contract, an equitable adjustment shall be made pursuant to the "Changes" clause of this Contract.

EQUAL OPPORTUNITY

If the Purchase Order exceeds the micro purchase threshold 41 CFR 60-741.5(a) is hereby incorporated. **This contractor and subcontractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.**

41 CFR 60-300.5(a) is hereby incorporated. **This contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.**

PRESERVATION OF THE US GOVERNMENT'S RIGHTS

If Buyer furnishes designs, drawings, special tooling, equipment, engineering data, or other technical or proprietary information (Furnished Items) to which the US Government owns or has the right to authorize the use of, nothing herein shall be construed to mean that Buyer, acting on its own behalf, may modify or limit any rights the Government may have to authorize the Contractor's use of such Furnished Items in support of other US Government prime contracts.

FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)

In situations in which Buyer is a prime contractor to the U.S. Government, Buyer may be required to comply with the Federal Funding Accountability and Transparency Act (FFATA) as required in FAR 52.204-10 – Reporting Executive Compensation and First-Tier Subcontract Awards. In such situations, Seller shall provide the executive compensation information requested and required by the Buyer to comply with FAR 52.204-10.

Seller acknowledges that Section 2(d) of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. No. 109-282), as amended by section 6202 of the Government Funding Transparency Act of 2008 (Pub. L. 110-252), requires all reported information be made public by the Government.

FLOWDOWN

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

FAR

All POs

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| 52.203-19 | Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements |
| 52.204-21 | Basic Safeguarding of Covered Contractor Information Systems |
| 52.204-23 | Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities. |
| 52.204-25 | Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. |
| 52.219-8 | Utilization of Small Business Concerns |
| 52.222-21 | Prohibition of Segregated Facilities |
| 52.222-26 | Equal Opportunity |
| 52.222-36 | Equal Opportunity for Workers With Disabilities |
| 52.222-41 | Service Contract Act of 1965 |
| 52.222-50 | Combating Trafficking in Persons |
| 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 |
| 52.222-55 | Minimum Wages Under Executive Order 13658 (if Service Contract Act applies) |
| 52.222-62 | Paid Sick Leave Under Executive Order 13706 |
| 52.224-3 | Privacy Training |
| 52.232-40 | Providing Accelerated Payments to Small Business Subcontractors |
| 52.244-6 | Subcontracts for Commercial Items |
| 52.247-64 | Preference for Privately-Owned U.S. Flag Commercial Vessels |
| 52.222-40 | Notification of Employee Rights Under the National Labor Relations Act |
| 52.222-36 | Affirmative Action for Workers with Disabilities |

52.204-10 Reporting Executive compensation and First-Tier Subcontract Awards

52.203-6 Restrictions on Subcontractor Sales to the Government

52.222-35 Equal Opportunities for Veterans

52.222-37 Employment Reports on Veterans

52.219-9 Small Business Subcontracting Plan (DEVIATION 2016-O0009)

52.203-13 Contractor Code of Business Ethics and Conduct

DFARS

All POs

252.204-7000 Disclosure of Information

252.204-7012 Safeguarding Covered Defense Information and Cyber Incident Reporting

252.204-7018 Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services.

252.211-7003 Item Unique Identification and Valuation.

252.215-7008 Only One Offer

252.223-7008 Prohibition of Hexavalent Chromium

252.225-7001 Buy American Act and Balance of Payments Program

252.225-7008 Restriction on Acquisition of Specialty Metals

252.225-7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals

(1) Modify paragraph (c)(6) of this clause as necessary to facilitate management of the minimal content exception;

(2) Exclude paragraph (d) and (e)(1) of this clause

252.225-7028 Exclusionary Policies and Practices of Foreign Governments

252.225-7038 Restriction on Acquisition of Air Circuit Breakers

252.227-7013 Rights in Technical Data--Noncommercial Items

252.227-7015 Technical Data-Commercial Items

252.227-7037 Validation of Restrictive Markings on Technical Data

252.239-7018 Supply Chain Risk

252.244-7000 Subcontracts for Commercial Items

252.246-7003 Notification of Potential Safety Issues

252.246-7007 Contractor Counterfeit Electronic Part Detection and Avoidance System, Sections (a) through (e)

252.246-7008 Sources of Electronic Parts

252.247-7003 Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer

252.247-7023 Transportation of Supplies by Sea (as applicable per para. h)

252.247-7024 Notification of Transportation of Supplies by Sea

252.225-7012 Preference for Certain Domestic Commodities
252.225-7015 Restriction on Acquisition of Hand or Measuring Tools

252.226-7001 Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns

252.219-7003 Small Business Subcontracting Plan

If the subcontract (except subcontracts to small business concerns) exceed \$650,000 (\$1,500,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

252.219-7004 Small Business Subcontracting Plan (Test Program)

If the subcontract (except subcontracts to small business concerns) exceed \$650,000 (\$1,500,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

A. Termination for Convenience (FAR 52.212-4 (1))

The Buyer reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Seller shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Seller shall be paid a percentage of the contract price reflecting the percentage of the work performed before the notice of termination, plus reasonable charges the Seller can demonstrate to the satisfaction of the Buyer using its standard record keeping system, having resulted from the termination. The Seller shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Buyer any right to audit the Seller's records. The Seller shall not be paid for any work performed or costs incurred that reasonably could have been avoided.

This clause will be implemented only in the event Buyer is terminated, for any reason, under the terms of the prime contract.

B. Stop Work Order (FAR 52.242-15)

Buyer reserves the right to direct Seller to stop work in accordance with the provisions of this clause. This may be exercised at the sole Discretion of the Buyer. Rights of the seller shall be as specified in the clause.

C. Government Property

In the event Government property is transferred to the possession of the seller, the seller is liable for loss, damage, or destruction of the Government property.