

## COMMERCIAL ITEMS CLAUSES (FAR & DFARS)

The following clauses are incorporated by reference to the extent indicated below. The effective version of each clause shall be the version that applies to BUYER under its prime contract or higher-tier subcontract. In all cases, the clauses shall be interpreted to apply to Seller as necessary to reflect the position of Seller as a subcontractor to BUYER, to ensure Seller's obligations to BUYER, and to enable BUYER to meet its obligations to its customer. For purposes of this introductory paragraph and the headings below, the term Subcontract shall include any agreement between BUYER and Seller, to include Subcontracts, Task Orders, Purchase Orders, Basic Ordering Agreements and Orders. Without limiting the foregoing: (1) unless the context of the clause or applicable law requires otherwise, the term "Contractor" shall mean Seller, the term "Contract" shall mean the Subcontract as that term is defined above, the term "Subcontractor" shall mean Seller's subcontractor, and the terms "Government," "Contracting Officer" and equivalent phrases shall mean BUYER and BUYER's Contractual Representative, respectively; (2) the words "Government" and "Contracting Officer" do not change when a right, act, authorization or obligation can be granted or performed only by the Government or when title to property is to be transferred directly to the Government; and (3) where a clause specifies the number of days in which Seller must act, that number shall be reduced by half.

### **SUBPART 1**

**The following Federal Acquisition Regulation ("FAR") clauses are incorporated by reference:**

#### **Applicable to All Subcontracts**

- 52.203-19 Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements
- 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
- 52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders – Commercial Items (paragraph (d) only)52.219-8 Utilization of Small Business Concerns
- 52.222-21 Prohibition of Segregated Facilities
- 52.222-26 Equal Opportunity
- 52.222-35 Equal Opportunity for Veterans
- 52.222-36 Equal Employment for Workers with Disabilities
- 52.222-37 Employment Reports on Veterans (Feb 2016) (38 U.S.C. 4212).
- 52.222-50 Combating Trafficking in Persons
- 52.225-13 Restrictions on Certain Foreign Purchases
- 52.227-14 Rights in Data – General with Alternates II, III, and V (unless another data rights clause is identified as replacing this clause)
- 52.233-3 Protest After Award
- 52.242-15 Stop Work Order
- 52.244-6 Subcontracts for Commercial Items
- 52.247-64 Preference for Privately Owned U.S. Flag Commercial Vessels

#### **Applicable to Subcontracts Over \$3,500**

- 52.222-54 Employment Eligibility Verification

#### **Applicable to Subcontracts Over the Micro-Purchase Threshold**

- 52.223-18 Encouraging Contractor Policies to Ban Text Messaging While Driving

#### **Applicable to Subcontracts Over \$10,000**

- 52.222-40 Notification of Employee Rights Under the National Labor Relations Act

#### **Applicable to Subcontracts Over \$15,000**

- 52.222-36 Equal Employment for Workers with Disabilities

#### **Applicable to Subcontracts Over \$30,000**

- 52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards.

#### **Applicable to Subcontracts Over \$35,000**

- 52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment

#### **Applicable to Subcontracts Over \$150,000**

- 52.203-7 Anti-Kickback Procedures (excluding (c)(1))
- 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions
- 52.203-12 Limitation on Payments to Influence Certain Federal Transactions
- 52.222-35 Equal Opportunity for Veterans
- 52.222-37 Employment Reports on Veterans
- 52.234-1 Industrial Resources Developed Under Defense Production Act

#### **Applicable to Subcontracts Over \$250,000**

- 52.203-3 Gratuities
- 52.203-6 Restrictions on Subcontractor Sales to the Government with Alternate I52.203-16 Preventing Personal Conflicts of Interest (if Subcontract includes acquisition functions closely associated with inherently governmental functions)

#### **Applicable to Subcontracts Over \$5,500,000**

- 52.203-13, Contractor Code of Business Ethics and Conduct

#### **Applicable to Subcontracts Over \$6,000,000**

- 52.203-13 Contractor Code of Business Ethics and Conduct

#### **Applicable Only to the Extent Required in the Prime Contract**

- 52.203-15 Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (if Subcontract is funded in whole or in part with Recovery Act funds)
- 52.204-2 Security Requirements (if Subcontract involves access to classified information)
- 52.204-9 Personal Identity Verification of Contractor Personnel (if Seller has access to Government facilities or systems)
- 52.204-21 Basic Safeguarding of Covered Contractor Information System (if Seller may have Federal contract information, as defined in the clause, residing in or transiting through its information system)
- 52.211-15 Defense Priority and Allocation Requirements (applies if the Subcontract is a rated order under subject to 15 C.F.R. 700)
- 52.222-41 Service Contract Labor Standards (if Subcontract is subject to the Service Contract Labor Standards statute)
- 52.222-51 Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment – Requirements (if services meet all requirements for exemption)
- 52.222-53 Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services – Requirements (if services meet all requirements for exemption)
- 52.222-55 Minimum Wages Under Executive Order 13658 (if Subcontract is subject to Service Contract Labor Standards statute)
- 52.222-62 Paid Sick Leave Under Executive Order 13706 (if Subcontract is subject to the Service Contract Act, Davis-Bacon Act, or the Fair Labor Standards Act, but only to the extent work is performed in the United States)
- 52.223-11 Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (if Subcontract is for products or services specified in FAR 23.804(a))
- 52.223-12 Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (if work includes maintenance, repair, or disposal of refrigeration equipment or air conditioners)

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- 52.223-20 Aerosols (if Subcontract is for products that contain a propellant or solvent or involves maintenance or repair of electronic or mechanical devices)
- 52.223-21 Foams (if Subcontract is for products that contain a foam blowing agent)
- 52.224-2 Privacy Act (if Subcontract involves system of records on individuals subject to the Privacy Act)
- 52.225-26 Contractors Performing Private Security Functions Outside the United States (if Subcontract meets the requirements in paragraph (f) of the clause)
- 52.226-6 Promoting Excess Food Donation (if Subcontract exceeds \$25,000 and involves provision, service, or sale of food)
- 52.227-10 Filing of Patent Applications – Classified Subject Matter (if work or patent application may cover classified matters)
- 52.227-11 Patent Rights – Ownership by the Contractor (if Subcontract includes experimental, developmental, or research work and no other Patent Rights clause is specified)
- 52.232-40 Providing Accelerated Payments to Small Business Concerns (if Seller is a small business and BUYER receives accelerated payments under its contract)
- 52.237-2 Protection of Government Buildings, Equipment and Vegetation (if work is performed at a Government facility)
- 52.237-3 Continuity of Services (if Subcontract includes services)
- 52.239-1 Privacy or Security Safeguards (if Subcontract involves design, development, or operation of a system of records)
- 52.245-1 Government Property with Alternate I (if Subcontract involves access to Government property)

**Applicable if on the face of the Order**

- 52.214-26 Audit and Records-Sealed Bidding
- 52.215-2 Audit and Records-Negotiation
- 52.215-12 Subcontractor Certified Cost or Pricing Data
- 52.215-13 Subcontractor Certified Cost or Pricing Data- Modifications
- 52.215-14 Integrity of Unit Prices
- 52.223-13 Acquisition of EPEAT-Registered Imaging Equipment  
 Alternate I
- 52.223-14 Acquisition of EPEAT-Registered Televisions  
 Alternate I
- 52.223-15 Energy Efficiency in Energy-Consuming Products
- 52.223-16 Acquisition of EPEAT-Registered Personal Computer Products  
 Alternate I
- 52.223-17 Affirmative Procurement of EPA-Designated Items in Service and Construction Contracts
- 52.224-3 Privacy Training
- 52.225-1 Buy American Act – Supplies  52.225-3 Buy American-Free Trade Agreements-Israel Trade Act  
 Alternate I  Alternate II  Alternate III
- 52.225-5 Trade Agreements
- 52.227-1 Authorization and Consent
- 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement
- 52.227-9 Refund of Royalties
- 52.227-11 Patent Rights – Ownership by the Contractor
- 52.227-13 Patent Rights – Ownership by the Government

- 52.227-14 Rights in Data – General with Alternate I (applies in addition to basic clause and Alternates identified above)
- 52.227-17 Rights in Data – Special Works (replaces 52.227-14 and -19 if checked, unless otherwise noted)
- 52.227-18 Rights in Data – Existing Works (replaces 52.227-14 and -19 if checked, unless otherwise noted)
- 52.227-19 Commercial Computer Software – Restricted Rights (applies to commercial computer software developed exclusively at private expense)
- 52.228-3 Workers' Compensation Insurance
- 52.228-5 Insurance – Work on a Government Installation
- 52.236-13 Accident Prevention  52.248-1 Value Engineering

**SUBPART 2 – DFARS CLAUSES**

The following clauses are incorporated by reference to the extent indicated below. The effective version of each clause shall be the version that applies to BUYER under its prime contract or higher-tier subcontract. In all cases, the clauses shall be interpreted to apply to Seller as necessary to reflect the position of Seller as a subcontractor to BUYER, to ensure Seller's obligations to BUYER, and to enable BUYER to meet its obligations to its customer. For purposes of this introductory paragraph and the headings below, the term Subcontract shall include any agreement between BUYER and Seller, to include Subcontracts, Task Orders, Purchase Orders, Basic Ordering Agreements and Orders. Without limiting the foregoing: (1) unless the context of the clause or applicable law requires otherwise, the term "Contractor" shall mean Seller, the term "Contract" shall mean the Subcontract as that term is defined above, the term "Subcontractor" shall mean Seller's subcontractor, and the terms "Government," "Contracting Officer" and equivalent phrases shall mean BUYER and BUYER's Contractual Representative, respectively; (2) the words "Government" and "Contracting Officer" do not change when a right, act, authorization or obligation can be granted or performed only by the Government or when title to property is to be transferred directly to the Government; and (3) where a clause specifies the number of days in which Seller must act, that number shall be reduced by half.

**Applicable to All Subcontracts**

- 252.203-7002 Requirement to Inform Employees of Whistleblower Rights
- 252.204-7000 Disclosure of Information
- 252.204-7004 Antiterrorism Awareness Training for Contractors (if Subcontract performance requires routine physical access to Federally-controlled facility or military installation)
- 252.204-7014 Limitations on the Use or Disclosure of Information by Litigation Support Contractors (if Subcontract involves litigation support services)
- 252.204-7015 Disclosure of Information to Litigation Support Contractors
- 252.204-7020 NIST SP 800-171 DOD Assessment Requirements (Except COTS)
- 252.204-7021 Cybersecurity Maturity Model Certification Requirements
- 252.209-7004 Subcontracting with Firms That Are Owned or Controlled by the Government of a Terrorist Country
- 252.223-7008 Prohibition of Hexavalent Chromium
- 252.225-7012 Preference for Certain Domestic Commodities
- 252.225-7014 Preference for Domestic Specialty Metals
- 252.225-7048 Export Controlled Items
- 252.227-7013 Rights in Technical Data – Noncommercial Items (applies in lieu of FAR 52.227-14 unless another data rights clause is identified as replacing this clause; Alternate I applies if Subcontract involves vessel design)
- 252.227-7014 Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation (applies in lieu of FAR 52.227-14 unless another data rights clause is identified as replacing this clause)
- 252.227-7015 Technical Data – Commercial Items (applies if checked to technical data pertaining to commercial item, components,

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	or processes developed exclusively at private expense; Alternate I applies if Subcontract involves vessel design)	252.225-7017	Photovoltaic Devices (if Subcontract provides for delivery of photovoltaic devices)
252.204-7018	Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services	252.225-7019	Restriction on Acquisition of Anchor and Mooring Chain (if Subcontract is for items containing welded shipboard anchor or mooring chain four inches or less in diameter)
252.227-7019	Validation of Asserted Restrictions – Computer Software	252.225-7025	Restriction on Acquisition of Forgings (if Subcontract is for forging items or items that contain forging items)
252.227-7037	Validation of Restrictive Markings on Technical Data	252.225-7028	Exclusionary Policies and Practices of Foreign Governments (if Subcontract involves purchase of supplies for international military training or Foreign Military Sales)
252.244-7000	Subcontracts for Commercial Items	252.225-7030	Restriction on Acquisition of Carbon, Alloy, and Armor Steel Plate (if Subcontract involves acquisition of carbon, alloy, or armor steel plate)
252.232-7017	Accelerating Payments to Small Business Subcontractors-Prohibition on Fees and Consideration (applicable to orders with small business concerns when the Buyer receives Accelerated Payments under the prime contract	252.225-7038	Restriction on Acquisition of Air Circuit Breakers (if Subcontract includes air circuit breakers for naval vessels)
252.247-7023	Transportation of Supplies by Sea – Basic (applies in lieu of FAR 52.247-64)	252.225-7040	Contractor Personnel Authorized to Accompany U.S. Armed Forces Deployed Outside the U.S. (if supporting Armed Forces deployed outside the U.S.)
<b>Applicable to Subcontracts Over \$150,000</b>		252.225-7052	Restriction on the Acquisition of Certain Magnets and Tungsten (if Subcontract is for items containing a covered material)
252.249-7002	Notification of Anticipated Contract Termination or Reduction	252.227-7038	Patent Rights – Ownership by the Contractor (Large Business) (applies in lieu of FAR 52.227-11 if Subcontractor is a large business)
<b>Applicable to Subcontracts Over \$500,000</b>		252.227-7039	Patents – Reporting of Subject Inventions (applies if Subcontract includes FAR 52.227-11)
252.226-7001	Utilization of Indian Organizations, Indian-Owned Economic Enterprises and Native Hawaiian Small Business Concerns	252.228-7005	Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles (if Subcontract involves manufacture, modification, overhaul, or repair of aircraft, missiles, space launch vehicles, or components)
<b>Applicable to Subcontracts Over \$6,000,000</b>		252.235-7003	Frequency Authorization (if Subcontract requires developing, producing, constructing, testing, or operating a device requiring frequency authorization; Alternate I may apply at BUYER's discretion)
252.203-7003	Agency Office of the Inspector General	252.237-7010	Prohibition on Interrogation of Detainees (applies to Subcontracts for services)
<b>Applicable Only to the Extent Required in the Prime Contract</b>		252.237-7019	Training for Contractor Personnel Interacting with Detainees (if Subcontract requires interaction with detainees)
252.204-7009	Limitation on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information (if Subcontract involves support for safeguarding covered defense information or cyber incident reporting)	252.239-7000	Protection Against Compromising Emanations (if Subcontract involves information technology that requires protection against compromising emanations)
252.211-7003	Item Unique Identification and Valuation (if Subcontract includes requirement for unique item identification)	252.239-7001	Information Assurance Contractor Training and Certification (if Subcontract involves information assurance functions as described in DoD 8570.01-M)
252.211-7007	Reporting of Government-Furnished Property (if Subcontract involves access to Government property; Subcontractor to report through BUYER)	252.239-7010	Cloud Computing Services (if Subcontract involves cloud services)
252.223-7001	Hazard Warning Labels (if Subcontract requires delivery of hazardous materials)	252.246-7003	Notification of Potential Safety Issues (if required by DFARS 252.246-7003(f))
252.223-7002	Safety Precautions for Ammunition and Explosives (if Subcontract involves ammunition, explosives, or propellants)	252.246-7007	Contractor Counterfeit Electronic Part Detection and Avoidance Systems (if Subcontract includes electronic parts or assemblies containing electronic parts)
252.223-7003	Change in Place of Performance – Ammunition and Explosives (if Subcontract involves ammunition, explosives, or propellants)	252.246-7008	Sources of Electronic Parts (if Seller is supplying electronic parts or assemblies containing electronic parts, unless the Seller is the original manufacturer)
252.223-7007	Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives (if Subcontract involves arms, ammunition, or explosives)	252.247-7003	Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (if Seller is a motor carrier, broker, or freight forwarder)
252.225-7007	Prohibition on Acquisition of U.S. Munitions List Items from Communist Chinese Military Companies (if Seller is supplying items on the U.S. Munitions List)		
252.225-7009	Restriction on Acquisition of Certain Articles Containing Specialty Metals (if work contains specialty metals)		
252.225-7010	Commercial Derivative Military Article – Specialty Metal Compliance Certificate (if work contains specialty metals)		
252.225-7011	Restrictions on Acquisition of Supercomputers (if Subcontract involves delivery of supercomputers)		
252.225-7015	Restrictions on Acquisition of Hand or Measuring Tools (if Subcontract includes hand or measuring tools)		

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### Applicable if on the face of the Order

- 252.204-7012 Safeguarding Covered Defense Information and Cyber Incident Reporting (Seller shall comply with additional cyber security requirements in the terms and conditions to the extent applicable)
- 252.211-7006 Passive Radio Frequency Identification
- 252.222-7000 Restrictions on Employment of Personnel
- 252.225-7001 Buy American and Balance of Payments Program  
 Alternate I
- 252.225-7008 Restriction on Acquisition of Specialty Metals
- 252.225-7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals
- 252.225-7021 Trade Agreements  
 Alternate II
- 252.225-7026 Acquisition Restricted to Products or Services from Afghanistan
- 252.225-7036 Buy American – Free Trade Agreements – Balance of Payments Program  
 Alternate I       Alternate II  
 Alternate III       Alternate IV  
 Alternate V
- 252.225-7043 Anti-Terrorism/Force Protection Policy for Defense Contractors Outside the U.S. (if Subcontract involves performance or travel outside the U.S.)
- In accordance with (d) of the clause, information and guidance pertaining to DoD antiterrorism/force protection can be obtained from the Buyer.252.227-7020 Rights in Special Works (replaces 252.227-7013, -7014, and -7015 if checked, unless otherwise stated)
- 252.227-7021 Rights in Data – Existing Works (replaces 252.227-7013, -7014, and -7015 if checked, unless otherwise stated)252.246-7004 Safety of Facilities, Infrastructure, and Equipment for Military Operations