

INTERNATIONAL TERMS AND CONDITIONS OF PURCHASE – Supplement 1
Government Contract Provisions from the Federal Acquisition Regulation
TC-004F (07/19)

1. When the materials, parts, and products (“goods”) or services, including the products resulting from services hereby ordered are for use in connection with a United States Government (“Government”) prime contract or higher-tier subcontract, in addition to the International General Provisions (TC-004), the following FAR provisions and clauses (TC-004F) shall apply, as required by the terms of the prime contract or by operation of law or regulation. The effective version of each FAR provision and clause shall be the same version as that which appears in Buyer’s prime contract, or higher-tier subcontract under which this Purchase Order is a subcontract. In the event of a conflict between these FAR provisions and clauses (TC-004F) and the International General Provisions (TC-004), the FAR provisions and clauses (TC-004F) shall control.
2. The following FAR provisions and clauses in effect as of the date of the prime contract are incorporated herein, unless made inapplicable by a corresponding note in this TC-004F, with the same force and effect as if they were given in full text. Upon Seller’s request, Buyer’s Purchasing Representative will make their full text available. Also, the full text of a FAR provision or clause may be accessed electronically at these addresses: <http://farsite.hill.af.mil/> or <http://www.acq.osd.mil/dpap/sitemap.html>. In all provisions and clauses listed herein, terms shall be revised to suitably identify the party to establish Seller’s obligations to Buyer and to the Government, and to enable Buyer to meet its obligations under the prime contract. Without limiting the generality of the foregoing, and except where further clarified or modified below, the term “Government” and equivalent phrases shall mean “Buyer”, the term “Contracting Officer” shall mean “Buyer’s Purchasing Representative”, the term “Contractor” or “Offeror” shall mean “Seller”, “Subcontractor” shall mean “Seller’s Subcontractor” under this Purchase Order, and the term “Contract” shall mean this “Purchase Order”. For the avoidance of doubt, 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 the prime contract Contracting Officer or duly authorized representative, for example in FAR 52.227-1 or FAR 52.227-2, or when title to property is to be transferred directly to the Government. If any of the following FAR provisions and clauses do not apply to this Purchase Order, such provisions and clauses are considered self-deleting. Seller shall incorporate into each lower tier contract issued in support of this Purchase Order all applicable FAR provisions and clauses in accordance with the flow down requirements specified in such clauses.

A. APPLICABLE TO PURCHASE ORDERS WITHOUT REGARD TO DOLLAR VALUE:

1. **52.203-19** “Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements”
2. **52.204-2** “Security Requirements” (Applicable to Purchase Orders that involve access to classified information. Any reference to the Changes clause is excluded.)
3. **52.204-9** “Personal Identity Verification of Contractor Personnel” (Applicable to Purchase Orders when Seller’s employees are required to have routine physical access to a Federally-controlled facility and / or routine access to a Federally-controlled information system.)
4. **52.204-21** “Basic Safeguarding of Covered Contractor Information Systems” (Applicable to Purchase Orders in which Seller may have Federal contract information residing in or transiting through its information system.)
5. **52.204-23** “Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities”
6. **52.211-5** “Material Requirements”
7. **52.215-23** “Limitations on Pass-Through Charges” (Applicable to cost-reimbursement Purchase Orders that exceed the simplified acquisition threshold, except if the contract is with the Department of Defense (DoD), then this clause is applicable to all cost-reimbursement Purchase Orders and fixed-price Purchase Orders, except those identified in 15.408(n)(2)(i)(B)(2), that exceed the threshold for obtaining cost or pricing data in accordance with FAR 15.403-4.)

8. **52.219-8** “Utilization of Small Business Concerns” (Applicable to Purchase Orders (i) to the extent that work under the Purchase Order will be performed in the United States or its outlying areas or Seller is recruiting employees in the United States or its outlying areas to work on the Purchase Order, and (ii) (except to small business concerns) that offer further subcontracting opportunities.)
9. **52.222-4** “Contract Work Hours and Safety Standards – Overtime Compensation” (Applicable to Purchase Orders that (i) require or involve the employment of laborers and mechanics and (ii) when any work under the Purchase Order will be performed in the United States, Puerto Rico, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, and Outer Continental Shelf Lands as defined in the Outer Continental Shelf Lands Act (43 U.S.C.1331) (29 CFR 5.15).)
10. **52.222-21** “Prohibition of Segregated Facilities” (Applicable to Purchase Orders that are subject to FAR 52.222-26.)
11. **52.222-26** “Equal Opportunity” (Applicable to Purchase Orders (i) except to the extent that work under the Purchase Order will be performed outside the United States or by employees that are not recruited within the United States to work on the Purchase Order. “United States”, as used in this parenthetical, means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island, and (ii) that are not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended.)
12. **52.222-50** “Combating Trafficking in Persons”
13. **52.222-54** “Employment Eligibility Verification” (Applicable to Purchase Orders for (i) for construction or commercial or noncommercial services (except commercial services that are part of a purchase of a COTS item or an item that would be a COTS item, but for minor modifications, performed by the COTS provider, and that are normally provided for that COTS item); (ii) has a value more than \$3,500 or the dollar threshold in effect as of the date of the prime contract; and (iii) includes work performed in the United States. “United States”, as used in this parenthetical, means the 50 States, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.)
14. **52.222-55** “Minimum Wages Under Executive Order 13658” (Applicable to Purchase Orders regardless of dollar value, that are subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, and are to be performed in whole or in part in the United States.)
15. **52.222-62** “Paid Sick Leave Under Executive Order 13706” (Applicable to Purchase Orders that are subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute and are to be performed in whole or in part in the United States.)
16. **52.223-3** “Hazardous Material Identification and Material Safety Data” (Applicable to Purchase Orders that require the delivery of hazardous materials as defined in FAR 23.301. “Government” means “Government and Buyer” in this clause.)
17. **52.223-7** “Notice of Radioactive Materials” (Seller shall notify Buyer if any goods under this Purchase Order contain any of the material as described in the clause. Insert 45 days in the blank in paragraph (a) of the clause unless otherwise indicated in the Purchase Order.)
18. **52.223-11** “Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons” (Applicable to Purchase Orders when any work under the Purchase Order will be performed in the United States or its outlying areas. Seller shall label products which contain or are manufactured with ozone-depleting substances as described in the clause.)

19. **52.224-3** “Privacy Training” (Applicable to Purchase Orders when Seller’s employees will (i) have access to a system of records; (ii) create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information; or (iii) Design, develop, maintain, or operate a system of records.)
 20. **52.225-8** “Duty-Free Entry” (Applicable to Purchase Orders for supplies that may be imported into the United States.)
 21. **52.225-13** “Restrictions on Certain Foreign Purchases”
 22. **52.225-26** “Contractors Performing Private Security Functions Outside the United States” (Applicable to Purchase Orders that will be performed outside the United States in areas of (i) combat operations, as designated by the Secretary of Defense, or (ii) other significant military operations upon agreement of the Secretaries of Defense and State that the clause applies in that area.)
 23. **52.227-9** “Refund of Royalties” (Applicable to Purchase Orders in which the amount of royalties reported during negotiation of the Purchase Order exceeds \$250.)
 24. **52.227-14** “Rights in Data-General”
 25. **52.237-2** “Protection of Government Buildings, Equipment and Vegetation” (Applicable to Purchase Orders for services to be performed on Government installations.)
 26. **52.243-6** “Change Order Accounting” (Applicable to Purchase Orders for supply and research and development contracts of significant technical complexity.)
 27. **52.244-6** “Subcontracts for Commercial Items”
 28. **52.247-63** “Preference for U.S.-Flag Air Carriers” (Applicable to Purchase Orders that involve international air transportation.)
 29. **52.247-64** “Preference for Privately Owned U.S.-Flag Commercial Vessels” (Applicable to Purchase Orders, except those exempted in paragraph (e) (4) of the clause.)
 30. **52.249-2** “Termination for Convenience of the Government” (Fixed-Price) – (The usual substitution of the parties in which “Government” means “Buyer”, “Contracting Officer” means “Buyer’s Purchasing Representative”, and “Contractor” means “Seller” is applicable to this clause except that any express obligation to transfer or assign title to property shall be modified such that “Government” means “Government or Buyer”.) (In paragraph (d) the term “45 days” is changed to “90 days.” The term “one-year” in paragraph (e) is changed to “six months.” The term “90 days” in paragraph (l) is changed to “forty-five days.”)
- B. PURCHASE ORDERS OVER THE MICRO-PURCHASE THRESHOLD (AS DEFINED AT FAR 2.101 IN EFFECT AS OF THE DATE OF THE PRIME CONTRACT) ALSO INCLUDE:**
1. **52.223-18** “Encouraging Contractor Policies to Ban Text Messaging while Driving”
- C. PURCHASE ORDERS OVER \$10,000 (OR THE DOLLAR THRESHOLD IN EFFECT AS OF THE DATE OF THE PRIME CONTRACT) ALSO INCLUDE:**
1. **52.222-40** “Notification of Employee Rights Under the National Labor Relations Act” (Applicable to Purchase Orders when work under the Purchase Order will be performed wholly or partially in the United States.)
- D. PURCHASE ORDERS OVER \$15,000 (OR THE DOLLAR THRESHOLD IN EFFECT AS OF THE DATE OF THE PRIME CONTRACT) ALSO INCLUDE:**
1. **52.222-36** “Equal Opportunity for Workers with Disabilities” (Applicable to Purchase Orders to the extent that work under the Purchase Order will be performed in the United States, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, or Wake Island or Seller is recruiting employees in the United States, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, or Wake Island to work on the Purchase Order.)

E. PURCHASE ORDERS OF \$30,000 OR MORE (OR THE DOLLAR THRESHOLD IN EFFECT AS OF THE DATE OF THE PRIME CONTRACT) ALSO INCLUDE:

1. **52.204-10** "Reporting Executive Compensation and First-Tier Subcontract Awards" (Applicable to Purchase Orders when Buyer is the Prime Contractor.) (The usual substitution of the parties is not applicable to this clause. Seller shall report to Buyer the information required under the clause.)

F. PURCHASE ORDERS OVER \$35,000 (OR THE DOLLAR THRESHOLD IN EFFECT AS OF THE DATE OF THE PRIME CONTRACT) ALSO INCLUDE:

1. **52.209-6** "Protecting the Government's Interest when Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment"

G. PURCHASE ORDERS OF \$150,000 OR MORE (OR THE DOLLAR THRESHOLD IN EFFECT AS OF THE DATE OF THE PRIME CONTRACT) ALSO INCLUDE:

1. **52.222-35** "Equal Opportunity for Veterans" (Applicable to Purchase Orders when the listing of employment openings for purposes of work to be performed under this Purchase Order occur and are filled within the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.)
2. **52.222-37** "Employment Reports on Veterans" (Applicable to Purchase Orders when the listing of employment openings for purposes of work to be performed under this Purchase Order occur and are filled within the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.)

H. PURCHASE ORDERS OVER \$150,000 (OR THE DOLLAR THRESHOLD IN EFFECT AS OF THE DATE OF THE PRIME CONTRACT) ALSO INCLUDE:

1. **52.203-7** "Anti-Kickback Procedures" (Excepting subparagraph (c)(1) of the clause.)
2. **52.203-12** "Limitation on Payments to Influence Certain Federal Transactions"
3. **52.248-1** "Value Engineering"

I. PURCHASE ORDERS OVER THE SIMPLIFIED ACQUISITION THRESHOLD (AS DEFINED AT FAR 2.101 IN EFFECT AS OF THE DATE OF THE PRIME CONTRACT) ALSO INCLUDE:

1. **52.203-6** "Restrictions on Subcontractor Sales to the Government"
2. **52.203-17** "Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights"
3. **52.215-2** "Audit and Records – Negotiation" (Applicable to Purchase orders: (i) for which certified cost or pricing data are required or (ii) that require Seller to furnish reports as discussed in paragraph (e) of the clause.)
4. **52.215-14** "Integrity of Unit Prices" (Applicable to Purchase Orders less paragraph (b) in the clause, except for construction or architect-engineer services under FAR Part 36; utility services under FAR Part 41; services where supplies are not required; and petroleum products.)
5. **52.227-1** "Authorization and Consent and Alternate I" (Include Alternate I if it is included in the prime contract.) (Pursuant to FAR 27.201-2(a)(1)(ii) the clause is prohibited in Purchase Orders when both complete performance and delivery are outside the United States.)
6. **52.227-2** "Notice and Assistance Regarding Patent and Copyright Infringement" (This clause is applicable to Purchase Orders except when FAR clause 52.227-1 and Alternate I are prohibited.)

J. PURCHASE ORDERS OVER \$700,000 (OR THE DOLLAR THRESHOLD IN EFFECT AS OF THE DATE OF THE PRIME CONTRACT) ALSO INCLUDE:

1. **52.219-9** “Small Business Subcontracting Plan” (Applicable to Purchase Orders (i) to the extent that the work under the Purchase Order will be performed in the United States or its outlying areas or Seller is recruiting employees in the United States or its outlying areas to work on the Purchase Order, and (ii) (except to small business concerns) with further subcontracting possibilities.)

K. UNLESS OTHERWISE EXEMPT (SEE FAR 15.408), PURCHASE ORDERS ALSO INCLUDE:

1. **52.215-10** “Price Reduction for Defective Certified Cost or Pricing Data”
2. **52.215-11** “Price Reduction for Defective Certified Cost or Pricing Data – Modifications”
3. **52.215-12** “Subcontractor Certified Cost or Pricing Data”
4. **52.215-13** “Subcontractor Certified Cost or Pricing Data – Modifications”
5. **52.215-15** “Pension Adjustments and Asset Reversions”
6. **52.215-18** “Reversion or Adjustment of Plans for Post-retirement Benefits (PRB) Other Than Pensions”
7. **52.215-19** “Notification of Ownership Changes”
8. **52.215-20** “Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data”
9. **52.215-21** “Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data – Modifications”

L. PURCHASE ORDERS OVER \$5,500,000 (OR THE DOLLAR THRESHOLD IN EFFECT AS OF THE DATE OF THE PRIME CONTRACT) ALSO INCLUDE:

1. **52.203-14** “Display of Hotline Poster(s)”

M. PURCHASE ORDERS THAT HAVE A VALUE OF MORE THAN \$5,500,000 (OR THE DOLLAR THRESHOLD IN EFFECT AS OF THE DATE OF THE PRIME CONTRACT); AND THAT HAVE A PERFORMANCE PERIOD OF MORE THAN 120 DAYS ALSO INCLUDE:

1. **52.203-13** Contractor Code of Business Ethics and Conduct” (In paragraph (b)(3)(i), the meaning of “agency office of the Inspector General” and “Contracting Officer” does not change, in paragraph (b)(3)(ii) the meaning of “Government” does not change and in paragraphs (b)(3)(iii) and (c)(2)(ii)(F), the meaning of “OIG of the ordering agency” “IG of the agency”, “agency OIG” and “Contracting Officer” do not change.)

3. ADDITIONAL CLAUSES:

A. COST ACCOUNTING STANDARDS (Applicable when stated in the Purchase Order)

1. **52.230-4** “Disclosure and Consistency of Cost Accounting practices – Foreign Concerns”
2. **52.230-6** “Administration of Cost Accounting Standards”

Seller shall communicate and otherwise deal directly with the Contracting Officer to the extent practicable and permissible as to all matters relating to Cost Accounting Standards. Seller shall provide Buyer with copies of all communications between Seller and the Contracting Officer respecting Disclosure and Consistency of Cost Accounting Practices – Foreign Concerns, FAR 52.230-4, and Administration of Cost Accounting Standards, FAR 52.230-6, provided Seller shall not be required to disclose to Buyer such communications containing information which is confidential to the Seller. In addition to any other remedies provided by law or under this Purchase Order, Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage, or expense if Buyer is subjected to any liability as the result of a failure of the Seller or its lower-tier subcontractors to comply with the requirements of FAR 52.230-2, 52.230-3, 52.230-4, 52.230-5 or 52.230-6. Paragraph (b) is deleted in each of the foregoing clauses,

except in FAR 52.230-6.

B. TRUTHFUL COST OR PRICING DATA

Unless exempt, Seller shall submit a FAR Part 15 compliant cost proposal inclusive of appropriate updates throughout the negotiation process. At the conclusion of negotiations, and regardless of any prior certification, Seller must certify as to the accuracy, currency, and completeness of its information in accordance with the FAR required Certificate of Current Cost or Pricing Data.

1. Indemnification

If any price (including profit or fee) negotiated in connection with the prime contract between the Government and the Buyer or any cost that is reimbursable under said contract is reduced because cost or pricing data furnished by the Seller in connection with any proposal submitted by the Buyer relating to said contract or in connection with this Purchase Order was not accurate, complete, or current, the Seller shall indemnify the Buyer in the amount of said reduction.

The phrase "cost or pricing data" as used herein shall be deemed to include any such data which related to a lower-tier prospective or actual subcontract, at any level, which was submitted by the Seller or which it procured by submission of, in connection with the aforesaid proposal or this Purchase Order in support of its cost estimate.

If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Seller shall be liable and shall pay the Buyer at the time such overpayment is repaid:

- a. Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Seller to the date the Buyer is repaid by the Seller at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and
- b. For Department of Defense contracts only, a penalty equal to the amount of the overpayment, if the Seller knowingly submitted cost or pricing data which were incomplete, inaccurate, or non-current.

2. Cost or Pricing Data for Changes

Prior to the pricing of any change or other modification to this Purchase Order which involves increases and/or decreases in costs plus applicable profit expected to exceed the threshold for submission of cost or pricing data, subcontractors shall submit cost or pricing data and shall certify that the data, as defined in Federal Acquisition Regulation 15.406-2, submitted either actually or by specific identification in writing are accurate, complete, and current as of the date of completion of negotiations.

When required to obtain cost or pricing data from its subcontractors, pursuant to the provisions of this Purchase Order, Seller shall obtain such data.

4. DISPUTES – GOVERNMENT CONTRACTS

Any reference to "Disputes" in any applicable FAR Clause contained herein shall mean this paragraph, Disputes -- Government Contracts.

- A.** Any dispute arising under this Purchase Order relating to any decision of the Contracting Officer under the prime contract shall be resolved in accordance with Paragraph (B) below. All other disputes will be resolved by the Disputes and Governing Law Section in the General Terms and Conditions of Purchase.
- B.** 1. Notwithstanding any other provisions in this Purchase Order, any decision of the Contracting Officer under the prime contract which binds Buyer shall bind both Buyer and Seller to the extent that it relates to this Purchase Order, provided that:
 - a. The Buyer notifies with reasonable promptness the Seller of such decision and

- b. The Buyer, at its sole discretion, authorizes in writing the Seller to appeal in the name of the Buyer such decision at its own expense, or
 - c. If Buyer should appeal such decision, Buyer at its sole discretion offers to the Seller the opportunity at its own expense to join Buyer in such appeal.
 2. Any decision upon such appeal, when final, shall be binding upon the Seller and Seller shall have no recourse against Buyer for any damages that allegedly resulted from the decision of the Contracting Officer.
 3. The Seller shall keep Buyer informed of any appeal it makes by providing copies of all pertinent documents to Buyer.
 4. The Seller shall indemnify and save harmless Buyer from any and all liability of any kind incurred by or imputed to Buyer under Section 5, "Fraudulent Claims," of the Contract Disputes Act of 1978, as amended, (41 U.S.C. 7103 (c)(2), Fraudulent Claims) if Seller is unable to support any part of its claim and it is determined that such inability is attributable to fraud or misrepresentation of fact on the part of Seller.
- C.** Pending any prosecution, appeal, or final decision or settlement of any dispute arising under this Purchase Order, the Seller shall proceed diligently, as directed by Buyer, with the performance of this Purchase Order.
- D.** Nothing in this Section 5 grants Seller a direct right of action against the U.S. Government and no authorization or offer that may be made shall be deemed to constitute acceptance or acknowledgment by Buyer of the validity of Seller's claim or any part thereof, nor be deemed to limit or in any way restrict Buyer from taking any actions, including available remedies, it deems appropriate to protect its own interests.
- E.** As used in this Section 5, the word "appeal" means an appeal taken under the Contract Disputes Act of 1978, as amended.