

SUPPLEMENTAL PROVISIONS UNDER FIXED PRICE U.S. GOVERNMENT CONTRACTS FOR COMMERCIAL ITEMS

The following FAR and 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 Agreement or Purchase Order.

If the date or substance of any of the clauses listed below is different from the date or substance of the clause incorporated in the latest prime contract under which this Agreement or Purchase Order is issued, the date or substance of the clause incorporated by said prime contract applies instead.

In all such clauses, unless otherwise specified, “Contractor” means Supplier, “Contracting Officer” means SeaCube, “Government” includes SeaCube to the extent necessary to enable SeaCube to administer this contract or purchase order and to perform its obligations under its Prime Contract, and “subcontract(s)” and “subcontractor(s)” means Supplier’s lower-tier subcontract(s) and subcontractor(s), respectively. Supplier must include in each lower-tier subcontract and purchase orders the appropriate flow down clauses as required by the FAR and DFARS clauses included in this Agreement or Purchase Order.

For acquisitions of Commercial Items as defined in 2.101, and where the Contract or Purchase Order is in the furtherance of a Department of Defense program subject to the DFARS, the following DFARS apply in addition to the FARs listed below.

Defense Federal Acquisition Regulations for Commercial items		
Title	Reference	Applicability
Requirement to Inform Employees of Whistleblower Rights	252.203-7002	All subcontracts, including subcontracts for the acquisition of commercial items
Disclosure Of Information (October 2016)	252.204-7000	All subcontracts, including subcontracts for the acquisition of commercial items
Antiterrorism Awareness Training for Contractors (January 2023)	252.204-7004	All subcontracts, including subcontracts for the acquisition of commercial items, when subcontractor performance requires routine physical access to a Federally controlled facility or military installation.
Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information (January 2023)	252.204-7009	subcontracts, or similar contractual instruments, for services that include support for the Government’s activities related to safeguarding covered defense information and cyber incident reporting, including subcontracts for commercial items, without alteration, except to identify the parties.
Safeguarding Covered Defense Information and Cyber Incident Reporting (January 2023)	252.204-7012	All subcontracts, including subcontracts for the acquisition of commercial items, except for subcontracts solely for the acquisition of COTS items.
Notice of Authorized Disclosure of Information for Litigation Support (January 2023)	252.204-7015	All subcontracts, including subcontracts for the acquisition of commercial items.

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Title	Reference	Applicability
Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services (January 2023)	252.204-7018	All solicitations and resultant awards, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, and solicitations and awards for task and delivery orders, BOAs, orders against BOAs, BPAs, and calls against BPAs.
Prohibition Regarding Business Operations with the Maduro Regime (January 2023)	252.225-7056	All subcontracts, including subcontracts for the acquisition of commercial products and services.
Prohibition on Certain Procurements from the Xinjiang Uyghur Autonomous Region (June 2023)	252.225-7060	All subcontracts, including subcontracts for the acquisition of commercial products and services
Additional Access to Contractor and Subcontractor Records (December 2023)	252.225-7975 (Dev)	All subcontracts, including subcontracts for commercial items, that have an estimated value over \$50,000 and will be performed outside the United States and its outlying areas.
Contractor Personnel Performing in Japan. (DEVIATION 2018-00019) (August 2018)	252.225-7976 (Dev)	All subcontracts that will require subcontractor personnel to perform in Japan
Additional Access to Contractor and Subcontractor Records in DEC 2017 the United States Central Command Theater of Operations (DEVIATION 2018-00008)	252.225-7979 (Dev)	All subcontracts, including subcontracts for commercial items, that have an estimated value over \$50,000 and will be performed in the United States central Command Theater of Operations
Contractor Personnel Performing in the United States Africa Command Area of Responsibility. (DEVIATION 2016- 00008)	252.225-7980 (Dev)	All subcontracts that will require subcontractor personnel to perform in the USAFRICOM area of responsibility.
Requirements for Contractor Personnel Performing in the U.S. Southern Command Area of Responsibility (DEVIATION 2021-00004)	252.225-7987 (Dev)	All subcontracts, including subcontracts for the acquisition of commercial products and services.
Prohibition on Providing Funds to the Enemy (Deviation 2024-00003)	252.225-7993 (Dev)	Subcontracts, including subcontracts for commercial products and services exceeding \$50,000 in value that will be performed outside the United States.
Contractor Personnel Performing in the United States Central SEP 2017 Command Area of Responsibility (Deviation 2017-00004)	252.225-7995 (Dev)	All subcontracts that will require subcontractor personnel to perform in USCENTCOM area of responsibility.

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Defense Federal Acquisition Regulations for Commercial items		
Title	Reference	Applicability
Utilization of Indian Organizations, Indian-Owned Economic JAN 2023 Enterprises, and Native Hawaiian Small Business Concerns	252.226-7001	Subcontracts, including subcontracts for the acquisition of commercial items that are for supplies or services exceeding \$500,000 in value
Prohibition on Interrogation of Detainees by Contractor Personnel	252.237-7010	All subcontracts, including subcontracts for the acquisition of commercial items that may require subcontractor personnel to interact with detainees in the course of their duties.
Subcontracts for Commercial Products or Commercial Services	252.244-7000	All subcontracts, including subcontracts for the acquisition of commercial products and services.

For acquisitions of Commercial Items as defined in 2.101, the following FAR and clauses apply in accordance with FAR 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Order – Commercial Items (e)(1) and 52.244-6 Subcontracts for Commercial Items, the following clauses apply:

Federal Acquisition Regulations for Commercial items		
Title	Reference	Applicability
Limitation On Payments To Influence Certain Federal Transactions	52.203-12	All subcontracts that exceed the threshold specified in Federal Acquisition Regulation 3.808 on the date of subcontract award.
Contractor Code of Business Ethics and Conduct (NOV 2021)	52.203-13	Subcontracts, including subcontracts for the acquisition of commercial items where the value is expected to exceed \$5,500,000 and the period of performance is more than 120 days.
Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (JUN 2010)	52.203-15	All subcontracts, including subcontracts for the acquisition of commercial items that are funded in whole or in part with Recovery Act funds.
Contractor Employee Whistleblower Rights (NOV 2023)	52.203-17	All subcontracts, including subcontracts for the acquisition of commercial items
Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017)	52.203-19	In subcontracts, including subcontracts for the acquisition of commercial items where the contracts is for other than a personal services contract(s) with individuals
Restrictions on Subcontractor Sales to the Government (JUN 2020), with Alternate I	52.203-6	Subcontracts for the acquisition of commercial items exceeding the simplified acquisition threshold.

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Federal Acquisition Regulations for Commercial items		
Title	Reference	Applicability
Reporting Executive Compensation and First-Tier Subcontract Awards (June 2020)	52.204-10	All subcontracts, including subcontracts for the acquisition of commercial items., excluding paragraph (c)(1)
Basic Safeguarding of Covered Contractor Information Systems	52.204-21	All subcontracts at any tier (including subcontracts for the acquisition of commercial items, other than commercially available off-the-shelf items), in which the subcontractor may have Federal contract information residing in or transiting through its information system.
Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab Covered Entities (DEC 2023)	52.204-23	All subcontracts, including subcontracts for the acquisition of commercial items.
Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (NOV 2021)	52.204-25	All subcontracts, including subcontracts for the acquisition of commercial items., excluding paragraph (b)(2)
Prohibition on a ByteDance Covered Application (June 2023)	52.204-27	All subcontracts, including subcontracts for the acquisition of commercial items.
Federal Acquisition Supply Chain Security Act Orders--Prohibition. (DEC 2023)	52.204-30	All subcontracts, including subcontracts for the acquisition of commercial items., excluding paragraph (c)(1)
Personal Identity Verification of Contractor Personnel	52.204-9	All subcontracts when the subcontractor's employees are required to have routine physical access to a Federally controlled facility and/or routine access to a Federally-controlled information system.
Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (NOV 2021)	52.209-6	Each subcontract that (1) exceeds the threshold specified in FAR 9.405-2(b) on the date of subcontract award; and (2) is not a subcontract for commercially off the shelf items.
Prohibition of Segregated Facilities	52.222-21	every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.
Equal Opportunity (SEP 2016)	52.222-26	every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246
Equal Opportunity for Veterans (JUN 2020)	52.222-35	subcontracts valued at or above \$150,000.00 on the date of subcontract award, unless exempted by rules, regulations, or orders of the Secretary of Labor

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Title	Reference	Applicability
Equal Opportunity for Workers with Disabilities (JUN 2020)	52.222-36	every subcontract or purchase order in excess of \$15,000.00 on the date of subcontract award, unless exempted by rules, regulations, or orders of the Secretary
Employment Reports on Veterans (JUN 2020)	52.222-37	subcontracts valued at or above \$150,000.00 on the date of subcontract award, unless exempted by rules, regulations, or orders of the Secretary of Labor
Notification of Employee Rights Under the National Labor Relations Act (DEC 2010)	52.222-40	every subcontract that exceeds \$10,000 and will be performed wholly or partially in the United States, unless exempted by the rules, regulations, or orders of the Secretary of Labor
Service Contract Labor Standards (AUG 2018)	52.222-41	all subcontracts subject to the Service Contract Labor Standards statute
Combating Trafficking in Persons (NOV 2021)	52.222-50	all subcontracts and in all contracts with agents
Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment--Requirements (MAY 2014)	52.222-51	Subcontracts, including subcontracts for the acquisition of commercial items that include the provision at 52.222-48, or the comparable provision is checked as applicable in the clause at 52.204-8(c)(2) or 52.212-3(k)(1); and (ii) in resulting subcontracts in which the contracting officer has determined, in accordance with 22.1003-4(c)(3), that the Service Contract Labor Standards statute does not apply
Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services--Requirements (MAY 2014)	52.222-53	Subcontracts, including subcontracts for the acquisition of commercial items that include the provision at 52.222-52, or the comparable provision is checked as applicable (i) In 52.204-8(c)(2) or 52.212-3(k)(2); and (ii) In resulting contracts in which the contracting officer has determined, in accordance with 22.1003-4(d)(3), that the Service Contract Labor Standards statute does not apply
Employment Eligibility Verification (MAY 2022)	52.222-54	Subcontracts, including subcontracts for the acquisition of commercial items that exceed the simplified acquisition threshold This clause, including this paragraph (e) (appropriately modified for identification of the parties), in each subcontract/purchase order that— (1) Is for— (i) Commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); or (ii) Construction; (2) Has a value of more than \$3,500; and (3) Includes work performed in the United States

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Title	Reference	Applicability
Minimum Wages for Contractor Workers Under Executive Order 14026 (JAN 2022)	52.222-55	Subcontracts, including subcontracts for the acquisition of commercial items 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.
Paid Sick Leave Under Executive Order 13706 (JAN 2022)	52.222-62	Subcontracts, including subcontracts for the acquisition of commercial items that include the clause at 52.222-6, Construction Wage Rate Requirements, or 52.222-41, Service Contract Labor Standards, where work is to be performed, in whole or in part, in the United States, flow down is required in accordance with paragraph (m) of the clause
Privacy Training (JAN 2017)	52.224-3	Subcontracts, including subcontracts for the acquisition of commercial items in accordance with 52.224-3(f) when contractor employees will (1) have access to a system of records; (2) create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information; or (3) (3) design, develop, maintain, or operate a system of records.
Contractors Performing Private Security Functions Outside the United States (OCT 2016)	52.225-26	Subcontracts, including subcontracts for the acquisition of commercial items for performance outside the United States in an area of (1) combat operations, as designated by the Secretary of Defense; or (2) other significant military operations, as designated by the Secretary of Defense and only upon agreement of the Secretary of Defense and the Secretary of State
Promoting Excess Food Donation to Nonprofit Organizations (June 2020)	52.226-6	all contracts, task orders, delivery orders, purchase orders, and other similar instruments that exceed the threshold specified in Federal Acquisition Regulation 26.404 on the date of subcontract award with its subcontractors or suppliers, at any tier, who will perform, under this contract, the provision, service, or sale of food in the United States.
Providing Accelerated Payments to Small Business Subcontractors (March 2023)	52.232-40	Subcontracts, including subcontracts for the acquisition of commercial items with small business concerns where SeaCube's prime contract provides for accelerated payments.