

**APPLICABLE COMMERCIAL PROVISIONS WHEN SOLICITATION OR PURCHASE ORDER IS IN
SUPPORT OF A GOVERNMENT CONTRACT**

General Provisions and Certifications for Government Contracts:

The following clauses are applicable on solicitations and awards in support of Government Contracts and are hereby incorporated by reference into solicitations and any purchase orders with the same force and effect as if set forth in full text. To the extent that an earlier version of any such clause is included in the prime contract or subcontract under which solicitation or purchase order is issued, the date of the clause as it appears in such prime contract or subcontract shall be controlling and said version is incorporated herein. Where necessary to make the context of the Federal Acquisition Regulations (FAR) and Department of Defense Federal Acquisition Regulation Supplement (DFARS) clauses set forth in these General Provisions applicable to this solicitation or subcontract, the term "Contractor" shall mean "Subcontractor", "Seller" or "Supplier", the term "Contract" or "Subcontract" shall mean "Purchase Order", the term "Government" shall mean "Buyer" or "GIT" and the term "Contracting Officer" shall mean "Buyer's Purchasing Representative". It is intended that the referenced clauses shall apply to Seller, the legal entity which contracts with GIT under any solicitation or purchase order, in such manner as is necessary to reflect the position of Seller as a Supplier to GIT, Buyer and legal entity issuing a solicitation or purchase order; to insure Seller's obligations to GIT and the United States Government; and to enable GIT to meet its obligations under its prime contract or subcontract.

All of the clauses hereby incorporated by reference may be found in the Federal Acquisition Regulations (FAR) and the DOD Federal Acquisition Regulation Supplement (DFARS). Copies of the Federal Acquisition Regulation and the DOD Federal Acquisition Regulation Supplement may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402

FAR/DFARS CLAUSES:

FAR and DFARS clauses, to the extent they are not required to apply to Subcontractors or by dollar value, are self-deleting.

- 52.202-1 Definitions Nov 2013
- 52.203-3 Gratuities (Apr 84)
- 52.203-5 Covenant Against Contingent Fees (May 2014)
- 52.203-6 Restrictions on Sub-Contractor Sales to the Government (Sep 2006)
- 52.203-7 Anti-Kickback Procedures (May 2014)
- 52.203-10 Price or Fee Adjustment for Illegal or Improper Activity (May 2014)
- 52.203.11 Certification & Disclosure Regarding Payments to Influence Certain Federal Transaction (Sep 2007)
- 52.203-12 Limitation on Payments to Influence Certain Federal Transactions (Oct 2010)

52.204-2 Security Requirements (Aug 1996) (Alt. I)
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
52.209-5 Certification Regarding Responsibility Matters (Oct 2015)
52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Oct 2015)
52.215-2 Audit and Records- Negotiation (Oct 2010) (Alt. II Aug 2016)
52.215-16 Facilities Capital Cost of Money June 2003
52.215-17 Waiver of Facilities Capital Cost of Money (Oct 1997) (when cost of money is not proposed)
52.219-8 Utilization of Small Business Concerns (Nov 2016)
52.222-4 Contract Work Hours and Safety Standards - Overtime Compensation (May 2014)
52.222-19 Child Labor – Cooperation with Authorities and Remedies (Jan 2018)
52.222-20 Contracts for materials, Supplies, Articles and Equipment Exceeding \$15,000 (May 2014)
52.222-21 Prohibition of Segregated Facilities (Apr 2015)
52.222-22 Previous Contracts & Compliance Reports (Feb 1999)
52.222-26 Equal Opportunity (Sep 2016)
52.222-35 Equal opportunity for Veterans (Oct 2015)
52.222-36 Equal Opportunity for workers with Disabilities (Jul 2014)
52.222-37 Employment Reports on Veterans (Feb 2016)
52.222-50 Combating Trafficking in Persons (March 2015)
52.222-54 Employment Eligibility Verification (Oct 2015)
52.223-2 Affirmative Procurement of Biobased Products Under Service and Construction Contracts (Sep 2013)
52.223-6 Drug-Free Workplace (May 2001)
52.225-13 Restrictions on Certain Foreign Purchases (June 2008)
52.226-1 Utilization of Indian Organizations and Indian-Owned Economic Enterprises (Jun 2000)
52.227-1 Authorization and Consent (Dec 2007)
52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement (Dec 2007)
52.227-10 Filing of Patent Applications – Classified Subject Matter Dec 2007
52.232-8 Discount for Prompt Payment Feb 2002
52.232-23 Assignment of Claims (May 2014)
52.232-25 Prompt Payment Jan 2017
52.233-3 Protest After Award (Aug 96) (Alt. I)
52.242-13 Bankruptcy (Jul 1995)
52.243-1 Changes – Fixed Price (Aug 1987) – Alt. II

- 52.243-7 Notification of Changes (Jan 2017) (Note: Paragraph (b) - 30 days; paragraph (d) - 60 days)
- 52.244-5 Competition in Subcontracting (Dec 96)
- 52.245-2 Government Property Installation Operation Services (Apr 2012)
- 52.246-2 Inspection of Supplies - Fixed Price (Aug 96)
- 52.246-4 Inspection of Services - Fixed Price (Aug 96)
- 52.246-24 Limitation of Liability-High Value Items (Feb 97)
- 52.249-1 Termination for Convenience of the Government (Fixed Price) (Short Form) (Apr 84)
- 52.249-2 Termination for Convenience of the Government (Fixed Price) (Apr 2012)
- 52.249-8 Default (Fixed-Price Supply and Service) (Apr 1984)
- 52.251-1 Government Supply Sources Apr 2012
- 52.253-1 Computer Generated Forms (Jan 91)
- 252.203-7000 Statutory Prohibitions on Compensation to Former Department of Defense Employees (Sep 2011)
- 252.203-7001 Prohibition on Persons Convicted on Fraud or Other Defense Contract Related Felonies (Dec 2008)
- 252.203- 7002 Requirement to Inform Employees of Whistleblower Rights (Sep 2013)
- 252.204-7012 Safeguarding Covered Defense Information and Cyber Incident Reporting (Cyber Activity MIR)
- 252.205-7000 Provision of Information to Cooperative Agreement Holders (Dec 91)- Commercial Items
- 252.225-7001 Buy American Act and Balance of Payments Program (Dec 2017)
- 252.225-7002 Qualifying Country Sources as Subcontractors (Dec 2017)
- 252.225-7021 Trade Agreements (Dec 2017)
- 252.225-7013 Duty-Free Entry-Qualifying Country End Products and Supplies (May 2016)
- 252.225-7016 Restriction on Acquisition of Ball and Roller Bearings (June 2011)
- 252.227-7013 Rights in Technical Data Non-commercial items (Feb 2014)
- 252.227-7026 Deferred Delivery of Technical Data or Computer Software (Apr 88)
- 252.227-7027 Deferred Ordering of Technical Data or Computer Software (Apr 88)
- 252.227-7030 Technical Data - Withholding of Payment (Mar 2000)
- 252.227-7037 Validation of Restrictive Markings on Technical Data (Sep 2016)
- 252.227-7039 Patents-Reporting of Subject Inventions (Apr 90)
- 252.231-7000 Supplemental Cost Principles (Dec 91)
- 252.242-7004 Material Management and Accounting System (May 2011)
- 252.246-7000 Material Inspection and Receiving Report (Mar 08)
(Note: Not required for subcontracts for which the deliverable is a scientific or ethnical report.)
- 252.246- 7007 Contractor Counterfeit Electronic Part Detection and Avoidance System (Aug 2016)
- 252.247-7023 Transportation of Supplies by Sea (Apr 2014)

252.251-7000 Ordering from Government Supply Sources (Aug 2012)

52.204-23 Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities.

Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Jul 2018)

(a) *Definitions.* As used in this clause—

Covered article means any hardware, software, or service that—

- (1) Is developed or provided by a covered entity;
- (2) Includes any hardware, software, or service developed or provided in whole or in part by a covered entity; or
- (3) Contains components using any hardware or software developed in whole or in part by a covered entity.

Covered entity means—

- (1) Kaspersky Lab;
- (2) Any successor entity to Kaspersky Lab;
- (3) Any entity that controls, is controlled by, or is under common control with Kaspersky Lab; or
- (4) Any entity of which Kaspersky Lab has a majority ownership.

(b) *Prohibition.* Section 1634 of Division A of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115-91) prohibits Government use of any covered article. The Contractor is prohibited from—

- (1) Providing any covered article that the Government will use on or after October 1, 2018; and
- (2) Using any covered article on or after October 1, 2018, in the development of data or deliverables first produced in the performance of the contract.

(c) *Reporting requirement.*

(1) In the event the Contractor identifies a covered article provided to the Government during contract performance, or the Contractor is notified of such by a subcontractor at any tier or any other source, the Contractor shall report, in writing, to the Contracting Officer or, in the case of the Department of Defense, to the website at <https://dibnet.dod.mil>. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>.

(2) The Contractor shall report the following information pursuant to paragraph (c)(1) of this clause:

(i) Within 1 business day from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; brand; model number (Original Equipment Manufacturer (OEM) number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the report pursuant to paragraph (c)(1) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of a covered article, any reasons that led to the use or submission of the covered article, and any additional efforts that will be incorporated to prevent future use or submission of covered articles.

(d) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts, including subcontracts for the acquisition of commercial items.

52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Aug 2019)

(a) *Definitions.* As used in this clause—

Covered foreign country means The People's Republic of China.

Covered telecommunications equipment or services means—

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(3) Telecommunications or video surveillance services provided by such entities or using such equipment; or

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Critical technology means—

(1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;

(2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-

(i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or

(ii) For reasons relating to regional stability or surreptitious listening;

(3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);

(4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);

(5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or

(6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

Substantial or essential component means any component necessary for the proper function or performance of a piece of equipment, system, or service.

(b) *Prohibition.* Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Contractor is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services 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 this clause applies or the covered telecommunication equipment or services are covered by a waiver described in Federal Acquisition Regulation [4.2104](#).

(c) *Exceptions.* This clause does not prohibit contractors from providing—

(1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(d) Reporting requirement.

(1) In the event the Contractor 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 Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information; in the case of the Department of Defense, the Contractor shall report to the website at <https://dibnet.dod.mil>. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause

(i) Within one business day from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known);

brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) *Subcontracts*. The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items.

Applicable when price is greater than \$150,000

By submitting a signed proposal or quotation in response to GIT's solicitation, the supplier is providing positive assurance to the best of his or her knowledge and belief that on or after December 23, 1989:

1. No federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of GIT, any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, loan, or cooperative agreement;
2. If any funds other than Federal appropriated funds (including profit or fee received under a covered federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of GIT, any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any resulting purchase order; and
3. He or she will include the language in this assurance in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and provide disclosure accordingly.

Assurance and disclosure by submission of your signed proposal is a prerequisite for making or entering into any resulting purchase order imposed by section 1352, title 31, United States Code. Any person who makes expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000, for each such failure.

Applicable when fixed price is greater than \$250,000: By submitting a signed proposal or quotation in response to GIT's solicitation, the supplier is providing a negative assurance in

accordance with FAR 52.209-5 Certification Regarding Responsibility Matters. Certification in paragraph (a) of this clause is material representation of fact upon which reliance is placed when making any resulting award.

Sponsored projects subject to FAR Clause 252.246.7007. If the purchase is part of a sponsored project that is subject to FAR Clause 252.246.7007 the vendor hereby certifies and attests to only purchasing materials/electronic parts from the original equipment manufacturer (OEM) in accordance with DFAR 252.246-7007 Contractor Counterfeit Electronic Part Detection and Avoidance System by providing proper certificates of conformance. You may review the clause at: <https://www.acq.osd.mil/dpap/dars/dfars/html/current/252246.htm#252.246-7007>

Applicable when fixed price is greater than \$750,000:

- 52.219-9 Small Business Sub-contracting Plan (Jan 2017)
- 52.219-16 Liquidated Damages- Subcontracting Plan (Jan 1999)
- 252.219-7003 Small Business Subcontracting Plan (DOD Contracts) (Apr 2018)

Applicable when fixed price is greater than \$2,000,000:

- 52.215-12 Subcontractor Certified Cost or Pricing Data (Oct 2010)
- 52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions (PRB) (Oct 2010)
- 52.230-2 Cost Accounting Standards (Oct 2015)
- 52.230-3 Disclosure and Consistency of Cost Accounting Practices (Oct 2015)
- 52.230-5 Cost Accounting Standards - Educational Institutions (Aug 2016)
- 52.230-6 Administration of Cost Accounting Standards (June 2010)

Reserved (The statutory designation of the removed section is reserved for future use. The language pertaining to each individual section may be amended or entirely replaced with the new language once finalized):

- 52.203-9 - Reserved
- 52.244-1 - Reserved
- 52.245-18 - Reserved
- 252.209-7000 - Reserved
- 252.219-7005 - Reserved
- 252.227-7036 - Reserved
- 252.233-7000 - Reserved
- 252-249-7001 - Reserved
- 252.215-7000 - Reserved