TERMS AND CONDITIONS

(CLAUSES AND PROVISIONS)

FEDERAL ACQUISITION REGULATION (FAR) AND

HOMELAND SECURITY ACQUISITION REGULATION (HSAR) CLAUSES

IN ACCORDANCE WITH FEDERAL ACQUISITION CIRCULAR 2025-05 EFFECTIVE DATE 08/07/2025

System updates may lag policy updates. The System for Award Management (SAM) may continue to require entities to complete representations based on provisions that are not included in agency solicitations. Examples include 52.222-25, Affirmative Action Compliance, and paragraph (d) of 52.212-3, 52.223-22, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation, and Offeror Representations and Certifications—Commercial Products and Commercial Services, including paragraph (t). Additional examples include 52.212-5, Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services, and 52.213-4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services).

Contracting officers will **not** consider the following representations when making award decisions or enforcing requirements:

- Paragraph (d) and (t) of 52.212-3, Offeror Representations and Certifications—Commercial Products and Commercial Services

- Paragraphs (b)(33), (b)(34), (e)(1)(ix), and (e)(1)(x) of 52.212-5, Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services. Additionally, per this deviation, in paragraph (b)(46), E.O. 14057 does not apply;

- Paragraphs (e)(1)(ii)(I) and (e)(1)(ii)(J) of Alternate II of 52.212-5, Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services

- Paragraphs (a)(1)(vii) and (a)(1)(viii) of 52.213-4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services). Additionally, per this deviation, in paragraph (b)(1)(xvii), E.O. 14057 does not apply.

Entities are not required to update their entity registration to remove these representations in SAM.

FAR PROVISIONS

52.222-5 Construction Wage Rate Requirements-Secondary Site of the Work. (May 2014)

52.204-29 Federal Acquisition Supply Chain Security Act Orders—Representation and Disclosures (Dec 2023)

52.225-25 Prohibition on Contracting With Entities Engaging in Certain Activities or Transactions Relating to Iran Representation and Certifications. (Jun 2020)

52.236-28 Preparation of Proposals-Construction. (Oct 1997)

(End of provision) Page 2 of 15

52.203-5Covenant Against Contingent Fees (May 2014)

52.203-7 Anti-Kickback Procedures. (Jun 2020)

52.203-17 Contractor Employee Whistleblower Rights (Nov 2023)

52.204-19 Incorporation by Reference of Representations and Certifications. (Dec 2014)

52.204-27 Prohibition on a ByteDance Covered Application (Jun 2023) (Section 102 of Division

R of Pub. L. 117-328)

52.211-10 Commencement, Prosecution, and Completion of Work. (Apr 1984)

52.222-3 Child Labor (Jun 2003)

52.222-4 Contract Work Hours and Safety Standards -Overtime Compensation. (May 2018)

52.222-7 Withholding of Funds. (May-2014)

52.222-8 Payrolls and Basic Records. (Jul-2021)

52.222-10 Compliance with Copeland Act Requirements. (Feb-1988)

52.222-13 Compliance with Construction Wage Rate Requirements and Related Regulations. (May-2014)

52.222-14 Disputes Concerning Labor Standards. (Feb-1988)

52.222-15 Certification of Eligibility. (May-2014)

52.222-20 Contracts for Materials, Supplies, Articles, and Equipment. (Jun 2020)

52.222-50 Combating Trafficking in Persons. (Mar 2015)

52.222-62 Paid Sick Leave Under Executive Order 13706. (Jan 2022)

52.226-8 Encouraging Contractor Policies to Ban Text Messaging While Driving (May 2024)

52.228-13 Alternative Payment Protections

52.232-5 Payments under Fixed-Price Construction Contracts. (May 2014) 52.232-27 Prompt Payment for Construction Contracts. (Jan 2017) 52.232-39 Unenforceability of Unauthorized Obligations. (Jun 2013) 52.232-40 Providing Accelerated Payments to Small Business Subcontractors. (Mar 2023) 52.233-4 Applicable Law for Breach of Contract Claim. (Oct 2004) 52.236-2 Differing Site Conditions (Apr 1984) 52.236-3 Site Investigation and Conditions Affecting the Work (Apr 1984) 52.236-5 Material and Workmanship. (Apr 1984) 52.236-6 Superintendence by The Contractor (Apr 1984) 52.236-7 Permits and Responsibilities. (Nov 1991) 52.236-8 Other Contracts (Apr 1984) 52.236-9 Protection of Existing Vegetation, Structures, Equipment, Utilities, And Improvements (Apr 1984) 52.236-10 Operations and Storage Areas (Apr 1984) 52.236-11 Use and Possession Prior To Completion (Apr 1984) 52.236-12 Cleaning Up (Apr 1984) 52.236-13 Accident Prevention (Nov 1991) 52.236-14 Availability and Use of Utility Services (Apr 1984) 52.236-21 Specifications and Drawings for Construction (Feb 1997) 52.242-14 Suspension of Work (Apr 1984) 52.243-5 Changes and Changed Conditions (Apr 1984) 52.246-12 Inspection of Construction (Aug 1996) 52.249-10 Default (Fixed-Price Construction) (Apr 1984)

(End of clause)

52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (Nov 2021) The Offeror shall not complete the representation at paragraph (d)(1) of this provision if the Offeror has represented that it "does not provide covered telecommunications equipment or services as a part of its

offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument" in paragraph (c)(1) in the provision at 52.204-26, Covered Telecommunications Equipment or Services—Representation, or in paragraph (v)(2)(i) of the provision at 52.212-3, Offeror Representations and Certifications-Commercial Products or Commercial Services. The Offeror shall not complete the

representation in paragraph (d)(2) of this provision if the Offeror has represented that it "does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services" in paragraph (c)(2) of the provision at 52.204-26, or in paragraph (v)(2)(ii) of the provision at 52.212-3. (a) Definitions. As used in this provision— Backhaul, covered telecommunications equipment or services, critical technology, interconnection arrangements, reasonable inquiry, roaming, and substantial or essential component have the meanings provided in the clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (b) Prohibition. (1) 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. Nothing in the prohibition shall be construed to— (i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or (ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles. (2) Section 889(a)(1)(B) 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, 2020, from entering into a contract or extending or renewing a contract with an entity that uses 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. 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. Nothing in the prohibition shall be construed to— (i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or (ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles. (c) Procedures. The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (https://www.sam.gov) for entities excluded from receiving federal awards for "covered telecommunications equipment or services". (d) Representation. The Offeror represents that— (1) It ☐ will, ☐ will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation. The

Offeror shall provide the additional disclosure information required at paragraph (e)(1) of this section if the Offeror responds "will" in paragraph (d)(1) of this section; and (2) After conducting a reasonable inquiry, for purposes of this representation, the Offeror represents that— It ☐ does, ☐ does not use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The Offeror shall provide the additional disclosure information required at paragraph (e)(2) of this section if the Offeror responds "does" in paragraph (d)(2) of this section.

(e) Disclosures. (1) Disclosure for the representation in paragraph (d)(1) of this provision. If the Offeror has responded "will" in the representation in paragraph (d)(1) of this provision, the Offeror shall provide the following information as part of the offer: (i) For covered equipment— (A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known); (B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and (C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision. (ii) For covered services— (A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or (B) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision. (2) Disclosure for the representation in paragraph (d)(2) of this provision. If the Offeror has responded "does" in the representation in paragraph (d)(2) of this provision, the Offeror shall provide the following information as part of the offer: (i) For covered equipment— (A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known); (B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and (C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision. (ii) For covered

services— (A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or (B) If not associated with maintenance, the PSC of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision. **(End of provision)**

52.204-26 Covered Telecommunications Equipment or Services-Representation (Oct 2020)

(a) Definitions. As used in this provision, "covered telecommunications equipment or services" and "reasonable inquiry" have the meaning provided in the clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. Page 5 of 15

(b) Procedures. The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (https://www.sam.gov) for entities excluded from receiving federal awards for "covered telecommunications equipment or services".

(c)

(1) Representation. The Offeror represents that it ☐ does, ☐ does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument.

(2) After conducting a reasonable inquiry for purposes of this representation, the offeror represents that it ☐ does, ☐ does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services.

(End of provision)

52.204-23 PROHIBITION ON CONTRACTING FOR HARDWARE, SOFTWARE, AND SERVICES DEVELOPED OR PROVIDED BY KASPERSKY LAB COVERED ENTITIES (DEVIATION 20-05) (JUL 2024) (a) Definitions. As used in this clause- Kaspersky Lab covered article means any hardware, software, or service that– (1) Is developed or provided by a Kaspersky Lab covered entity; (2) Includes any hardware, software, or service developed or provided in whole or in part by a Kaspersky Lab covered entity; or (3) Contains components using any hardware or software developed in whole or in part by a Kaspersky

Lab covered entity. Kaspersky Lab covered entity means– (1) Kaspersky Lab; (2) Any successor entity to Kaspersky Lab, including any change in name, e.g., “Kaspersky”; (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 Kaspersky Lab covered article. The Contractor is prohibited from—

(1) Providing any Kaspersky Lab covered article that the Government will use on or after October 1, 2018; and (2) Using any Kaspersky Lab 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 covered article provided to the Government 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, in writing, via email, to the Contracting Officer, Contracting Officer's Representative, and the Enterprise Security Operations Center (SOC) at NDAA Incidents@hq.dhs.gov, with required information in the body of the email. 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 Enterprise SOC, Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) and Contracting Officer's Representative(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 3 business days 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 Kaspersky Lab covered article, any reasons that led to the use or submission of the Kaspersky Lab covered article, and any additional efforts that will be incorporated to prevent future use or submission of Kaspersky Lab 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.

(End of clause)

52.204-25 PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (DEVIATION 20-05) (DEC 2020)

(a) Definitions. As used in this clause-

"Backhaul" means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).

"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-

(l) 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 of2018 (50 U.S.C. 4817).

"Interconnection arrangements" means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

"Reasonable inquiry" means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

"Roaming" means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

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

(b) Prohibition.

(1) Section 889(a)(l)(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 FAR 4.2104.

(2) Section 889(a)(l)(B) 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, 2020, from entering into a contract, or extending or renewing a contract, with an entity that uses 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 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.

(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 in writing via email to the Contracting Officer, Contracting Officer's Representative, and the Network Operations Security Center (NOSC) at NDAA Incidents@hq.dhs.gov, with required information in the body of the email. 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 NOSC, Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) and Contracting Officer's Representative(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.clod.mil.

(2) The Contractor shall report the following information pursuant to paragraph (d)(l) 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) and excluding paragraph (b)(2), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items.

(End of clause)

52.222-6 Construction Wage Rate Requirements (AUG 2018)(DEVIATION FEB 2025)

(a) *Definition*.—"Site of the work"—

(1) Means—

(i) *The primary site of the work*. The physical place or places where the construction called for in the contract will remain when work on it is completed; and

(ii) *The secondary site of the work, if any*. Any other site where a significant portion of the building or work is constructed, provided that such site is-

(A) Located in the United States; and

(B) Established specifically for the performance of the contract or project;

(2) Except as provided in paragraph (3) of this definition, includes any fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., provided-

(i) They are dedicated exclusively, or nearly so, to performance of the contract or project; and

(ii) They are adjacent or virtually adjacent to the "primary site of the work" as defined in paragraph (a)(1)(i), or the "secondary site of the work" as defined in paragraph (a)(1)(ii) of this definition;

(3) Does not include permanent home offices, branch plant establishments, fabrication plants, or tool yards of a Contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular Federal contract or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, yards, etc., of a commercial or material supplier which are established by a supplier of materials for the project before opening of bids and not on the Project site, are not included in the "site of the work." Such permanent, previously established facilities are not a part of the "site of the work" even if the operations for a period of time may be dedicated exclusively or nearly so, to the performance of a contract.

(b) (1) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, or as may be incorporated for a secondary site of the work, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Any wage determination incorporated for a secondary site of the work shall be effective from the first day on which work under the contract was performed at that site and shall be incorporated without any adjustment in contract price or estimated cost. Laborers employed by the construction Contractor or construction subcontractor that are transporting portions of the building or work between the secondary site of the work and the primary site of the work shall be paid in accordance with the wage determination applicable to the primary site of the work.

(2) Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Construction Wage Rate Requirements statute on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the

provisions of paragraph (e) of this clause; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period.

(3) **Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill.** Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

(4) The wage determination (including any additional classifications and wage rates conformed under paragraph (c) of this clause) and the Construction Wage Rate Requirements (Davis-Bacon Act) poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the primary site of the work and the secondary site of the work, if any, in a prominent and accessible place where it can be easily seen by the workers.

(c) (1) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination.

(ii) The classification is utilized in the area by the construction industry.

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the:

Wage and Hour Division

U.S. Department of Labor

Washington, DC 20210

The Administrator or an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(3) In the event the Contractor, the laborers or mechanics to be employed in the classification, or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits, where appropriate) determined pursuant to paragraphs (c)(2) and (c)(3) of this clause shall be paid to all workers performing work in the classification under this contract from the firstday on which work is performed in the classification.

(d) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(e) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Construction Wage Rate Requirements statute have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(End of clause)

52.222-11 Subcontracts (Labor Standards) (MAY 2014)(DEVIATION FEB 2025)

(a) *Definition*. "Construction, alteration or repair," as used in this clause, means all types of work done by laborers and mechanics employed by the construction Contractor or construction subcontractor on a particular building or work at the site thereof, including without limitation-

(1) Altering, remodeling, installation (if appropriate) on the site of the work of items fabricated off-site;

(2) Painting and decorating;

(3) Manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work;

(4) Transportation of materials and supplies between the site of the work within the meaning of paragraphs (a)(1)(i) and (ii) of the "site of the work" as defined in the FAR clause at 52.222-6, Construction Wage Rate Requirements of this contract, and a facility which is dedicated to the construction of the building or work and is deemed part of the site of the work within the meaning of paragraph (2) of the "site of the work" definition; and

(5) Transportation of portions of the building or work between a secondary site where a significant portion of the building or work is constructed, which is part of the "site of the work" definition in paragraph (a)(1)(ii) of the FAR clause at 52.222-6, Construction Wage Rate Requirements, and the physical place or places where the building or work will remain (paragraph (a)(1)(i) of the FAR clause at 52.222-6, in the "site of the work" definition).

(b) The Contractor shall insert in any subcontracts for construction, alterations and repairs within the United States the clauses entitled-

(1) Construction Wage Rate Requirements;

(2) Contract Work Hours and Safety Standards-Overtime Compensation (if the clause is included in this contract);

(3) **Reserved**;

(4) Payrolls and Basic Records;

52.223-23 Sustainable Products and Services (MAY 2024) (DEVIATION FEB 2025)

(5) Compliance with Copeland Act Requirements;

(6) Withholding of Funds;

(7) Subcontracts (Labor Standards);

(8) Contract Termination-Debarment;

(9) Disputes Concerning Labor Standards;

(10) Compliance with Construction Wage Rate Requirements and Related Regulations; and

(11) Certification of Eligibility.

(c) The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor performing construction within the United States with all the contract clauses cited in paragraph (b).

(d) (1) Within 14 days after award of the contract, the Contractor shall deliver to the Contracting Officer a completed Standard Form (SF) 1413, Statement and Acknowledgment, for each subcontract for construction within the United States, including the subcontractor's signed and dated acknowledgment that the clauses set forth in paragraph (b) of this clause have been included in the subcontract.

(2) Within 14 days after the award of any subsequently awarded subcontract the Contractor shall deliver to the Contracting Officer an updated completed SF 1413 for such additional subcontract.

(e) The Contractor shall insert the substance of this clause, including this paragraph (e) in all subcontracts for construction within the United States.

(End of clause)

52.222-12 Contract Termination—Debarment (MAY 2014)(DEVIATION FEB 2025)

A breach of the contract clauses entitled Construction Wage Rate Requirements, Contract Work Hours and Safety Standards-Overtime Compensation, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Subcontracts (Labor Standards), Compliance with Construction Wage Rate Requirements and Related Regulations, or Certification of Eligibility may be grounds for termination of the contract, and for debarment as a Contractor and subcontractor as provided in 29 CFR 5.12.

(End of clause)

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

Biobased product means a product determined by the U.S. Department of Agriculture (USDA) to be a commercial product or industrial product (other than food or feed) that is composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials and forestry materials, or that is an intermediate ingredient or feedstock. The term includes, with respect to forestry

materials, forest products that meet biobased content requirements, notwithstanding the market share the product holds, the age of the product, or whether the market for the product is new or emerging. (7 U.S.C. 8101) (7 CFR part 4270.2).

Recovered material means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process. (42 U.S.C. 6903).

Sustainable products and services means:

(1) Products containing recovered material designated by the U.S. Environmental Protection Agency (EPA) under the Comprehensive Procurement Guidelines (42 U.S.C. 6962) (40 CFR part 247) (https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program#products).

(2) Energy- and water-efficient products that are ENERGY STAR® certified or Federal Energy Management Program (FEMP)-designated products (42 U.S.C. 8259b) (10 CFR part 436, subpart C) (https://www.energy.gov/eere/femp/search-energy-efficient-products and https://www.energystar.gov/products?s=mega).

(3) Biobased products meeting the content requirement of the USDA under the BioPreferred® program (7 U.S.C. 8102) **(7 CFR part 4270)** (*https://www.biopreferred.gov*).

(4) Acceptable chemicals, products, and manufacturing processes listed under EPA's Significant New Alternatives Policy (SNAP) program, which ensures a safe and smooth transition away from substances that contribute to the depletion of stratospheric ozone (42 U.S.C. 7671l) (40 CFR part 82, subpart G) (https://www.epa.gov/snap).

(b) *Requirements*.

(1) The sustainable products and services, including the purchasing program and type of product or service, that are applicable to this contract, and any products or services that are not subject to this clause, will be set forth in the statement of work or elsewhere in the contract.

(2) The Contractor shall ensure that the sustainable products and services required by this contract are—

(i) Delivered to the Government;

(ii) Furnished for use by the Government;

(iii) Incorporated into the construction of a public building or public work; and

(iv) Furnished for use in performing services under this contract, where the cost of the products is a direct cost to this contract (versus costs which are normally applied to the Contractor's general and administrative expenses or indirect costs). This includes services performed by contractors performing management and operation of Government-owned facilities to the same extent that, at the time of award, an agency would be required to comply if an agency operated or supported the facility.

(c) *Resource*. The Green Procurement Compilation (GPC) available at https://sftool.gov/greenprocurement provides a comprehensive list of sustainable products and services and sustainable acquisition guidance. The Contractor should review the GPC when determining which **statutory** purchasing programs apply to a specific product or service.

(End of clause)

52.244-6 Subcontracts for Commercial Products and Commercial Services.

As prescribed in 44.403, insert the following clause:

Subcontracts for Commercial Products and Commercial Services (JAN 2025)(DEVIATION FEB 2025)

(a) Definitions. As used in this clause—

Commercial product, commercial service and commercially available off-the-shelf item have the meanings contained in Federal Acquisition Regulation (FAR) 2.101. Subcontract includes a transfer of

commercial products or commercial services between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial products, commercial services, or nondevelopmental items as components of items to be supplied under this contract.

(c) (1) The Contractor shall insert the following clauses in subcontracts for commercial products or commercial services:

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (NOV 2021) (41 U.S.C. 3509), if the subcontract exceeds the threshold specified in FAR 3.1004(a) on the date of subcontract award, and has a performance period of more than 120 days. In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

(ii) 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub. L. 111-5), if the subcontract is funded under the Recovery Act.

(iii) 52.203-17, Contractor Employee Whistleblower Rights (NOV 2023) (41 U.S.C. 4712); this clause does not apply to contracts of DoD, NASA, the Coast Guard, or applicable elements of the intelligence community—see FAR 3.900(a).

(iv) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017).

(v) 52.204-21, Basic Safeguarding of Covered Contractor Information Systems (NOV

2021) , other than subcontracts for commercially available off-the-shelf items, if flow down is required in accordance with paragraph (c) of FAR clause 52.204-21.

(vi) 52.204-23, Prohibition on Contracting for Hardware, Software, and Services

Developed or Provided by Kaspersky Lab Covered Entities (DEC 2023) (Section 1634 of Pub. L. 115-91).

(vii) 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (NOV 2021) (Section 889(a)(1)(A) of Pub. L. 115-232).

(viii) 52.204-27, Prohibition on a ByteDance Covered Application (JUN 2023) (Section 102 of Division R of Pub. L. 117-328).

(ix) (A) 52.204-30, Federal Acquisition Supply Chain Security Act Orders— Prohibition. (DEC 2023) (Pub. L. 115–390, title II).

(B) Alternate I (DEC 2023) of 52.204-30.

(x) 52.219-8, Utilization of Small Business Concerns (JAN 2025) (15 U.S.C.637(d)(2) and (3)), if the subcontract offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds the applicable threshold

specified in FAR 19.702(a) on the date of subcontract award, the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(xi) Reserved.

(xii) Reserved.

(xiii) 52.222-35, Equal Opportunity for Veterans (JUN 2020) (38 U.S.C.4212(a));

(xiv) 52.222-36, Equal Opportunity for Workers with Disabilities (JUN

2020)(29 U.S.C.793).

(xv) 52.222-37, Employment Reports on Veterans (JUN 2020) (38 U.S.C.4212).

(xvi) 52.222-40, Notification of Employee Rights Under the National Labor Relations

Act (DEC 2010) (E.O. 13496), if flow down is required in accordance with paragraph (f) of FAR

clause 52.222-40.

(xvii) (A) 52.222-50, Combating Trafficking in Persons (NOV 2021) (22 U.S.C. chapter 78 and E.O. 13627).

(B) Alternate I (MAR 2015) of 52.222-50(22 U.S.C. chapter 78 and E.O. 13627).

(xviii) 52.222-55, Minimum Wages for Contractor Workers under Executive Order

14026 (JAN 2022), if flow down is required in accordance with paragraph (k) of FAR clause 52.222-55.

(xix) 52.222-62, Paid Sick Leave Under Executive Order 13706 (JAN 2022) (E.O. 13706), if flow down is required in accordance with paragraph (m) of FAR clause 52.222-62.

(xx) (A) 52.224-3, Privacy Training (JAN 2017) (5 U.S.C. 552a) if flow down is required in accordance with 52.224-3(f).

(B) Alternate I (JAN 2017) of 52.224-3, if flow down is required in accordance with 52.224-3(f) and the agency specifies that only its agency-provided training is acceptable).

(xxi) 52.225-26, Contractors Performing Private Security Functions Outside the United States (OCT 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. Subtitle A, Part V, Subpart G Note).

(xxii) 52.232-40, Providing Accelerated Payments to Small Business Subcontractors (MAR 2023) , if flow down is required in accordance with paragraph (c) of FAR clause 52.232-40.

(xxiii) 52.240-1, Prohibition on Unmanned Aircraft Systems Manufactured or Assembled by American Security Drone Act-Covered Foreign Entities (NOV 2024) (Sections 1821-1826, Pub. L. 118-31, 41 U.S.C. 3901 note prec.).

(xxiv) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (NOV 2021) (46 U.S.C. 55305 and 10 U.S.C.2631), if flow down is required in accordance with paragraph (d) of FAR clause 52.247-64.

(2) While not required, the Contractor may flow down to subcontracts for commercial products or commercial services a minimal number of additional clauses necessary to satisfy its contractual obligations.

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

(End of clause)