

MANDATORY FLOWDOWNS

FAR/DFARS CLAUSES/PROVISIONS INCORPORATED BY REFERENCE INCORPORATION OF APPLICABLE CLAUSES, PROVISIONS, AND OTHER REQUIREMENTS FOR COMMERCIAL SUBCONTRACTS EB

- a. The Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS) clauses cited below are incorporated by reference as if set forth in full text, and are applicable, including any notes or other language following the clause citation, to this subcontract. The full text of all clauses incorporated by reference is available at <http://www.acquisition.gov/>. If so identified, this Order is a "rated order" certified for national defense use and Seller shall follow all the requirements of the Defense Priorities and Allocation System (DPAS) Regulation (15 C.F.R. Part 700).
- b. Unless the text in these clauses clearly reserves rights in the Government only, in whole or in part, or as otherwise noted, the terms:
 - i. "Purchase Order" shall be substituted for "Contract";
 - ii. "Purchaser" or "Buyer" for "Government" or "Contracting Officer" or equivalent phrases;
 - iii. "Seller" for "Contractor"; and
 - iv. "Seller's lower-tier Seller" for "Subcontractor" when it can so reasonably be interpreted and it is not obvious that the words refer to Buyer's prime contract, the Government or Contracting Officer, the Buyer, or the Seller itself.
- c. Flow Down Requirement - Seller agrees to flow down the FAR and DFARS clauses as well as those clauses and provisions contained in this document to its lower-tier Sellers and to also require further flow down, where applicable.
- d. BlueForge identification of applicable clause thresholds and further flow down requirements is informational only and is not to be construed as determinative. Seller remains responsible for determining and complying with all clause flow down requirements.
- e. When the materials or products furnished are for use in connection with a U.S. Government contract or subcontract, in addition to BlueForge's General Terms & Conditions and Special Provisions, the following clauses shall apply, as required by the terms of the prime contract, or by operation of law or regulation. Otherwise, BlueForge's General Terms and Conditions shall govern in the event of a conflict between these FAR and DFARS clauses and BlueForge's clauses.
- f. The following clauses set forth in the FAR and DFARS in effect as of the date of the prime contract are incorporated herein by reference with the same force and effect as if they were in full text.
- g. Clauses in this document may not be applicable to specific orders due to the type of Purchase Order to be issued, dollar thresholds under requirements of the FAR, DFARS or Public Law or Mandatory Flow Down requirements of a particular prime contract. Clauses that are not applicable are deemed self-deleting, shall not be removed from this document, and will be considered by all parties to be without force and effect. It is the Seller's obligation to contact BlueForge regarding any confusion, ambiguity, or questions the Seller may have regarding applicability of the following clauses.

As required by FAR 52.244-6 (Aug 2019) and DFARS 252.244-7000 (Jun 2013) identified below, the following apply:

- a. To the maximum extent practicable, Seller shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or non-developmental items as components of items to be supplied under this purchase order; and
- b. The following Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS) mandatory flow down clauses are incorporated by reference into this purchase order and the terms and conditions applicable thereto with the full force and effect as if invoked in full text.

DFARS/FAR Clause Reference Number	Applicable Threshold (S.A.T. = Simplified Acquisition Threshold in FAR Part 2.101)	DFARS/FAR Clause Title	Applicable Revision
52.203-13	>\$5,500,000 & Performance period of >120 days	Contractor Code of Business Ethics and Conduct (41 U.S.C. 3509)	Jun-2020
52.203-15	All	Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Section 1553 of Pub. L. 111-5), if this subcontract is funded under the Recovery Act.	Jun-10
52.203-19	All	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements	Jan-17
52.204-10	All	Reporting Executive Compensation and First Tier Subcontract Awards	Oct-18
52.204-13	All	System for Award Management Maintenance	Oct-18
52.204-21	All	Basic Safeguarding of Covered Contractor Information Systems	Jun-16
52.204-23	All	Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities	Jul-18
52.204-25	All	Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or	Aug-20

		Equipment.	
52.219-8	All	Utilization of Small Business Concerns (15 USC 637(d)(2) and (3)) Applies if this purchase order offers further subcontracting opportunities. If this purchase order (except subcontracts to small business concern) exceeds \$700,000 (\$1,500,000 for construction of any public facility), the Seller must include 52.219-8 in its lower-tier subcontracts that offer subcontracting opportunities.	Oct-18
52.222-21	All	Prohibition of Segregated Facilities	Apr-15
52.222-26	All	Equal Opportunity (E.O. 11246) (See note 1.)	Sep-16
52.222-35	All	Equal Opportunity for Veterans (38 U.S.C. 4212(a)) (See Note 1.)	Jun-20
52.222-36	All	Equal Opportunity for Workers with Disabilities (29 U.S.C. 793) (See Note 1.)	Jun-20
52.222-37	All	Employment Reports on Veterans (38 U.S.C. 4212)	Feb-16
52.222-40	All	Notification of Employee Rights Under the National Labor Relations Act (E.O. 13496) If flow down is required in accordance with paragraph (f) of FAR clause 52.222-40.	Dec-10
52.222-50	All	Combating Trafficking in Persons (22 U.S.C. chapter 78 and E.O. 13627). (B) Alternate I of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).	Jan-19
52.222-55	All	Establishing Minimum Wage for Contractors (E.O. 13658)	Dec-15
52.222-62	All	Paid Sick Leave Under Executive Order 13706	Jan-17
52.224-3	All	Privacy Training	Jan-17
52.225-26	All	Contractors Performing Private Security Functions Outside the United States (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).	Oct-16
52.232-40	All	Providing Accelerated Payments to Small Business Subcontractors If flow down is required in accordance with paragraph (c) of FAR clause 52.232-40.	Dec-13
52.247-64	All	Preference for Privately Owned U.S. –Flag Commercial Vessels (46 U.S.C. App 1241 and 10 U.S.C. 2631) Flow down required in accordance with paragraph (d) of FAR clause 52.247-64).	Feb-06
252.244-7000	All	Subcontracts for Commercial Items and Commercial Component (DoD Contracts) (In accordance with the requirements of DFARS 252.244-7000 and the Buyer's prime contract, the following DFARS clauses also apply.)	Jun-13
252.203-7000	All	Requirements Relating to the Compensation of Former DoD Officials	Sep-11
252.203-7003	All	Agency Office of the Inspector General	Dec-12
252.204-7004	All	Antiterrorism Awareness Training for Contracts	Feb-19
252.204-7009	All	Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information	Oct-16
252.204-7012	All	Safeguarding Covered Defense Information and Cyber Incident Reporting herein invoke NIST SP 800-171 Revision 1 (December 2016), for references to National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171, "Protecting Controlled Unclassified Information in Nonfederal Information Systems and Organizations."	Oct-16
252.204-7015	All	Notice of Authorized Disclosure of Information for Litigation Support	May-16
252.204-7020		NIST SP 800-171 DoD Assessment Requirements	Nov-20
252.211-7003	All	Item Identification and Valuation Applies with some exceptions. Contact BlueForge to confirm applicability.	Jun-13
252.211-7007	All	Reporting of Government- Furnished Property	Aug-12
252.223-7008	All	Prohibition of Hexavalent Chromium	June-13
252.225-7001	All	Buy American and Balance of Payment Program - Basic (All Purchase Order Line Items to be delivered must satisfy the requirements of DFARS 252.225-7001. Any item delivered or to be delivered that does not meet the requirements shall be promptly identified to the Buyer in writing for a determination of acceptability of the item(s).)	Dec-17
252.225-7002	All	Qualifying Country Sources as Subcontractors	Dec-17
252.225-7007	All	Prohibition on Acquisition of Certain Items from Communist Chinese Military Companies	Dec-18
252.225-7009	All	Restriction on Acquisition of Certain Articles Containing Specialty Metals (10 U.S.C. 2553b) (Applies in its entirety, less paragraph (d), in all subcontracts, at any tier, for articles containing "specialty metals".)	Oct-14
252.225-7012	All	Preference for Certain Domestic Commodities	Dec-17
252.225-7015	All	Restriction on Acquisition of Hand or Measuring Tools	Jun-05
252.225-7016	All	Restriction on Acquisition of Ball and Roller Bearings	Jun-11
252.225-7038	All	Restriction on Acquisition of Air Circuit Breakers	Dec-18
252.226-7001	>\$500,000	Utilization of Indian Organization, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns	Apr-19
252.227-7013 & Alt II	All	Rights in Technical Data-Non Commercial Items (Feb 2014) and Alt II (Mar 2011)	Feb-14 & Alt II Mar-11
252.227-7015 And Alt I	All	Technical Data – Commercial Items (Feb 2014) and Alt I (Dec 2011)	Feb-14 & Alt I Dec-11

252.227-7037	All	Validation of Restrictive Markings on Technical Data	Sep-16
252.243-7002	> S.A.T.	Request for Equitable Adjustment (Applies if the REA exceeds the Simplified Acquisition Threshold (SAT) as defined at FAR 2.101.	Dec-12
252.246.7003	All	Notification of Potential Safety Issues i. This clause applies to this subcontract and to all lower-tier subcontracts at any tier meeting the requirements described in this clause. It applies in subcontracts for – (i) Parts identified as critical safety items; (ii) Systems and subsystems, assemblies, and subassemblies integral to a system; or (iii) Repair, maintenance, logistics support, or overhaul services for systems and subsystems, assemblies, subassemblies, and parts integral to a system. ii. Buyer will identify parts identified as “critical safety items”, if any, upon Seller’s request. iii. Seller is responsible for providing the notifications required by this clause to BlueForge in writing for itself and for its lower-tier subcontractors at any tier.	Jun-13
252.246-7008	All	Sources of Electronic Parts If the Seller documents to BlueForge that electronic parts provided under this purchase order are new or previously unused, then the actions listed in DFARS 252.246-7008 (Oct 2016) paragraph (b)(3)(ii) will not apply.	May-18
252.247-7023	All	Transportation of Supplies by Sea (10 U.S.C. 2631) (a) This clause, including paragraph (h), applies if this purchase order exceeds the simplified acquisition threshold specified in FAR Part 2; or (b) This clause, paragraphs (a) through (e) and paragraph (h), apply if this purchase order is at or below the simplified acquisition threshold specified in FAR Part 2.	Feb-19
In addition to the clauses required by FAR 52.244-6 and DFARS 252.244-700 identified above, the following clauses also apply:			
52.204-9	All	Personal Identity Verification of Contractor Personnel (This clause applies to this subcontract when the subcontractor (“Contractor” as used below refers to the Seller/subcontractor) is required to have routine access to a Federally-controlled facility and/or routine access to a Federally-controlled information system. Further flow down may be required.)	Jan-11
252.225-7048	All	Export-Controlled Items	Jun-13

Note 1: Clauses above referring to this Note 1 do not apply for that portion of work under this Purchase Order or any subcontract hereunder that is performed outside the United States by employees who were not recruited within the United States.

In addition to the requirements specified above, the following additional clauses also apply. Further flow down may be required:

1. FAR 52.203-11, CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (SEPT 2007) (MODIFIED)

(Applies if this order exceeds or is expected to exceed \$150,000.)

If this order exceeds or is expected to exceed \$100,000, Seller (“offeror”) makes the following certification and disclosure and agrees to certify and disclose accordingly:

(a) **Definitions.** As used in this provision—“Lobbying contact” has the meaning provided at [2 U.S.C. 1602\(8\)](#). The terms “agency,” “influencing or attempting to influence,” “officer or employee of an agency,” “person,” “reasonable compensation,” and “regularly employed” are defined in the FAR clause of this solicitation entitled “Limitation on Payments to Influence Certain Federal Transactions” ([52.203-12](#)).

(b) **Prohibition.** The prohibition and exceptions contained in the FAR clause of this solicitation entitled “Limitation on Payments to Influence Certain Federal Transactions” ([52.203-12](#)) are hereby incorporated by reference in this provision.

(c) **Certification.** The offeror or Seller, by signing its offer or accepting this Purchase Order, hereby certifies to the best of its knowledge and belief that 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 any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with this solicitation; the awarding of this purchase order or Buyer’s prime contract.

(d) **Disclosure.** If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to the Buyer’s Contracting Officer via Buyer, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

(e) **Penalty.** Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by [31 U.S.C. 1352](#). Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required 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.

(f) Seller shall include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

2. FAR 52.203-12, LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (OCT 2010)

(Applies if this order exceeds \$150,000. When this clause applies, FAR 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, also applies and Seller shall certify and disclose accordingly.)
Incorporated into this order by reference.

3. FRAUD OR FALSIFICATION

Seller shall include all provisions of the following text including this sentence in all lower-tier subcontracts under this Purchase Order.

- a. This Purchase Order is a subcontract or lower-tier subcontract under a Government prime contract. As such, activities thereunder are within the jurisdiction of the U.S. Government. **Any knowing and willful act to falsify, conceal, or alter a material fact, or any false, fraudulent or fictitious statement or representation in connection with the performance of work under this purchase order may be punishable in accordance with applicable Federal statutes.**
- b. Seller shall include the following statement preprinted on each Certificate of Conformance initiated by the Seller and provided to the Buyer in connection with this purchase order:

“NOTE: The recording of false, fictitious or fraudulent statements or entries on this document may be punishable as a felony under Federal Statute.”

Federal Law (18 USC 1001) provides, in part, as follows:

“Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully –

- (1) falsifies, conceals or covers up by any trick, scheme, or device, a material fact;
- (2) makes any materially false, fictitious or fraudulent statements or representations; or
- (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. ...”

Seller agrees that all employees or other persons engaged in or who will be engaged in the performance of work under this Purchase Order, will be, if they have not been previously, informed in writing of the above language and that there is a risk of Federal criminal penalties associated with any knowing and willful falsification, concealment, or misrepresentation in connection with work performed under Government contracts and subcontracts such as this Purchase Order.

- c. Seller will make employees aware of the above prior to them commencing work under this purchase order. Any inability or unwillingness of a lower-tier supplier to comply with this provision should be documented in writing and submitted to the Purchaser.

4. EQUIPMENT CONTAINING COMPUTERS AND/OR COMPUTER SOFTWARE. The Seller shall be responsible for providing Buyer with a Software Development Plan for all equipment containing computer hardware, computer software, and/or computer off the shelf software that will be utilized for the development, control, or modification of deliverable products.

- a. The Seller’s Software Development Plan shall contain a written statement of work as part of the proposal in response to the request for quotation.
- b. The Seller’s Software Development Plan must be approved by the Buyer.
- c. After award the Seller shall submit the Software Statement of Work on a Vendor Procedure Approval Request Form.
- d. Failure to submit the correct forms and receive approval for the Software Development Plan may result in delays of payment for deliverables.

5. Duty-Free Entry –Basic (Nov 2014) When a shipment is eligible for duty-free entry under this clause, Seller is to request in writing duty-free entry eligibility via Buyer and to request that Buyer provide the information required by the clause to allow Seller to comply. Buyer will, upon approval to disclose, provide Seller with the information required. Special marking, labeling, and packaging apply. Further flow down may be required.

In addition, when this clause applies, Seller is to include the Buyer's prime contract number on all shipping documents submitted to U.S. Customs for which duty-free entry is being claimed pursuant to this clause.

Seller is to coordinate all shipments under this order with the Buyer. If a prospective import into the United States is eligible for duty-free entry (DFE) due to its classification in the Harmonized Tariff Schedule of the U.S. (HTSUS) or due to a Trade Agreement, Seller is to take necessary actions to allow Buyer to obtain DFE. If not, Seller is to refer DFARS 252.225-7013, Duty-Free Entry, and is to determine with the Buyer whether the prospective import into the U.S. is eligible for DFE under the DFARS clause(s) and take necessary actions to allow Buyer to obtain DFE. **Special marking, labeling, and packaging requirements apply.**