Enterprise Infrastructure Solutions (EIS)
Contract

Section I
Contract Clauses

Issued by:

General Services Administration

Federal Acquisition Service

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I.1 General

Orders under the contract may include additional clauses to those enumerated in this contract, such as: (1) optional FAR clauses; (2) agency supplemental clauses; (3) alternate FAR clauses; and (4) order-specific clauses. Such additional clauses are not limited to those associated only with Section I of the Uniform Contract Format as outlined in FAR 15.109 (GSA Class Deviation RFO-2025-15).

The clauses relating to the Wage Rate Requirements (Construction), formerly known as the Davis-Bacon Act, (FAR 52.222-13 and 52.222-30), shall be included in a task order by the ordering contracting officer (OCO) if it is deemed applicable to the order.

The clauses in Section I.2 apply at the at the contract and order levels, as applicable, depending upon the contract type of the order, or as specifically referenced in the applicable order.

I.2 FAR 52.252-2 Clauses Incorporated by Reference (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the contracting officer will make their full text available. Also, the full text of a clause may be accessed electronically at these addresses:

FEDERAL ACQUISITION REGULATION:

https://acquisition.gov/far/index.html

https://www.acquisition.gov/far-overhaul/far-part-deviation-guide

GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION:

https://acquisition.gov/gsam/gsam.html

https://www.acquisition.gov/gsar-overhaul

I.2.1 FAR 52.252-2 Clauses Table

CLAUSE NO.	TITLE	DATE	FP	T&M
52.202-1	Definitions	JUN 2020	X	X
52.203-3	Gratuities	APR 1984	X	X
52.203-5	Covenant Against Contingent Fees	MAY 2014	X	X

CLAUSE NO.	TITLE	DATE	FP	T&M
52.203-6	Restrictions on Subcontractor Sales to the Government	JUN 2020	X	
52.203-7	Anti-Kickback Procedures	JUN 2020	X	X
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity	MAY 2014	X	X
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity	MAY 2014	X	X
52.203-12	Limitation on Payments to Influence Certain Federal Transactions	JUN 2020	X	X
52.203-13	Contractor Code of Business Ethics and Conduct	NOV 2021	X	X
52.203-14	Display of Hotline Poster(s)	NOV 2021	X	X
52.203-16	Preventing Personal Conflicts of Interest	JUNE 2020	X	X
52.203-17	Contractor Employee Whistleblower Rights	NOV 2023	X	X
52.204-9	Personal Identity Verification of Contractor Personnel	JAN 2011	X	X
52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards	NOV 2025 (DEVIATION)	X	X
52.204-13	System for Award Management-Maintenance	NOV 2025 (DEVIATION)	X	X
52.204-15	Service Contract Reporting Requirements for Indefinite-Delivery Contracts	NOV 2025 (DEVIATION)	X	X
52.204-19	Incorporation by Reference of Representations and Certifications	DEC 2014	X	X
52.207-5	Option to Purchase Equipment	FEB 1995	X	X
52.208-90	Government Supply Sources	NOV 2025 (DEVIATION)	X	X
52.209-6	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, Proposed for Debarment, or Voluntarily Excluded	NOV 2025 (DEVIATION)	X	X
52.209-9	Updates of Publicly Available Information Regarding Responsibility Matters	NOV 2025 (DEVIATION)	X	X
52.209-10	Prohibition on Contracting with Inverted Domestic Corporations	NOV 2025 (DEVIATION)	X	X
52.210-1	Market Research	NOV 2025 (DEVIATION)	X	X
52.211-5	Materials Requirements	NOV 2025 (DEVIATION)	X	

CLAUSE NO.	TITLE	DATE	FP	T&M
52.211-15	Defense Priority and Allocation Requirements	APR 2008	X	X
52.215-2	Audit and Records – Negotiation	NOV 2025 (DEVIATION)	X	X
52.215-2	Alternate II	AUG 2016	X	X
52.215-2	Alternate III	JUN 1999	X	X
52.215-8	Order of Precedence – Uniform Contract Format	NOV 2025 (DEVIATION)	X	X
52.215-10	Price Reduction for Defective Cost or Pricing Data	AUG 2011	X	X
52.215-11	Price Reduction for Defective Cost or Pricing Data – Modifications	NOV 2025 (DEVIATION)	X	X
52.215-12	Subcontractor Certified Cost or Pricing Data	NOV 2025 (DEVIATION)	X	X
52.215-13	Subcontractor Certified Cost or Pricing Data – Modifications	NOV 2025 (DEVIATION)	X	X
52.215-14	Integrity of Unit Prices	NOV 2021	X	X
52.215-16	Facilities Capital Cost of Money	JUN 2003	X	X
52.215-19	Notification of Ownership Changes	NOV 2025 (DEVIATION)	X	X
52.216-4	Economic Price Adjustment – Labor and Material	JAN 2017	X	X
52.219-4	Notice of Price Evaluation Preference for HUBZone Small Business Concerns	NOV 2025 (DEVIATION)	X	X
52.219-8	Utilization of Small Business Concerns	NOV 2025 (DEVIATION)	X	X
52.219-9	Small Business Subcontracting Plan	NOV 2025 (DEVIATION)	X	X
52.219-9	Alternate II	NOV 2025 (DEVIATION)	X	X
52.219-16	Liquidated Damages – Subcontracting Plan	NOV 2025 (DEVIATION)	X	X
52.222-1	Notice to the Government of Labor Disputes	NOV 2025 (DEVIATION)	X	X
52.222-2*	Payment for Overtime Premiums	NOV 2025 (DEVIATION)	X	X
52.222-3	Convict Labor	NOV 2025 (DEVIATION)	X	X

CLAUSE NO.	TITLE	DATE	FP	T&M
52.222-4	Contract Work Hours and Safety Standards – Overtime Compensation	NOV 2025 (DEVIATION)	X	X
52.222-6	Construction Wage Rate Requirements	NOV 2025 (DEVIATION)	X	X
52.222-7	Withholding of Funds	NOV 2025 (DEVIATION)	X	X
52.222-8	Payrolls and Basic Records	NOV 2025 (DEVIATION)	X	X
52.222-9	Apprentices and Trainees	NOV 2025 (DEVIATION)	X	X
52.222-10	Compliance with Copeland Act Requirements	NOV 2025 (DEVIATION)	X	X
52.222-11	Subcontracts (Labor Standards)	NOV 2025 (DEVIATION)	X	X
52.222-12	Contract Termination – Debarment	MAY 2014	X	X
52.222-13*	Compliance with Construction Wage Rate Requirements and Related Regulations	MAY 2014	X	X
52.222-14	Disputes Concerning Labor Standards	NOV 2025 (DEVIATION)	X	X
52.222-15	Certification of Eligibility	MAY 2014	X	X
52.222-19	Child Labor – Cooperation with Authorities and Remedies	NOV 2025 (DEVIATION)	X	X
55.222-20	Contracts for Materials, Supplies, Articles, and Equipment	NOV 2025 (DEVIATION)	X	
52.222-30*	Construction Wage Rate Requirements – Price Adjustment (None or Separately Specified Method)	AUG 2018	X	X
52.222-35	Equal Opportunity for Veterans	NOV 2025 (DEVIATION)	X	X
52.222-36	Equal Opportunities for Workers with Disabilities	NOV 2025 (DEVIATION)	X	X
52.222-36	Alternate I	JUL 2014	X	X
52.222-37	Employment Reports on Veterans	NOV 2025 (DEVIATION)	X	X
52.222-40	Notification of Employee Rights Under the National Labor Relations Act	NOV 2025 (DEVIATION)	X	X
52.222-41	Service Contract Labor Standards	NOV 2025 (DEVIATION)	X	X
52.222-42	Statement of Equivalent Rates for Federal Hires	MAY 2014	X	X

CLAUSE NO.	TITLE	DATE	FP	T&M
52.222-43	Fair Labor Standards Act and Service Contract Labor Standards – Price Adjustment (Multiple Year and Option Contracts)	NOV 2025 (DEVIATION)	X	X
52.222-50	Combating Trafficking in Persons	NOV 2025 (DEVIATION)	X	X
52.222-50	Alternate I	NOV 2025 (DEVIATION)	X	X
52.222-54	Employment Eligibility Verification	NOV 2025 (DEVIATION)	X	X
52.222-55	Minimum Wages for Contractor Workers Under Executive Order 14026	NOV 2025 (DEVIATION)	X	X
52.222-90	Addressing DEI Discrimination by Federal Contractors	APR 2026 (DEVIATION)	X	X
52.223-2	Reporting of Bio-based Products under Service and Construction Contracts	NOV 2025 (DEVIATION)	X	
52.223-3*	Hazardous Material Identification and Safety Data	NOV 2025 (DEVIATION)	X	X
52.223-3*	Alternate I	NOV 2025 (DEVIATION)	X	X
52.223-5	Pollution Prevention and Right-to-know Information	MAY 2024	X	X
52.223-12	Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners	NOV 2025 (DEVIATION)	X	X
52.223-23	Sustainable Products	NOV 2025 (DEVIATION)	X	X
52.224-1	Privacy Act Notification	APR 1984	X	X
52.224-2	Privacy Act	APR 1984	X	X
52.225-1	Buy American– Supplies	NOV 2025 (DEVIATION)	X	
52.225-3	Buy American– Free Trade Agreements – Israeli Trade Act	NOV 2025 (DEVIATION)	X	
52.225-5	Trade Agreements	NOV 2023	X	
52.225-8	Duty-free Entry	OCT 2010	X	X
52.225-10	Notice of Buy American Requirement – Construction Materials	MAY 2014	X	
52.225-11	Buy American – Construction Materials under Trade Agreements	NOV 2025 (DEVIATION)	X	
52.225-14	Inconsistency between English Version and Translation of Contract	FEB 2000	X	X

CLAUSE NO.	TITLE	DATE	FP	T&M
52.227-1	Authorization and Consent	JUN 2020	X	
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement	JUN 2020	X	X
52.227-3	Patent Indemnity	APR 1984	X	
52.227-3*	Alternate I	APR 1984	X	
52.227-3*	Alternate II	APR 1984	X	
52.227-5*	Waiver of Indemnity	APR 1984	X	
52.227-9	Refund of Royalties	APR 1984	X	
52.227-14	Rights in Data – General	MAY 2014	X	X
52.227-14	Alternate I	DEC 2007	X	X
52.227-14*	Alternate II	DEC 2007	X	X
52.228-3	Workers' Compensation Insurance (Defense Base Act)	JUL 2014	X	X
52.228-4	Workers' Compensation and War-Hazard Insurance Overseas	APR 1984	X	X
52.228-5	Insurance – Work on a Government Installation	JAN 1997	X	
52.228-7	Insurance – Liability to Third Persons	MAR 1996	X	X
52.229-2	North Carolina State and Local Sales and Use Tax	NOV 2025 (DEVIATION)	X	X
52.229-4	Federal, State, and Local Taxes (State and Local Adjustments	NOV 2025 (DEVIATION)	X	X
52.229-6	Taxes – Foreign Fixed-Price Contracts	NOV 2025 (DEVIATION)	X	X
52.229-10*	State of New Mexico Gross Receipts and Compensating Tax	NOV 2025 (DEVIATION)		X
52.232-1	Payments	APR 1984	X	
52.232-5	Payments under Fixed-Price Construction Contracts	MAY 2014	X	
52.232-6	Payment under Communication Service Contracts with Common Carriers	APR 1984	X	
52.232-7*	Payments under Time-and-materials and Labor-hour Contracts	NOV 2021		X
52.232-8	Discounts for Prompt Payment	FEB 2002	X	X

CLAUSE NO.	TITLE	DATE	FP	T&M
52.232-9	Limitation on withholding of payments	APR 1984	X	X
52.232-11	Extras	APR 1984	X	
52.232-18	Availability of Funds	APR 1984	X	X
52.232-23	Assignment of Claims	MAY 2014	X	X
52.232-23	Alternate I	APR 1984	X	X
52.232-25	Prompt Payment	JAN 2017	X	X
52.232-25	Alternate I	FEB 2002		X
52.232-33	Payment by Electronic Funds Transfer – System for Award Management	OCT 2018	X	X
52.232-34	Payment by Electronic Funds Transfer – Other than System for Award Management	JUL 2013	X	X
52.232-36	Payment by Third Party	NOV 2025 (DEVIATION)	X	X
52.232-37	Multiple Payment Arrangements	MAY 1999	X	X
52.233-1	Disputes	NOV 2025 (DEVIATION)	X	X
52.233-1	Alternate I	NOV 2025 (DEVIATION)	X	X
52.233-3	Protest after Award	NOV 2025 (DEVIATION)	X	X
52.233-3	Alternate I	NOV 2025 (DEVIATION)	X	X
52.233-4	Applicable Law for Breach of Contract Claim	NOV 2025 (DEVIATION)	X	X
52.236-2	Differing Site Conditions	NOV 2025 (DEVIATION)	X	X
52.236-3	Site Investigation and Conditions Affecting the Work	NOV 2025 (DEVIATION)	X	X
52.236-5	Material and Workmanship	NOV 2025 (DEVIATION)	X	X
52.236-6	Superintendence by the Contractor	NOV 2025 (DEVIATION)	X	X
52.236-7	Permits and Responsibilities	NOV 2025 (DEVIATION)	X	X
52.236-8	Other Contracts	NOV 2025 (DEVIATION)	X	X

CLAUSE NO.	TITLE	DATE	FP	T&M
52.236-9	Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements.	NOV 2025 (DEVIATION)	X	X
52.236-10	Operations and Storage Areas	NOV 2025 (DEVIATION)	X	X
52.236-12	Cleaning up	NOV 2025 (DEVIATION)	X	X
52.236-13	Accident Prevention	NOV 2025 (DEVIATION)	X	X
52.236-13	Alternate I	NOV 1991	X	X
52.237-2	Protection of Government Buildings, Equipment, and Vegetation	APR 1984	X	X
52.237-3	Continuity of Services	JAN 1991	X	
52.237-9	Waiver of Limitation on Severance Payments to Foreign Nationals	NOV 2025 (DEVIATION)		X
52.237-10	Identification of Uncompensated Overtime	MAR 2015	X	X
52.240-91	Security Prohibitions and Exclusions	NOV 2025 (DEVIATION)	X	X
52.240-91*	Alternate I	NOV 2025 (DEVIATION)	X	X
52.240-92	Security Requirements	NOV 2025 (DEVIATION)	X	X
52.240-93	Basic Safeguarding of Covered Contractor Information Systems	NOV 2025 (DEVIATION)	X	X
52.242-13	Bankruptcy	JUL 1995	X	X
52.242-14	Suspension of Work	APR 1984	X	X
52.242-15	Stop-Work Order	AUG 1989	X	X
52.243-1	Changes – Fixed-Price	NOV 2025 (DEVIATION)	X	
52.243-1	Alternate I	NOV 2025 (DEVIATION)	X	
52.243-1	Alternate II	NOV 2025 (DEVIATION)	X	
52.243-1	Alternate III	NOV 2025 (DEVIATION)	X	
52.243-3	Changes – Time-and-Materials or Labor-Hours	NOV 2025 (DEVIATION)		X

CLAUSE NO.	TITLE	DATE	FP	T&M
52.243-4	Changes	NOV 2025 (DEVIATION)	X	
52.243-5	Changes and Changed Conditions	NOV 2025 (DEVIATION)	X	
52.243-7	Notification of Changes	NOV 2025 (DEVIATION)	X	X
52.244-2*	Subcontracts	JUN 2020		X
52.244-2	Alternate I	JUN 2020		X
52.244-5	Competition in Subcontracting	AUG 2024	X	
52.244-6	Subcontracts for Commercial Products and Commercial Services	APR 2026 (DEVIATION)	X	X
52.245-1	Government Property	SEPT 2021	X	X
52.245-1	Alternate I	APR 2012	X	X
52.245-1	Alternate II	APR 2012	X	X
52.245-2	Government Property Installation Operation Services	APR 2012	X	X
52.245-9	Use and Charges	APR 2012	X	X
52.246-17	Warranty of Supplies of a Noncomplex Nature	JUN 2003	X	X
52.246-20*	Warranty of Services	MAY 2001	X	
52.246-21	Warranty of Construction	MAR 1994	X	X
52.246-21	Alternate I	APR 1984	X	X
52.246-23	Limitation of Liability	FEB 1997	X	
52.246-24	Limitation of Liability – High Value Items	FEB 1997	X	X
52.246-24	Alternate I	APR 1984	X	X
52.246-25	Limitation of Liability – Services	FEB 1997	X	X
52.247-1*	Commercial Bill of Lading Notations	FEB 2006	X	X
52.248-1*	Value Engineering	NOV 2025 (DEVIATION)	X	
52.248-1	Alternate I	APR 1984	X	X

CLAUSE NO.	TITLE	DATE	FP	T&M
52.248-1	Alternate II	JAN 2015	X	X
52.248-1	Alternate III	APR 1984	X	X
52.248-3	Value Engineering – Construction	OCT 2025	X	X
52.248-3	Alternate I	APR 1984	X	X
52.249-1	Termination for Convenience of the Government (Fixed-Price) (Short Form)	APR 1984	X	
52.249-1	Alternate I	APR 1984	X	
52.249-2	Termination for Convenience of the Government (Fixed-Price)	APR 2012	X	
52.249-2	Alternate I	SEP 1996	X	
52.249-2	Alternate II	SEP 1996	X	
52.249-2	Alternate III	SEP 1996	X	
52.249-3	Termination for Convenience of the Government (Dismantling, Demolition, or Removal of Improvements)	APR 2012	X	X
52.249-3	Alternate I	SEP 1996	X	X
52.249-4	Termination for Convenience of the Government (Services) (Short Form)	APR 1984	X	
52.249-8	Default (Fixed-Price Supply and Service)	APR 1984	X	
52.249-14	Excusable Delays	APR 1984		X
52.253-1	Computer Generated Forms	NOV 2025 (DEVIATION)	X	X

(Note: Clause numbers followed by an asterisk (*) require fill-ins by the OCO if determined applicable and incorporated into the Order.)

I.3 General Services Administration Acquisition Regulation (GSAR), Incorporated by Reference

I.3.1 GSAR Clauses Table

CLAUSE #	CLAUSE TITLE	DATE
552.203-71	Restriction on Advertising	SEP 1999
552.204-9	Personal Identity Verification Requirements	APR 2023

CLAUSE #	CLAUSE TITLE	DATE
552.215-70	Examination of Records by GSA	JUN 2016
552.228-5	Government as Additional Insured	JAN 2016
552.229-71	Federal Excise Tax – DC Government	SEP 1999

I.4 FAR 52.216-18 Ordering (AUG 2020)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued in accordance with Section G.3.

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, this contract shall control.

(c) A delivery order or task order is considered "issued" when—

(1) If sent by mail (includes transmittal by U.S. mail or private delivery service), the Government deposits the order in the mail;

(2) If sent by fax, the Government transmits the order to the Contractor's fax number; or

(3) If sent electronically, the Government either—

(i) Posts a copy of the delivery order or task order to a Government document access system, and notice is sent to the Contractor; or

(ii) Distributes the delivery order or task order via email to the Contractor's email address.

(d) Orders may be issued by methods other than those enumerated in this clause only if authorized by the contract.

(End of clause)

I.5 FAR 52.216-19 Order Limitations (OCT 1995)

(a) *Minimum order*. When the government requires supplies or services covered by this contract in an amount of less than $1, the government is not obligated to purchase, nor is the contractor obligated to furnish, those supplies or services under the contract.

(b) *Maximum order*. The contractor is not obligated to honor:

(1) Any order for a single item in excess of $1 Billion;

(2) Any order for a combination of items in excess of $1 Billion;

(3) A series of orders within 10 days from the same ordering office that exceeds the limitation in subparagraph (1) or (2) above.

(c) If this is a requirements contract (i.e., includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR), the government is not required to order a part of any one requirement from the contractor if that requirement exceeds the maximum-order limitations in paragraph (b) of this section.

(d) Notwithstanding paragraphs (b) and (c) of this section, the contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within three (3) work days after issuance, with written notice stating the contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the government may acquire the supplies or services from another source.

(End of clause)

I.6 FAR 52.216-22 Indefinite Quantity (NOV 2025)(DEVIATION)

(a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum." The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum."

(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(d) Any order issued during the ordering period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order, which may include order options to be exercised after the ordering period of this contract but before the end of the period of performance of the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order, including options exercised, to the same extent as if the order were completed

during the contract's ordering period; provided, that the Contractor shall not be required to make any deliveries under this contract after fifteen (15) years and nine (9) months.

(End of clause)

I.7 FAR 52.217-8 Option to Extend Services (NOV 1999)

The government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The contracting officer may exercise the option by written notice to the contractor within 3 months of the end of the contract or order.

(End of clause)

I.8 FAR 52.217-9 Option to Extend the Term of the Contract (MAR 2000)

(a) The government may extend the term of this contract by written notice to the contractor within 30 days of the expiration of the contract; provided that the government gives the contractor a preliminary written notice of its intent to extend at least 30 days before the contract expires. The preliminary notice does not commit the government to an extension.

(b) If the government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 15 years and 9 months.

(End of clause)

I.9 RESERVED

I.10 RESERVED

I.11 FAR 52.252-6 Authorized Deviations in Clauses (NOV 2020)

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.

(b) The use in this solicitation or contract of any General Services Administration Acquisition Regulation (GSAR) (48 CFR Chapter 5) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

(End of clause)

I.12 GSAR 552.232-39 Unenforceability of Unauthorized Obligations (Deviation FAR 52.232-39)(FEB 2018)

(a) Except as stated in paragraph (b) of this clause, when any supply or service acquired under this contract is subject to any commercial supplier agreement (as defined in 502.101) that includes any language, provision, or clause requiring the Government to pay any future fees, penalties, interest, legal costs or to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(1) Any such language, provision, or clause is unenforceable against the Government.

(2) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such language, provision, or clause by virtue of it appearing in the commercial supplier agreement. If the commercial supplier agreement is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind the Government or any Government authorized end user to such clause.

(3) Any such [language, provision, or clause is deemed to be stricken from the [commercial supplier agreement.

(b) Paragraph (a) of this clause does not apply to indemnification or any other payment by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(End of Clause)

I.13 GSAR 552.232-78 Commercial Supplier Agreements – Unenforceable Clauses (FEB 2018)

When any supply or service acquired under this contract is subject to a commercial supplier agreement (as defined in 502.101), the following language shall be deemed incorporated into the commercial supplier agreement. As used herein, "this agreement" means the commercial supplier agreement:

(a) Notwithstanding any other provision of this agreement, when the end user is an agency or instrumentality of the U.S. Government, the following shall apply:

(1) *Applicability*. This agreement is part of a contract between the commercial supplier and the U.S. Government for the acquisition of the supply or service that necessitates a license or other similar legal instrument (including all contracts, task orders, and delivery orders under FAR Parts 13, 14 or 15).

(2) *End user*. This agreement shall bind the ordering activity as end user but shall not operate to bind a Government employee or person acting on behalf of the Government in his or her personal capacity.

(3) *Law and disputes*. This agreement is governed by Federal law.

(i) Any language purporting to subject the U.S. Government to the laws of a U.S. state, U.S. territory, district, or municipality, or foreign nation, except where Federal law expressly provides for the application of such laws, is hereby deleted.

(ii) Any language requiring dispute resolution in a specific forum or venue that is different from that prescribed by applicable Federal law is hereby deleted.

(iii) Any language prescribing a different time period for bringing an action than that prescribed by applicable Federal law in relation to a dispute is hereby deleted.

(4) *Continued performance*. The supplier or licensor shall not unilaterally revoke, terminate or suspend any rights granted to the Government except as allowed by this contract. If the supplier or licensor believes the ordering activity to be in breach of the agreement, it shall pursue its rights under the Contract Disputes Act or other applicable Federal statute while continuing performance as set forth in FAR 52.233-1 Disputes.

(5) *Arbitration; equitable or injunctive relief.* In the event of a claim or dispute arising under or relating to this agreement, a binding arbitration shall not be used unless specifically authorized by agency guidance, and equitable or injunctive relief, including the award of attorney fees, costs or interest, may be awarded against the U.S. Government only when explicitly provided by statute (e.g., Prompt Payment Act or Equal Access to Justice Act).

(6) Updating terms. (i) After award, the contractor may unilaterally revise commercial supplier agreement terms provided: if they are not material. A material change is defined as:

(A) Terms that significantly change Government rights or obligations;

(B) Terms that increase Government prices;

(C) Terms that decrease overall level of service; and

(D) Terms that limit any other Government right addressed elsewhere in this contract.

(ii) For revisions that will materially change the terms of the contract, the revised commercial supplier agreement must be incorporated into the contract using a bilateral modification.

(iii) Any license agreement terms or conditions unilaterally revised subsequent to award that are inconsistent with any material term or provision of this contract shall not be enforceable against the Government, and the Government shall not be deemed to have consented to them.

(7) *No automatic renewals*. If any license or service tied to periodic payment is provided under this agreement (e.g., annual software maintenance or annual lease term}, such license or service shall not renew automatically upon expiration of its current term without prior express consent by an authorized Government representative.

(8) *Indemnification*. Any clause of this agreement requiring the commercial supplier or licensor to defend or indemnify the end user is hereby amended to provide that the U.S. Department of Justice has the sole right to represent the United States in any such action, in accordance with 28 U.S.C. 516.

(9) *Audits*. Any clause of this agreement permitting the commercial supplier or licensor to audit the end user's compliance with this agreement is hereby amended as follows:

(i) Discrepancies found in an audit may result in a charge by the commercial supplier or licensor to the ordering activity. Any resulting invoice must comply with the proper invoicing requirements specified in the underlying Government contract or order.

(ii) This charge, if disputed by the ordering activity, will be resolved through the Disputes clause at FAR 52.233-1; no payment obligation shall arise on the part of the ordering activity until the conclusion of the dispute process.

(iii) Any audit requested by the contractor will be performed at the contractor's expense, without reimbursement by the Government.

(10) *Taxes or surcharges*. Any taxes or surcharges which the commercial supplier or licensor seeks to pass along to the Government as end user will be governed by the terms of the underlying Government contract or order and, in any event, must be

submitted to the Contracting Officer for a determination of applicability prior to invoicing unless specifically agreed to otherwise in the Government contract.

(11*) Non-assignment*. This agreement may not be assigned, nor may any rights or obligations thereunder be delegated, without the Government's prior approval, except as expressly permitted under the clause at FAR 52.232-23, Assignment of Claims.

(12) *Confidential information*. If this agreement includes a confidentiality clause, such clause is hereby amended to state that neither the agreement nor the Federal Supply Schedule contract price list, as applicable, shall be deemed "confidential information." Issues regarding release of "unit pricing" will be resolved consistent with the Freedom of Information Act. Notwithstanding anything in this agreement to the contrary, the Government may retain any confidential information as required by law, regulation or its internal document retention procedures for legal, regulatory or compliance purposes; provided, however, that all such retained confidential information will continue to be subject to the confidentiality obligations of this agreement.

(b) If any language, provision or clause of this agreement conflicts or is inconsistent with the preceding paragraph (a), the language, provisions, or clause of paragraph (a) shall prevail to the extent of such inconsistency.

(End of Clause)

I.14 RESERVED

I.15 GSAR 552.246-77 Additional Contract Warranty Provisions for Supplies of a Noncomplex Nature (June 2009)

(a) Definitions. Correction, as used in this clause, means the elimination of a defect.

(b) Contractor's obligations. When return, correction, or replacement is required, the contractor shall be responsible for all costs attendant to the return, correction, or replacement of the nonconforming supplies. Any removal in connection with the above shall be done by the contractor at its expense.

(c) Remedies available to the government. When the nature of the defect in the nonconforming item is such that the defect affects an entire batch or lot of material, then the equitable price adjustment shall apply to the entire batch or lot of material from which the nonconforming item was taken.

(End of clause)

I.16 GSAR 552.252-6 Authorized Deviations in Clauses (NOV 2021)(DEVIATION FAR 52.252-6)

(a) *Deviations to FAR clauses*. This solicitation or contract identifies any authorized deviation to a Federal Acquisition Regulation (FAR) (48 CFR Chapter 1) clause by—

(1) The addition of "(DEVIATION)" after the date of the FAR clause when an authorized deviation to a FAR clause is being used, and

(2) The addition of "(DEVIATION (FAR clause no.))" after the date of the GSAR clause when a GSAR clause is being used in lieu of a FAR clause.

(b) *Deviations to GSAR clauses*. This solicitation or contract identifies any authorized deviation to a General Services Administration Acquisition Regulation (GSAR)(48 CFR Chapter 5) clause by the addition of "(DEVIATION)" after the date of the clause.

(c) *"Substantially the same as" clauses*. Changes in wording of clauses prescribed for use on a "substantially the same as" basis are not considered deviations.

(End of clause)

I.17 RESERVED