

(Note: This is an FSS reproduction using word processing software) **STANDARD FORM 1449** (10-95)  
**(BACK)**

**52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO  
IMPLEMENT STATUTES OR EXECUTIVE ORDERS –  
COMMERCIAL ITEMS (JAN 2019) (ALTERNATE II – JAN 2019)**

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(1) [52.203-19](#), Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(2) [52.204-23](#), Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Jul 2018) (Section 1634 of Pub. L. 115-91).

(3) [52.209-10](#), Prohibition on Contracting with Inverted Domestic Corporations (Nov 2015).

(4) [52.233-3](#), Protest After Award (Aug 1996) ([31 U.S.C. 3553](#)).

(5) [52.233-4](#), Applicable Law for Breach of Contract Claim (Oct 2004) (Public Laws 108-77 and 108-78 ([19 U.S.C. 3805 note](#))).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

| Number    | Title                                                                                                                              | Clause/Provision |
|-----------|------------------------------------------------------------------------------------------------------------------------------------|------------------|
| 52.203-13 | CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (OCT 2015)                                                                          | Clause           |
| 52.203-6  | RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006) (ALTERNATE I - OCT 1995)                                          | Clause           |
| 52.204-10 | REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (OCT 2016)                                                      | Clause           |
| 52.204-14 | SERVICE CONTRACT REPORTING REQUIREMENTS (OCT 2016)                                                                                 | Clause           |
| 52.204-15 | SERVICE CONTRACT REPORTING REQUIREMENTS FOR INDEFINITE-DELIVERY CONTRACTS (JAN 2014)                                               | Clause           |
| 52.209-6  | PROTECTING THE GOVERNMENTS INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (OCT 2015) | Clause           |
| 52.219-13 | NOTICE OF SET-ASIDE OF ORDERS (NOV 2011)                                                                                           | Clause           |
| 52.219-14 | LIMITATIONS ON SUBCONTRACTING (JAN 2017)                                                                                           | Clause           |

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| 52.219-16 | LIQUIDATED DAMAGES -<br>SUBCONTRACTING PLAN (JAN 1999)                                                                                                                | Clause |
| 52.219-27 | NOTICE OF SERVICE-DISABLED<br>VETERAN-OWNED SMALL BUSINESS<br>SET-ASIDE (NOV 2011)                                                                                    | Clause |
| 52.219-28 | POST-AWARD SMALL BUSINESS<br>PROGRAM REREPRESENTATION (JUL<br>2013)                                                                                                   | Clause |
| 52.219-29 | NOTICE OF SET-ASIDE FOR, OR<br>SOLE SOURCE AWARD TO,<br>ECONOMICALLY DISADVANTAGED<br>WOMEN-OWNED SMALL BUSINESS<br>CONCERNS (DEC 2015)                               | Clause |
| 52.219-3  | NOTICE OF TOTAL HUBZONE<br>SET-ASIDE OR SOLE SOURCE<br>AWARD (NOV 2011)                                                                                               | Clause |
| 52.219-30 | NOTICE OF SET-ASIDE FOR, OR<br>SOLE SOURCE AWARD TO,<br>WOMEN-OWNED SMALL BUSINESS<br>CONCERNS ELIGIBLE UNDER THE<br>WOMEN-OWNED SMALL BUSINESS<br>PROGRAM (DEC 2015) | Clause |
| 52.219-6  | NOTICE OF TOTAL SMALL BUSINESS<br>SET-ASIDE (NOV 2011)                                                                                                                | Clause |
| 52.219-8  | UTILIZATION OF SMALL BUSINESS<br>CONCERNS (OCT 2018)                                                                                                                  | Clause |
| 52.219-9  | SMALL BUSINESS<br>SUBCONTRACTING PLAN (AUG 2018)<br>(ALTERNATE II - NOV 2016)                                                                                         | Clause |
| 52.222-19 | CHILD LABOR - COOPERATION WITH<br>AUTHORITIES AND REMEDIES (JAN<br>2018)                                                                                              | Clause |
| 52.222-21 | PROHIBITION OF SEGREGATED<br>FACILITIES (APR 2015)                                                                                                                    | Clause |
| 52.222-26 | EQUAL OPPORTUNITY (SEP 2016)                                                                                                                                          | Clause |
| 52.222-3  | CONVICT LABOR (JUN 2003)                                                                                                                                              | Clause |
| 52.222-35 | EQUAL OPPORTUNITY FOR<br>VETERANS (OCT 2015)                                                                                                                          | Clause |
| 52.222-36 | EQUAL OPPORTUNITY FOR<br>WORKERS WITH DISABILITIES (JUL<br>2014)                                                                                                      | Clause |
| 52.222-37 | EMPLOYMENT REPORTS ON<br>VETERANS (FEB 2016)                                                                                                                          | Clause |
| 52.222-40 | NOTIFICATION OF EMPLOYEE<br>RIGHTS UNDER THE NATIONAL<br>LABOR RELATIONS ACT (DEC 2010)                                                                               | Clause |
| 52.222-50 | COMBATING TRAFFICKING IN<br>PERSONS (MAR 2015)                                                                                                                        | Clause |
| 52.222-54 | EMPLOYMENT ELIGIBILITY<br>VERIFICATION (OCT 2015)                                                                                                                     | Clause |
| 52.223-13 | ACQUISITION OF EPEAT -                                                                                                                                                | Clause |

|           |                                                                                      |        |
|-----------|--------------------------------------------------------------------------------------|--------|
|           | REGISTERED IMAGING EQUIPMENT<br>(JUN 2014)                                           |        |
| 52.223-14 | ACQUISITION OF EPEAT® -<br>REGISTERED TELEVISIONS (JUN<br>2014)                      | Clause |
| 52.223-15 | ENERGY EFFICIENCY IN<br>ENERGY-CONSUMING PRODUCTS<br>(DEC 2007)                      | Clause |
| 52.223-16 | ACQUISITION OF EPEAT® -<br>REGISTERED PERSONAL COMPUTER<br>PRODUCTS (OCT 2015)       | Clause |
| 52.223-18 | ENCOURAGING CONTRACTOR<br>POLICIES TO BAN TEXT MESSAGING<br>WHILE DRIVING (AUG 2011) | Clause |
| 52.225-13 | RESTRICTIONS ON CERTAIN<br>FOREIGN PURCHASES (JUN 2008)                              | Clause |
| 52.225-5  | TRADE AGREEMENTS (AUG 2018)                                                          | Clause |
| 52.232-33 | PAYMENT BY ELECTRONIC FUNDS<br>TRANSFER - SYSTEM FOR AWARD<br>MANAGEMENT (OCT 2018)  | Clause |
| 52.239-1  | PRIVACY OR SECURITY<br>SAFEGUARDS (AUG 1996)                                         | Clause |

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

| Number    | Title                                                                                                                                                                                 | Clause/Provision |
|-----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| 52.222-17 | NONDISPLACEMENT OF QUALIFIED<br>WORKERS (MAY 2014)                                                                                                                                    | Clause           |
| 52.222-41 | SERVICE CONTRACT LABOR<br>STANDARDS (AUG 2018)                                                                                                                                        | Clause           |
| 52.222-42 | STATEMENT OF EQUIVALENT RATES<br>FOR FEDERAL HIRES (MAY 2014)                                                                                                                         | Clause           |
| 52.222-43 | FAIR LABOR STANDARDS ACT AND<br>SERVICE CONTRACT LABOR<br>STANDARDSâ??PRICE ADJUSTMENT<br>(MULTIPLE YEAR AND OPTION<br>CONTRACTS) (AUG 2018)                                          | Clause           |
| 52.222-51 | EXEMPTION FROM APPLICATION OF<br>THE SERVICE CONTRACT LABOR<br>STANDARDS TO CONTRACTS FOR<br>MAINTENANCE, CALIBRATION, OR<br>REPAIR OF CERTAIN EQUIPMENT -<br>REQUIREMENTS (MAY 2014) | Clause           |
| 52.222-53 | EXEMPTION FROM APPLICATION OF<br>THE SERVICE CONTRACT LABOR<br>STANDARDS TO CONTRACTS FOR<br>CERTAIN SERVICES -<br>REQUIREMENTS (MAY 2014)                                            | Clause           |

- (d) (1) The Comptroller General of the United States, an appropriate Inspector General appointed under section 3 or 8G of the Inspector General Act of 1978 ([5 U.S.C. App.](#)), or an authorized representative of either of the foregoing officials shall have access to and right to —
- (i) Examine any of the Contractor's or any subcontractors' records that pertain to, and involve transactions relating to, this contract; and
  - (ii) Interview any officer or employee regarding such transactions.
- (e) (1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), and (c), of this clause, the Contractor is not required to flow down any FAR clause in a subcontract for commercial items, other than —
- (i) *Paragraph (d) of this clause.* This paragraph flows down to all subcontracts, except the authority of the Inspector General under paragraph (d)(1)(ii) does not flow down; and
  - (ii) *Those clauses listed in this paragraph (e)(1).* Unless otherwise indicated below, the extent of the flow down shall be as required by the clause —
    - (A) [52.203-13](#), Contractor Code of Business Ethics and Conduct (Oct 2015) ([41 U.S.C. 3509](#)).
    - (B) [52.203-15](#), Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (Section 1553 of Pub. L. 111-5).
    - (C) [52.204-23](#), Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Jul 2018) (Section 1634 of Pub. L. 115-91).
    - (D) [52.219-8](#), Utilization of Small Business Concerns (Oct 2018) ([15 U.S.C. 637\(d\)\(2\) and \(3\)](#)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$700,000 (\$1.5 million for construction of any public facility), the subcontractor must include [52.219-8](#) in lower tier subcontracts that offer subcontracting opportunities.
    - (E) [52.222-21](#), Prohibition of Segregated Facilities (Apr 2015).
    - (F) [52.222-26](#), Equal Opportunity (Sep 2016) (E.O. 11246).
    - (G) [52.222-35](#), Equal Opportunity for Veterans (Oct 2015) ([38 U.S.C. 4212](#)).
    - (H) [52.222-36](#), Equal Opportunity for Workers with Disabilities (Jul 2014) ([29 U.S.C. 793](#)).
    - (I) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause [52.222-40](#).
    - (J) [52.222-41](#), Service Contract Labor Standards (Aug 2018) ([41 U.S.C. chapter 67](#)).
    - (K) required if applicable [52.222-50](#), (1) Combating Trafficking in Persons (Jan 2019) (22 U.S.C. chapter 78 and E.O. 13627).  
required if applicable (2) Alternate I (Mar 2015) of [52.222-50](#) (22 U.S.C. chapter

78 and E.O. 13627).

(L) [52.222-51](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (May 2014) ([41 U.S.C. chapter 67](#)).

(M) [52.222-53](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (May 2014) ([41 U.S.C. chapter 67](#)).

(N) [52.222-54](#), Employment Eligibility Verification (Oct 2015) (E.O. 12989).

(O) [52.222-55](#), Minimum Wages Under Executive Order 13658 (Dec 2015).

(P) [52.222-62](#), Paid Sick Leave Under Executive Order 13706 (Jan 2017) (E.O. 13706).

(Q) required if applicable (1) [52.224-3](#), Privacy Training (Jan 2017) (5 U.S.C. 552a).

required if applicable (2) Alternate I (Jan 2017) of 52.224-3

(R) [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. 2302 Note)

(S) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations. (May 2014) ([42 U.S.C. 1792](#)). Flow down required in accordance with paragraph (e) of FAR clause [52.226-6](#).

(T) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) ([46 U.S.C. Appx. 1241\(b\)](#) and [10 U.S.C. 2631](#)). Flow down required in accordance with paragraph (d) of FAR clause [52.247-64](#).

(2) While not required, the Contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

[Note to Offerors: If choosing not to accept orders funded in whole or in part by the American Recovery and Reinvestment Act (ARRA), this clause will be replaced with the base clause, meaning that Alternate II is not applicable.]