

# Battelle Purchase Order Supplement B712 – Commercial Under Government Contract

## Commercial Items/Services Under U.S. Government Contracts

These FAR Flowdown clauses are applicable to the furnishing of the goods or services identified on the face of (or attached to) the Purchase Order. Except as may be expressly set forth in these Terms and Conditions with the Government Contracting Officer's express consent, the subcontractor shall not acquire any direct claim or direct course of action against the US Government." **Definitions.** As used throughout this supplement, the term "Buyer" shall mean Battelle Memorial Institute and "Seller" shall mean the supplier whose name appears on the attached Purchase Order. The term "Purchase Order" shall mean the attached Purchase Order as well as this Supplement.

1. **Independent Contractor.** It is agreed that in the conduct of the work under this Purchase Order, the Seller is acting in the capacity of an independent contractor and not as an agent or employee of the Buyer.
2. **Private Use of Contract Information and Data.** Except as specifically authorized, information and data developed or acquired by, or furnished to, Seller in the performance of this Purchase Order shall be used only in connection with work under this Purchase Order.
3. **Conflict of Interest.** In addition to any specific Conflict of Interest obligation made part of this Purchase Order and/or may be pursuant to the provisions of FAR 9.5, Seller warrants it is, and shall remain free of any obligation or restriction which would interfere or be inconsistent with or present a conflict of interest concerning the work to be furnished by Seller under this Purchase Order.
4. **Patent Indemnity.** Seller warrants the work performed or delivered under this Purchase Order will not infringe or otherwise violate the intellectual property rights of any third party in the United States or any foreign country. Seller agrees to defend, indemnify, and hold harmless Battelle and Battelle's Client from and against any such claims. Nothing in these Terms and Conditions shall be construed or interpreted to limit or in any way restrict the rights of the Government in regard to data, tooling and other information it owns or has a right to use, including the right to authorize the supplier's use of such data, tooling or other information in direct contracts between the supplier and the Government.

**Federal Acquisition Regulation (FAR)/Defense Federal Acquisition Regulation Supplement (DFARS).** As required per Federal Acquisition Regulations (FAR) clauses 52.244-6, Subcontracts for Commercial Items (Jan 2017) and 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items (Jan 2017), and Defense Federal Acquisition Regulations Supplement (DFARS) Part 212.3 and supplemental clause 252.244-7000, Subcontracts for Commercial Items and Commercial Components (DoD Contracts) (Jun 2013), the following clauses are hereby incorporated by reference and apply to the Seller and any lower-tiered supplier to the extent as indicated and the revision date effective at time of Prime contract or Subcontract award to Battelle. In addition, all clauses required by the US Government by statute, regulation or otherwise to be flowed down are hereby incorporated into this Purchase Order by this reference, whether or not they are explicitly referenced in this Article. Seller shall include in each lower tier subcontract the appropriate flow down clauses as required by FAR and DFARS. Subcontractor shall comply with DFARS 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting, DFARS provision 252.204-7019, Notice of NIST SP 800-171 DoD Assessment Requirements, DFARS clause 252.204-7020, NIST SP 800-171 DoD Assessment Requirements, 252.204-7021 Contractor Compliance with the Cybersecurity Maturity Model Certification Level Requirement, and any other cybersecurity requirements applicable to this Subcontract. Battelle reserves the right to audit and assess

Subcontractor's compliance with DFARS 252.204-7012, NIST SP 800-171 requirements, and any other cybersecurity requirements applicable to this Subcontract. Failures by Subcontractor to comply with these requirements shall constitute a breach of Subcontract.

1. **Assignment.** This Purchase Order may not be assigned, in whole or in part, nor may any assignment of any money, due or to become due, be made by Seller, without, in each case, the prior written consent of Buyer.
2. **Disputes.** All disputes under this Purchase Order which are not resolved by mutual agreement may be decided by recourse to an action at law or in equity. Until final resolution of any dispute hereunder, Seller shall diligently proceed with the performance of this Purchase Order as directed by Buyer. Any such dispute must be raised within one (1) year of its accrual.

### Clauses that Apply to All Orders Over \$3,500

52.203-15	Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Section 1553 of Pub. L 111-5), if the subcontract is funded under Recovery Act
52.203-19	Prohibition on Requiring Certain Internal Confidentiality Agreements of Statements
52.204-9	Personal Identity Verification of Contractor Personnel
52.204-21	Basic Safeguarding of Covered Contractor Information Systems, other than subcontracts for
52.204-23	Prohibition on Contracting for Hardware, Software and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Section 1634 of Pub. L. 115-91)
52.204-25	Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.
52.222-21	Prohibition of Segregated Facilities
52.222-26	Equal Opportunity
52.222-41	Service Contract Labor Standards (Will only apply to purchase orders subject to the Service Contract Labor Standards statute. Seller shall include the requirements above in any lower-tier purchase order issued by the Seller)
52.222-50	Combating Trafficking in Persons (22 U.S.C. Chapter 78 and E.O. 13627), Alternate I of 52.222-50 (22 U.S.C. Chapter 78 and E.O. 13627)
52.222-51	Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment – Requirements.
52.222-53	Exemption from Application of the Service Contract Labor Standards to Contracts for Services – Requirements.
52.222-55	Minimum Wages Under Executive Order 13658
52.222-62	Paid Sick Leave Under Executive Order 13706
52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving
52.224-3	Privacy Training
52.225-1	Buy American – Supplies
52.225-13	Restriction on Certain Foreign Purchases
52.225-26	Contractors Performing Private Security Functions Outside the United States
52.232-40	Providing Accelerated Payments to Small Business Subcontractors
52.245-1	Government Property
52.245-9	Use and Charges
52.247-64	Preference for Privately Owned U.S.-Flagged Commercial Vessels

### Additional Clauses to All Orders Over \$3,500

52.222-54	Employment Eligibility Verification
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### **Additional Clauses to All Orders Over \$10,000**

52.222-40 Notification of Employee Rights Under the National Labor Relations Act

### **Additional Clauses to All Orders Over \$15,000**

52.222-36 Equal Opportunity for Workers with Disabilities

### **Additional Clauses to All Orders Over \$25,000**

52.225-3 Buy American – Free Trade Agreements – Israeli Trade Act

52.226-6 Promoting Excess Food Donation to Nonprofit Organizations

### **Additional Clauses to All Orders Over \$30,000**

52.204-10 Reporting Executive Compensation and First Tier Subcontract Awards

### **Additional Clauses to All Orders Over \$35,000**

52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended or Proposed for Debarment

### **Additional Clauses to All Orders Over \$150,000**

52.203-6 Restrictions on Subcontractor Sales to the Government

52.203-12 Limitation on Payments to Influence Certain Federal Transactions

52.203-17 Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights

52.219-8 Utilization of Small Business Concerns

52.222-17 Non-displacement of Qualified Workers

52.222-35 Equal Opportunity for Veterans

52.222-37 Employment Reports on Veterans

### **Additional Clauses to All Orders Over \$700,000**

52.219-9 Small Business Subcontracting Plan

### **Additional Clauses to All Orders Over \$5,500,000**

52.203-13 Contractor Code of Business Ethics and Conduct

### **Department of Defense FAR Supplement Flowdowns (DFARS)**

252.203-7002 Requirement to Inform Employees of Whistleblower Rights

252.204-7000 Disclosure of Information

252.204-7009 Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information.

252.204-7012 Safeguarding Covered Defense Information and Cyber Incident Reporting

252.204-7014 Limitations on the Use or Disclosure of Information by Litigation Support Solicitation Offerors

252.204-7015 Notice of Authorized Disclosure of Information for Litigation Support

252.204-7019 Notice of NIST SP 800-171 DoD Assessment Requirements (Nov. 2020)

252.204-7020	NIST SP 800-171 DoD Assessment Requirements
252.204-7021	Contractor Compliance with the Cybersecurity Maturity Model Certification Level Requirement (Nov. 2020)
252.211-7003	Item Unique Identification and Valuation
252.223-7006	Prohibition on Storage, Treatment, and Disposal of Toxic Hazardous Materials
252.223-7008	Prohibition of Hexavalent Chromium
252.225-7001	Buy American and Balance of Payments Program
252.225-7007	Prohibition on Acquisition of Certain Items from Communist Chinese Military Companies
252.225-7008	Restriction on Acquisition of Specialty Metals
252.225-7009	Restriction on Acquisition of Certain Articles Containing Specialty Metals
252.225-7013	Duty-Free Entry
252.225-7021	Trade Agreements
252.225-7025	Restriction on Acquisition of Forgings
252.225-7028	Exclusionary Policies and Practices of Foreign Governments
252.225-7040	Contractor Personnel Authorized to Accompany U.S. Armed Forces Deployed Outside the United States
252.225-7047	Exports by Approved Community Members in Performance of the Contract
252.225-7048	Export Controlled Items
252.227-7013	Rights in Technical Data – Noncommercial Items
252.227-7015	Technical Data - Commercial Items
252.227-7037	Validation of Restrictive Markings on Technical Data
252.239-7010	Cloud Computing Services
252.239-7018	Supply Chain Risk
252.244-7000	Subcontracts for Commercial Items
252.246-7003	Notification of Potential Safety Issues
252.246-7007	Contractor Counterfeit Electronic Part Detection and Avoidance System
252.246-7008	Sources of Electronic Parts

### **Additional Clauses to All Orders Over \$150,000**

252.247-7023	Transportation of Supplies by Sea (Substance of this clause, including paragraph (h))
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### **Additional Clauses to All Orders Over \$500,000**

252.226-7001	Utilization of Indian Organizations, Indian-Owned Economic Enterprises and Native Hawaiian Small Business Concerns
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