

**Federal Acquisition Regulation (FAR)
And
Department of Defense (DoD) FAR Supplement Clauses
For
Commercial Items**

FAR and DFAR Supplement Clauses Applicable to this DERCO Order as indicated (full text of clauses available upon request or at <http://farsite.hill.af.mil/>.)

If the part or parts you are providing to DERCO meet the definition of a commercial item at FAR 2.101, these clauses, and any others identified on the DERCO Sales Quotation or Purchase Order, apply to your ORDER at the dollar thresholds indicated with the same force and effect as if they were given in full text.

In all clauses, unless the context of a clause requires otherwise, the term “Contractor” shall mean Seller, the term “Contract” shall mean this Order and the terms “Government,” Contracting Officer” and equivalent phrases shall mean DERCO or Buyer, or Customer Support Specialist, respectively. It is intended that the referenced clauses shall apply to Seller in such manner as is necessary to reflect the position of Seller as a subcontractor to DERCO, to insure Seller’s obligations to DERCO and to the United States Government, and to enable DERCO to meet its obligations under its Prime Contract or Subcontract.

DEFINITIONS

“ORDER” means the instrument of contracting, such a Purchase Order (“PO”), Subcontract or other such type designation, including all referenced documents, exhibits and attachments.

“DERCO” mean Derco Aerospace, Inc., or Derco Repair Services, Inc. or Derco Logistics, Inc., as identified on the face of the ORDER.

“Prime Contract” means the Contract between DERCO and the U.S. Government or between DERCO and its higher-tier contractor who has a contract with the U.S. Government.

“SELLER” means the party identified on the face of this ORDER with whom DERCO is contracting.

“Work,” mean all required parts, items, labor, articles, materials, supplies, good, or services constituting the subject matter of the ORDER.

APPLICABLE TO ALL ORDERS

<u>Clause Title</u>	<u>FAR Reference</u>	<u>DFARS Reference</u>
New Material	52.211-5	
Defense Priority and Allocation Requirements	52.211-15	
Variation in Quantity	52.211-16	
Notice to the Government of Labor Disputes	52.222-1	
Walsh-Healy Public Contracts Act	52.222-20	
Restrictions on Certain Foreign Purchases	52.225-13	
Royalty Information	52.227-6	
Workers Compensation Insurance (Defense Base Act)	52.228-3	
Federal, State & Local Taxes	52.229-3	
Notice of Progress Payments	52.232-13	
Disputes	52.233-1	
Industrial Resources Developed Under Defense Production Act title III	52.234-1	
Subcontracts for Commercial Items	52.244-6	
Government Property (Cost-Reimbursement, Time-and-Material or Labor-Hour Contracts	52.245-5	
Inspection of Supplies-Fixed Price	52.246-2	
Responsibility for Supplies	52.246-16	

APPLICABLE TO ALL ORDERS (continued)

<u>Clause Title</u>	<u>FAR Reference</u>	<u>DFARS Reference</u>
Limitation of Liability	52.246-23	
Preference for Privately Owned U.S-Flag Commercial Vessels	52.247-64	
Termination for Convenience of the Government (Fixed Price) (Short Form)	52.249-1	
Default (Fixed Price Supply & Service)	52.249-8	
Excusable Delays	52.249-14	
Requirements for Contracts Involving Export-Controlled Items		252.204-7008
Prohibition on Acquisition of United States Munitions List Items From Communist Chinese Military Companies (applicable to all items covered by the United States Munitions List)		252.225-7007
Contract Terms and Conditions required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items		252.212-7001
Restriction on Acquisition of Ball and roller Bearings		252.225-7016
Rights in Technical Data & Computer Software		252.227-7013
Restrictive Markings on Technical Data		252.227-7018
Identification of Restricted Rights Computer Software		252.227-7019
Engineering Change Proposals		252.243-7000
Pricing of Contract Modifications		252.243-7001
Warranty of Data		252.246-7001

APPLICABLE WHEN ORDER EXCEEDS \$2,500.00

Child Labor – Cooperation with Authorities and Remedies	52.222-19	
Affirmative Action for Workers with Disabilities	52.222-36	
Supplies to be Accorded Duty-Free Entry		252.225-7008
Service Contract Act	52.222-41	
Bankruptcy	52.242-13	

APPLICABLE WHEN ORDER EXCEEDS \$10,000.00

Prohibition of Segregated Facilities	52.222-21	
Equal Opportunity	52.222-26	
Affirmative Action for Workers with Disabilities	52.222-36	

APPLICABLE WHEN ORDER EXCEEDS \$25,000.00

Protecting the government’s Interest When Subcontracting With Contractor’s Debarred, suspended, or Proposed for Debarment (Applicable if SELLER’s subcontract with any lower-tier supplier exceeds \$25,000.)	52.209-6	
Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era	52.222-35	
Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans	52.222-37	
Authorization and Consent	52.227-1	
Patent Indemnity	52.227-3	
Competition in Subcontracting	52.244-5	

APPLICABLE WHEN ORDER EXCEEDS \$100,000

Restrictions on Subcontractor Sales to the Government	52.203-6	
Prohibition on Persons Convicted of Fraud or Other Defense Contract Related Felonies (In this clause, the terms “contract,” “Contractor,” and “subcontract” shall not change in meaning in paragraphs (a) thru (d). Delete paragraph (g).)		252.203-7001
Limitation on Payments to Influence Certain Federal Transactions	52.203-12	
Utilization of Small Business Concerns and Small Disadvantaged	52.219-8	

Business Concerns
Contract Work Hours and Safety Standards Act Overtime Compensation 52.222-4

APPLICABLE WHEN ORDER EXCEEDS \$100,000 (continued)

<u>Clause Title</u>	<u>FAR Reference</u>	<u>DFARS Reference</u>
Toxic Chemical Release Reporting	52.223-14	
Notice and Assistance Regarding Patent and Copyright Infringement	52.227-2	
Employee Rights on Payment of Union Dues or Fees	52.222-39	
Termination for the Convenience of the Government (Fixed Price)	52.249-2	

APPLICABLE WHEN ORDER EXCEEDS \$550,000.00

Small Business Subcontracting Plan (Applicable if the SELLER is not a small business)	52.219-9	
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APPLICABLE WHEN ORDER EXCEEDS \$650,000.00

Requirements for cost or Pricing Data or Information Other Than Cost or Pricing Data	52.215-20	
Requirements for cost or Pricing Data or Information Other Than Cost or Pricing Data - Modifications	52.215-21	

APPLICABLE TO ORDER AS INDICATED IN NOTES

Security Requirements (Applicable if the Work requires access to classified information)	52.204-2	
Item Identification and Valuation (Applicable to ORDERS (1) for which the Government's unit acquisition cost is \$5,000 or greater or (2) items for which the Government's unit acquisition cost is less than \$5,000, but the requiring activity determines that permanent identification is required, or (3) items for which the Government's unit acquisition cost is less than \$5,000 but the items have been identified by the requiring activity as serially managed, mission essential, or controlled inventory. In all cases, (1) through (3) above, DERCO shall notify the SELLER if unique item identification is required.		252.211-7003
Radio Frequency Identification (Applicable to Class IX repair parts and components as defined in DoD4140.1-R, DoD Supply Chain Materiel Management Regulation, API.1.11:)		252.211-7006
Small, Small disadvantaged and Women-Owned Small Business Subcontracting Plan (DoD Contracts) (Applicable if FAR 52.219-9 applies to this ORDER. Delete paragraph (g).)		252.219-7003
Employment Eligibility Verification (Applicable in subcontract that is for commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); or construction that has a value of more than \$3,000; and includes work performed in the United States.	52.222-54	
Hazardous Material Identification and Material Safety Data (Applicable if this ORDER involves hazardous material)	52.223-3	
Notice of Radioactive Materials (Applicable to Work containing covered radioactive material. In the blank, insert "30".)	52.223-7	
Hazard Warning Labels (Applicable if this ORDER requires the delivery of hazardous materials)		252.223-7001
Prohibition on Storage and disposal of Toxic and Hazardous Materials (Applicable if the Work was manufactured with or contains ozone-depleting substances)		252.223-7006
Ozone-Depleting Substances (Applicable if ORDER requires performance on a DoD installation.)	52.223-11	

Buy American Act – Supplies (Applicable if the Work contains other than domestic components)	52.225-1
Trade Agreements (Applicable if the Work contains other than U.S. Made, designated country, Caribbean or NAFTA country end products)	52.225-5
Duty Free Entry (Applicable if supplies will be imported into Customs Territory of the United States)	52.225-8

APPLICABLE TO ORDER AS INDICATED IN NOTES (continued)

<u>Clause Title</u>	<u>FAR Reference</u>	<u>DFARS Reference</u>
Buy American Act and Balance of Payments Program (Applicable if the Work contains other than domestic components. Applicable in lieu of FAR 52.225-1 and FAR 52.225-5.)		252.225-7001
Duty Free Entry (Applicable to qualifying country components and to non-qualifying country components where duty is expected to exceed \$200 per unit.)		252.225-7013
Preference for Domestic Specialty Metals (Alternate 1) (Applicable if the Work to be furnished contains Specialty Metals.)		252.225-7014
Trade Agreements (Applicable if the Work contains other than domestic components. Applicable in lieu of FAR 52.225-1 and FAR 52.225-5.)		252.225-7021
Authorization and Consent (Applicable only if the Prime Contract contains this clause)	52.227-1	
Refund of Royalties (Applicable when reported royalty exceeds \$250.00)	52.227-9	
Patent Rights-Retention by the Contractor (Short Form) (Applicable if this ORDER includes, at any tier, experimental, developmental, or research Work and SELLER is a small business concern or domestic nonprofit organization. Reports required by this clause shall be filed with the Government agency identified in the ORDER.)	52.227-11	
Patent Rights-Retention by the Contractor (Long Form) (Applicable if this ORDER includes, at any tier, experimental, developmental, or research Work and SELLER is a large business concern. Reports required by this clause shall be filed with the Government agency identified in this ORDER. If no Government agency is identified, contact the DERCO Buyer identified on the face of this ORDER)	52.227-12	
Commercial Computer Software-Restricted Rights (Applicable only if existing computer software is to be delivered under this ORDER.)	52.227-19	
Subcontracts for Commercial Items and Commercial Components (Applicable in SELLER's subcontract at any tier that contain the clauses 252.225-7014, Preference for Domestic Specialty Metals, Alternate 1; 252.247-7023, Transportation of Supplies by Sea; or, 252.247-7024, Notification of Transportation of Supplies by Sea.)		252.244-7000
Government Property (Fixed-Price Contracts) (Applicable if Government property is furnished in the performance of this ORDER. Except for paragraphs (i) and (j) DERCO applies except in the phrases "Government property," "Government-furnished property," and in references to title to property. The following is added as paragraph (m). "SELLER shall provide to DERCO immediate notice of any disapproval, withdrawal of approval, or nonacceptance by the Government of property control system." Disposition of property under paragraphs (i) and (j) shall be coordinated with DERCO.)	52.245-2	
Special Tooling (Applicable if this ORDER involves the use of Special Tooling)	52.245-17	
Special Test Equipment (Applicable if this ORDER involves the acquisition of fabrication of	52.245-18	

Special Test Equipment		
Preference for U.S.-Flag Air Carriers	52.247-63	
(Applicable if this ORDER involves international air transportation.)		
Transportation of Supplies by Sea		252.247-7023
(Applicable in lieu of FAR 52.247-64 in all ORDERS for ocean transportation of supplies. In the first sentence of paragraph (g), insert a period after "Contractor" and delete the balance of the sentence. Paragraph (f) and (g) shall not apply if this ORDER is at or below \$100,000.00.)		

APPLICABLE TO ORDER AS INDICATED IN NOTES (continued)

<u>Clause Title</u>	<u>FAR Reference</u>	<u>DFARS Reference</u>
Notification of Transportation of Supplies by Sea		252.247-7024
(Applicable if this ORDER meets the criteria set forth in paragraph (b) (2) (ii) of the clause.)		

CERTIFICATIONS AND REPRESENTATIONS

The following certifications and representations are material representations of fact that DERCO will rely on in making awards to the SELLER. By submitting its written offer, or providing oral offers/quotations at the request of DERCO, or accepting any ORDER, SELLER certifies to the representations and certifications as set forth below. These certifications shall apply whenever these terms and conditions are incorporated by reference in any ORDER, Agreement, other contractual document, or any quotation, request for quotation (oral or written), request for proposal or solicitation (oral or written), issued by DERCO. SELLER shall immediately notify DERCO of any change of status regarding these certifications and representations.

Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions 52.203-11
(Applicable to solicitations and ORDERS exceeding \$100,000.00.)

- (1) The definitions and prohibitions contained in the clause at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions are hereby incorporated by reference in paragraph (B) of this certification.
- (2) SELLER certifies that to the best of its knowledge and belief that on and after December 23, 1989—
 - a. 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, Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;
 - b. If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) 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 his or her behalf in connection with a solicitation or order, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, in accordance with its instructions, and
 - c. SELLER will include the language of this certification in all subcontracts at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.
- (3) Submission of this certification and disclosure is a prerequisite for making or entering into an ORDER as imposed by section 1352, title 31, United States Code. Any person who makes expenditure prohibited under this provision or who fails to file or amend the disclosure form 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.

Certification Regarding Debarment, suspension, Proposed Debarment And Other Responsibility Matters 52.209-5

- (1) SELLER certifies that, to the best of its knowledge and belief, that SELLER and/or any of its Principals, (as defined in FAR 52.209-5) are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by an Federal agency.
- (2) SELLER shall provide immediate written notice to DERCO if, any time prior to award of an ORDER, it learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

CERTIFICATIONS AND REPRESENTATIONS (continued)

Previous Contracts and Compliance Reports

52.222-22

Seller represents that if SELLER has participated in a previous contract or subcontract subject to the Equal Opportunity clause (FAR 52.222-26) (i) SELLER has filed all required compliance reports and (ii) that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

Affirmative Action Compliance

52.222-25

SELLER represents (1) that SELLER has developed and has on file at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or (2) that in the event such a program does not presently exist, SELLER will develop and place in operation such a written Affirmative Action Compliance Program within 120 days from the Award of this ORDER.

Certification of Toxic Chemical Release Reporting

52.223-13

(Applicable to competitive solicitations/contracts with exceed \$100,000)

- (1) Submission of this certification is a prerequisite for making or entering into this ORDER imposed by Executive Order 12969, August 8, 1995.
- (2) SELLER certifies that –
 - a. As the owner or operator of facilities that will be used in the performance of this ORDER that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), SELLER will file and continue to file for such facilities for the life of the ORDER the Toxic Chemical Release Inventory Form (Form R) as described in sections 313 (a) and (g) of EPCRA and section 6607 of PPA; or
 - b. None of its owned or operated facilities to be used in the performance of this ORDER is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons:
 - i. The facility does not manufacture, process or otherwise use any toxic chemicals listed in 40 CFR 372.65.
 - ii. The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023 (b) (1) (A);
 - iii. The facility does not meet the reporting thresholds of toxic chemicals established under section 313 (f) of EPCRA, 42 U.S.C. 11023 (f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);
 - iv. The facility does not fall within Standard Industrial Classification Code (SIC) codes or their corresponding North American Industry Classification system (NAICS):
 - (A) Major group code 10 (except 1011, 1081, and 1094).
 - (B) Major group code 12 (except 1241).
 - (C) Major group codes 20 through 39
 - (D) Industry code 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce).
 - (E) Industry code 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C (42 U.S.C. 6921, et seq.), 5169, 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis; or
 - v. The facility is not located in the United States or its outlying areas.