

# 52.227-3 Patent Indemnity.

As prescribed in 27.201-2(c)(1), insert the following clause:

Patent Indemnity (Apr 1984)

(a) The Contractor shall indemnify the Government and its officers, agents, and employees against liability, including costs, for infringement of any United States patent (except a patent issued upon an application that is now or may hereafter be withheld from issue pursuant to a Secrecy Order under 35 U.S.C. 181) arising out of the manufacture or delivery of supplies, the performance of services, or the construction, alteration, modification, or repair of real property (hereinafter referred to as "construction work") under this contract, or out of the use or disposal by or for the account of the Government of such supplies or construction work.

(b) This indemnity shall not apply unless the Contractor shall have been informed as soon as practicable by the Government of the suit or action alleging such infringement and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in its defense. Further, this indemnity shall not apply to—

(1) An infringement resulting from compliance with specific written instructions of the Contracting Officer directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the contract not normally used by the Contractor;

(2) An infringement resulting from addition to or change in supplies or components furnished or construction work performed that was made subsequent to delivery or performance; or

(3) A claimed infringement that is unreasonably settled without the consent of the Contractor, unless required by final decree of a court of competent jurisdiction.

(End of clause)

*Alternate I* (Apr 1984). As prescribed in 27.201-2 (c)(2), add the following paragraph (c) to the basic clause:

(c) This patent indemnification shall not apply to the following items:

\_\_\_\_\_ *[Contracting Officer list and/or identify the items to be excluded from this indemnity.]*

*Alternate II* (Apr 1984). As prescribed in 27.201-2 (c)(2), add the following paragraph (c) to the basic clause:

(c) This patent indemnification shall cover the following items:

\_\_\_\_\_ *[List and/or identify the items to be included under this indemnity.]*

*Alternate III* (Jun 2020). As prescribed in 27.201-2 (c)(3), add the following paragraph (c) to the basic clause:

( ) As to subcontracts at any tier for communication service, this clause shall apply only to individual

communication service authorizations over the simplified acquisition threshold, as defined in Federal Acquisition Regulation [2.101](#) on the date of subcontract award, issued under this contract and covering those communications services and facilities-

- (1) That are or have been sold or offered for sale by the Contractor to the public,
- (2) That can be provided over commercially available equipment, or
- (3) That involve relatively minor modifications.

**Parent topic:** [52.227 \[Reserved\]](#)