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]