



**ADDITIONAL AND SUPPLEMENTAL TERMS AND CONDITIONS APPLICABLE TO  
FIXED-PRICE PURCHASE ORDERS FOR COMMERCIAL ITEMS  
UNDER A UNITED STATES GOVERNMENT CONTRACT**

This PO (“PO”) is placed by Buyer under a prime contract between the United States of America (the “Government”) and Buyer or under a subcontract between Buyer and the holder of a prime contract or a higher-tier subcontract under a prime contract, with the Government. The terms and conditions set forth in this Addendum apply in addition to Buyer’s Standard Purchase Order Terms and Conditions. If there is any conflict between the terms and conditions in this Addendum and those in Buyer’s Standard Purchase Order Terms and Conditions, the terms and conditions of this Addendum shall govern.

**1. Responsibility for Property**

- a. All property furnished to Seller by Buyer for performance of this PO or for which Buyer has agreed to pay Seller shall be and remain the property of Buyer or the Government, as applicable. Title to such property shall not be affected by incorporation or attachment to any other property.
- b. All property manufactured or acquired by Seller under this PO, the title to which is in Buyer or the Government, and all property furnished or consigned to Seller by Buyer under this Order, including Government property, shall be maintained in accordance with Federal Acquisition Regulation Subpart 45.5. Such property shall remain the property of Buyer or the Government unless abandoned in place, in which case neither Buyer nor the Government shall have any further obligation concerning same, including, but not limited to, any obligation to restore or rehabilitate Seller’s premises under any circumstances.
- c. When instructed by Buyer, Seller shall deliver the property covered by this clause to Buyer or the Government, as appropriate, F.O.B. carrier, Seller’s plant. Seller shall bear the risk of loss, destruction or damage until such property is received by Buyer or the Government.
- d. Seller shall deliver or return Buyer property and Government property in the same condition as when manufactured, acquired, or received, except for reasonable wear and tear or for utilization in accordance with the requirements of this PO.
- e. With respect to Government property, this clause applies only to Government property coming into Seller’s possession and control solely under this PO. It does not apply to Government property held by Seller under any other contract or other agreement that governs Seller’s responsibility for that property.

**2. Assignment**

Buyer may assign this PO, with prior written notice but without any requirement to obtain Seller’s consent, to the Government or to the prime contractor with the Government where Buyer is a subcontractor under a prime contract with the Government. If this PO is so assigned, Buyer’s liability hereunder shall cease and Seller shall look solely to the assignee for payment. The work under this PO may not be assigned by Seller without Buyer’s prior written consent.

**3. Buy American Act**

- a. Seller shall deliver under this PO only domestic end products, unless Seller has specifically notified Buyer’s Purchasing Agent in writing, prior to the execution of this PO, that domestic end products will not be delivered. For other than commercially available off-the-shelf (“COTS”) items, as defined in FAR 2.101, Seller shall consider components of unknown origin to have been mined, produced, or manufactured outside the U.S.
- b. “Domestic end product,” as used in this clause, is defined at FAR 52.225-(1)(a).

**4. Taxes**

- a. Seller agrees that, unless otherwise indicated in this PO: (i) the prices stated herein do not include any state or local sales, use or other tax or duty from which an exemption is available for purposes of this PO and (ii) the prices stated herein include all other applicable Federal, state and local taxes and duties in effect at the date of this PO.



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- b. Seller agrees to accept and use tax exemption certificates, when supplied by Buyer, if acceptable to the taxing authorities.
- c. In case it shall ever be determined that any tax or duty included in the prices stated herein was not required to be paid by Seller, Seller agrees to notify Buyer and reimburse Buyer for such tax or duty.

**5. Defense Priorities and Allocation System**

If so identified, this PO is a “rated order” certified for national defense use, and Seller shall comply with the requirements of the Defense Priorities and Allocation System Regulation (15 C.F.R. Part 700).

**6. Additional Warranty and Indemnity**

- a. Seller warrants that it is in full compliance with all applicable Federal Acquisition Regulation (“FAR”) and Defense Federal Acquisition Regulation Supplement (“DFARS”) provisions and clauses applicable to this PO, including, without limitation, those incorporated by reference into this PO. Seller agrees to indemnify and hold harmless Buyer from and against any and all claims, actions, demands, losses, damages, injuries, penalties, withholdings, forfeitures, suits, and the costs and expenses incident thereto (including cost of defense, settlement and reasonable attorney, consultant or other professional fees) that Buyer may incur as a result of Seller’s failure to comply with such provisions or clauses.
- b. In addition to any other remedies that Buyer may have hereunder, if Buyer’s contract price or a cost allowance is reduced by its customer by reason of (i) Seller’s failure to comply with an applicable Cost Accounting Standard (“CAS”) or to follow any practice disclosed in its (CAS) disclosure statement; (ii) Seller’s failure to furnish complete, accurate and current cost and pricing data; or (iii) Seller’s submission of unallowable cost in any proposal or request for equitable adjustment, Buyer shall be entitled to:
  - (1) Reduce the price of this PO by an amount commensurate with the reduction in Buyer’s contract price or cost allowance, and any penalties assessed thereon; or
  - (2) In the event Seller shall already have been paid the full PO price, Seller shall reimburse and indemnify Buyer in an amount commensurate with the reduction in Buyer’s contract price or cost allowance, plus any applicable penalties assessed against Buyer.

**7. Information and Ownership of Deliverables**

- a. This clause applies only if this PO is for supplies or services to be used exclusively in the performance of a prime contract, or a subcontract under a prime contract, with the Government. This clause does not apply if this PO is for supplies or services to be used, in whole or in part, for any purpose other than the performance of such a prime contract or subcontract.
- b. In lieu of the rights in Section 21.N.iii of Buyer’s Standard Purchase Order Terms and conditions, Seller grants to Buyer, solely in connection with Buyer’s performance of any prime contract, or any subcontract under any prime contract, with the Government, a paid-up, royalty-free license to make, have made, sell, offer for sale, use, execute, reproduce, display, perform, distribute (internally or externally) copies of and prepare derivatives, and to authorize others to do any and all of the foregoing, any Work Product first conceived, reduced to practice, authored, developed, or created by Buyer in performance of the PO or delivered by Buyer under the PO.
- c. The term “Work Product,” as used in this clause, shall mean all materials and other output (including all associated intellectual property which shall include without limitation all inventions (whether or not such may be patented), discoveries, developments, improvements, and know-how), including, without limitation, work papers, sketches, drawings, designs, samples, models, algorithms, software, code, architecture, materials, reports, programs, specifications, requirements, plans, documentation, information, data, processes and all other deliverables.

**8. Disputes**

- a. The last two sentences of Section 21.D of Buyer’s Standard Purchase Order Terms and Conditions shall govern all claims, controversies, or disputes arising out of or relating to this PO or its breach (“Disputes”)



that are not directly or indirectly subject to resolution under the Disputes Clause of a prime contract with the Government.

- b. This Section 8(b) shall apply, in lieu of the last two sentences of Section 21.D of Buyer's Standard Purchase Order Terms and Conditions, to all disputes that are directly or indirectly subject to resolution under the Disputes Clause of a prime contract between Buyer and the Government.
  - (1) Seller shall prepare the Dispute for submission to the CO under the prime contract, with all required supporting documentation and certifications and in the appropriate form. Buyer shall submit any such Dispute to the CO under the prime contract and shall notify Seller of any final decision of the CO that relates to this PO or to Seller's performance under it, within ten (10) days after Buyer receives the decision. In the event the CO does not issue a final decision within the statutory period and the claim is thereby deemed to be denied, Buyer shall notify Seller thereof within ten (10) days of the deemed denial. Any final decision shall be conclusive and binding upon Seller unless it is appealed under this Section 8(b) and the Disputes Clause of the prime contract.
  - (2) If Buyer elects to appeal the decision, Seller shall provide Buyer reasonable assistance in prosecuting such an appeal, including, without limitation, giving Buyer reasonable access to Seller's personnel and relevant non-privileged documents.
  - (3) If Buyer elects not to appeal any final decision of the CO or deemed denial under the Disputes Clause of the prime contract, Buyer shall so notify Seller in writing within twenty (20) days after Buyer receives the final decision of the CO or the claim is deemed denied. If within thirty (30) days after Seller receives Buyer's notice of its decision not to appeal the final decision of the CO or the deemed denial, Seller notifies Buyer that Seller wishes to appeal that final decision or deemed denial, Buyer shall grant Seller an indirect right to appeal that final decision or deemed denial in Buyer's name under the Disputes Clause of the prime contract. In such event:
    - i. Seller shall pay all costs and expenses of any such appeal reasonably incurred by Buyer;
    - ii. Seller shall be responsible for prosecuting the appeal and preparing and presenting all pleadings, evidence, and argument; and
    - iii. Seller shall provide monthly written reports to Buyer of the progress of the appeal and shall furnish Buyer copies of all pleadings and non-privileged correspondence filed or received by Seller concerning the appeal.
  - (4) If Buyer is required to submit a certification to its customer or to any other Government entity or agency regarding a claim submitted pursuant to the Contract Disputes Act, Seller shall make available to Buyer all non-privileged information that is necessary or appropriate to support or confirm the certification and shall, at a minimum, provide a backup certification to Buyer.
  - (5) Pending the final resolution of any Dispute, Seller shall proceed diligently to perform this PO in accordance with the directions of Buyer's Purchasing Agent.

## **9. Amendments**

Seller agrees that, upon the request of Buyer, it will negotiate in good faith with Buyer to amend this PO to incorporate additional provisions herein or to change the provisions hereof in order to comply with the provisions of the prime contract, Buyer's higher-tier subcontract, or provisions of amendments to either of the foregoing.

## **10. Inspection**

The Government shall have the right to inspect any supplies or services that have been tendered for acceptance. Buyer may require repair or replacement of nonconforming supplies or re-performance of nonconforming services at no increase in contract price. If repair/replacement or re-performance will not correct the defects or is not possible, Buyer may reject the nonconforming supplies or services or seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services.



**11. Termination**

Buyer reserves the right to terminate the PO, in whole in part, without or without cause, in accordance with Section 15 of Buyer’s Standard Purchase Order Terms and Conditions.

**12. Definitions for Clauses Incorporated by Reference**

The FAR and DFARS clauses identified in this Addendum shall be interpreted to apply to Seller as necessary to reflect the position of Seller as a subcontractor to Buyer, to ensure Seller’s obligations to Buyer, and to enable Buyer to meet Buyer’s obligations to its customer. Without limiting the foregoing: (a) unless the context of the clause or applicable law requires otherwise, the term “Contract” shall mean this PO, the term “Contractor” shall mean Seller, the term “Subcontractor” shall mean Seller’s subcontractor, and the terms “Government,” “Contracting Officer,” and equivalent phrases shall mean Buyer and Buyer’s Purchasing Agent, respectively; (b) the words “Government” and “Contracting Officer” do not change when a right, act, authorization or obligation can be granted or performed only by the Government or when title to property (including, without limitation, intellectual property) is to be transferred directly to the Government; and (c) where a clause specifies the number of days in which Seller must act, that number shall be reduced by half.

**13. FAR Clauses Incorporated by Reference**

The FAR clauses referenced below are incorporated by reference and apply to this PO to the extent, and with the modifications, identified below. The effective version of each clause shall be the version that applies to Buyer under its prime contract or higher-tier subcontract. Clauses identified by an asterisk (\*) apply to the extent, and with the Alternate(s), if any, included in the prime contract.

a. The following FAR clauses apply to this PO:

- (1) FAR 52.203-3, Gratuities (In (b), substitute “pursuant to the Disputes clause of this PO” for “any court having lawful jurisdiction.”)
- (2) FAR 52.211-5, Material Requirements
- (3) FAR 52.212-5(d), Contract Terms and Conditions Required to Implement Statutes or Executive Orders – Commercial Items
- (4) FAR 52.215-20, Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data
- (5) FAR 52.215-21, Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data – Modifications
- (6) FAR 52.219-8, Utilization of Small Business Concerns
- (7) FAR 52.222-21, Prohibition on Segregated Facilities
- (8) FAR 52.222-26, Equal Opportunity
- (9) FAR 52.222-50, Combating Trafficking in Persons
- (10) FAR 52.225-13, Restrictions on Certain Foreign Purchases
- (11) FAR 52.227-14, Rights in Data – General with Alternates II, III, and V (Does not apply to DoD acquisitions.)
- (12) FAR 52.227-19, Commercial Computer Software – Restricted Rights
- (13) FAR 52.233-3, Protest After Award (In (f), add after “33.104(h)(1)” the following: “and recovers those costs from Buyer.”)
- FAR 52.242-15, Stop-Work Order
- (14) FAR 52.244-6, Subcontracts for Commercial Items



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- (15) FAR 52.245-1, Government Property with Alternate I (Seller's obligations with respect to Buyer property shall be the same as those identified in this clause with respect to Government property except that, in the case of Buyer property, "Property Administrator" shall mean "Buyer's Purchasing Agent.")
- (16) FAR 52.247-64, Preference for Privately Owned U.S. Flag Commercial Vessels
- b. The following FAR clause applies if the PO value is greater than or equal to \$3,000:
- (1) FAR 52.222-54, Employment Eligibility Verification
- c. The following FAR clause applies if the PO value is greater than or equal to \$10,000:
- (1) FAR 52.222-40, Notification of Employee Rights Under the National Labor Relations Act
- d. The following FAR clauses apply if the PO Value is greater than or equal to \$15,000:
- (1) FAR 52.222-36, Equal Employment for Workers with Disabilities
- (2) FAR 52.222-20, Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000
- e. The following FAR clauses apply if the PO value is greater than or equal to \$25,000:
- (1) FAR 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (Applies if the PO is a first-tier subcontract under a prime contract with the Government and Seller, in the previous tax year, had gross income from all sources under \$300,000. Seller shall report required executive compensation information by posting it to the Government's Central Contractor Registration database. This information will be made available to the public.)
- (2) FAR 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (Applies if the PO involves the provision, service, or sale of food in the U.S.)
- f. The following FAR clause applies if the PO value is greater than \$30,000:
- (1) FAR 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Seller shall provide Buyer copies of any notices.)
- g. The following FAR clauses apply if the PO value is greater than or equal to \$100,000:
- (1) FAR 52.222-35, Equal Opportunity for Veterans
- (2) FAR 52.222-37, Employment Reports on Veterans
- h. The following FAR clauses apply if the PO value is greater than or equal to \$150,000:
- (1) FAR 52.203-6, Restrictions on Subcontractor Sales to the Government
- (2) FAR 52.203-7, Anti-Kickback Procedures (Delete (c)(1). After the last sentence of (c)(4), insert the following: "Buyer shall not be liable to Seller for any amounts withheld or paid over to the Government pursuant to this paragraph (c)(4).")
- (3) FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions
- (4) FAR 52.203-17, Contractor Employee Whistleblower Rights and Requirement to Inform Employees of
- i. The following FAR clause applies if the PO value is greater than or equal to \$5 million:
- (1) FAR 52.203-13, Contractor Code of Business Ethics and Conduct (All disclosures relating to potential violations of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the CO.)
- j. The following FAR clauses apply to the extent indicated:
- (1) FAR 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Applies if the prime contract is funded, in whole or in part, by the American Recovery and Reinvestment Act.)
- (2) FAR 52.204-2, Security Requirements (Applies if the PO involves access to classified information.)



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- (3) FAR 52.204-9, Personal Identify Verification of Contractor Personnel (Applies if the PO involves access to a Federally-controlled facility and/or a Federally-controlled information system.)
- (4) FAR 52.208-8, Required Sources for Helium and Helium Usage Data (Applies if the PO involves a “major helium requirement” as defined in the clause.)
- (5) FAR 52.215-23, Limitations on Pass-Through Charges (Applies if the PO meets the requirements in paragraph (f) of the clause.)
- (6) \*FAR 52.222-17, Nondisplacement of Qualified Workers (Applies in accordance with paragraph (f) of the clause.)
- (7) FAR 52.222-41, Service Contract Labor Standards (Applies if the PO is subject to the Service Contract Labor Standards statute.)
- (8) FAR 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment – Requirements (Applies to services that are exempt from the Service Contracts Labor statute as stated in the clause.)
- (9) FAR 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services – Requirements (Applies to services that are exempt from the Service Contract Labor statute as stated in the clause.)
- (10) FAR 52.222-55, Minimum Wages Under Executive Order 13658 (Applies if the PO is subject to the Service Contract Labor Standards Statute or the Wage Requirements (Construction) Statute.)
- (11) FAR 52.223-3, Hazardous Material Identification and Material Safety Data (Applies if the PO involves hazardous material. Alternate I applies if the prime contract is with or supports an agency other than the DoD.)
- (12) \*FAR 52.225-26, Contractors Performing Private Security Functions Outside the United States (Applies if required by paragraph (f) of the clause.)
- (13) FAR 52.223-7, Notice of Radioactive Materials (Applies to work involving covered radioactive material. Insert “30” in the blank in (a).)
- (14) FAR 52.223-11, Ozone-Depleting Substances (Applies if the work is manufactured with or contains “ozone-depleting substances” as defined in the clause.)
- (15) FAR 52.224-2, Privacy Act (Applies if the PO requires design, development or operation of a system of records on individuals that is subject to the Privacy Act of 1974.)
- (16) FAR 52.225-1, Buy American Act – Supplies (Applies to any portion of the PO that is subject to the Buy American Act.)
- (17) FAR 52.225-5, Trade Agreements (Applies to any portion of the PO that is subject to the Trade Secrets Act.)
- (18) FAR 52.227-10, Filing of Patent Applications – Classified Subject Matter (Applies if the PO or any patent application involves classified subject matter.)
- (19) \*FAR 52.227-11, Patent Rights – Ownership by the Contractor (Applies if the PO includes experimental, developmental, or research work. Reports required by this clause shall be filed with the agency identified in the PO. If no agency is identified, contact Buyer’s Purchasing Agent.)
- (20) \*FAR 52.227-13, Patent Rights – Acquisition by the Government (Applies in lieu of FAR 52.227-11 if the prime contract vests ownership of patent rights in the Government.)
- (21) FAR 52.228-3, Workers’ Compensation Insurance (Defense Base Act) (Applies if the PO is subject to the Defense Base Act.)
- (22) FAR 52.228-4, Workers’ Compensation and War-Hazard Insurance Overseas (Applies if the PO would be subject to the Defense Base Act or the War Hazards Compensation Act but for a waiver of either.)



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- (23) FAR 52.228-5, Insurance – Work on a Government Installation (Applies if this PO involves work on a Government installation. The types and amounts of insurance shall be as described in FAR 28.307-2.)
- (24) FAR 52.232-40, Providing Accelerated Payments to Small Business Subcontractors (Applies if Seller is a small business concern and Buyer receives accelerated payments.)
- (25) FAR 52.237-2, Protection of Government Buildings, Equipment and Vegetation (Applies if the PO involves services at a Government installation.)
- (26) \*FAR 52.237-3, Continuity of Services

#### **14. DFARS Clauses Incorporated by Reference**

If, and only if, the prime contract is with or in support of a Department of Defense entity, the DFARS clauses referenced in this Section are incorporated by reference and apply to this PO to the extent, and with the modifications, identified below. The effective version of each clause shall be the version that applies to Buyer under its prime contract or higher-tier subcontract. Clauses identified by an asterisk (\*) apply to the extent, and with the Alternate(s), if any, included in the prime contract.

a. The following DFARS clauses apply to this PO:

- (1) DFARS 252.203-7002, Requirement to Inform Employees of Whistleblower Rights
- (2) DFARS 252.204-7000, Disclosure of Information
- (3) DFARS 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting (Reports of cyber incidents shall be made directly to DoD at <http://dibnet.dod.mil> and Buyer.)
- (4) 252.204-7015, Disclosure of Information to Litigation Support Contractors
- (5) DFARS 252.209-7004, Subcontracting with Firms That Are Owned or Controlled by the Government of a Terrorist Country
- (6) DFARS 252.211-7007, Reporting of Government-Furnished Property
- (7) DFARS 252.223-7008, Prohibition of Hexavalent Chromium
- (8) DFARS 252.225-7002, Qualifying Country Sources as Subcontractors
- (9) DFARS 252.225-7012, Preference for Certain Domestic Commodities
- (10) DFARS 252.225-7048, Export Controlled Items
- (11) DFARS 252.227-7013, Rights in Technical Data – Non-Commercial Items (Applies to technical data pertaining to modifications to commercial items made in whole or in part at Government expense.)
- (12) DFARS 252.227-7014, Rights in Non-Commercial Computer Software and Non-Commercial Computer Software Documentation (Applies to modifications to commercial computer software made in whole or in part at Government expense.)
- (13) DFARS 252.227-7015, Technical Data – Commercial Items
- (14) DFARS 252.227-7019, Validation of Asserted Restrictions – Computer Software
- (15) DFARS 252.227-7037, Validation of Restrictive Markings on Technical Data
- (16) DFARS 252.228-7005, Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles
- (17) DFARS 252.244-7000, Subcontracts for Commercial Items
- (18) DFARS 252.245-7002, Reporting Loss of Government Property (Substitute the following for (b)(1): “Seller shall promptly report to Buyer’s Purchasing Agent any loss of Government Property and provide any information requested by Buyer regarding the loss of that Government property.” )
- (19) DFARS 252.247-7024, Notification of Transportation of Supplies by Sea



- b. The following DFARS clause applies if the PO value is greater than or equal to \$500,000:
  - (1) DFARS 252.226-7001, Utilization of Indian Organizations, Indian-Owned Economic Enterprises and Native Hawaiian Small Business Concerns (Buyer shall have no liability to Seller for any incentive payment under this clause unless and until the Government provides said incentive payment to Buyer.)
  - (2) The following DFARS clauses apply if the PO value is greater than or equal to \$1.5 million:
  - (3) DFARS 252.211-7000, Acquisition Streamlining
- c. The following DFARS clause applies if the PO value is greater than or equal to \$5 million:
  - (1) DFARS 252.203-7000, Agency Office of the Inspector General
- d. The following DFARS clauses apply as indicated:
  - (1) DFARS 252.211-7003, Item Unique Identification and Valuation (Applies if the PO requires unique item identification as specified elsewhere in this PO. Seller shall submit all reports to Buyer.)
  - (2) \*DFARS 252.222-7000, Restrictions on Employment of Personnel (Applies if the PO is for services to be performed in whole or in part within a “noncontiguous State,” as defined in FAR 22.7001, and the unemployment rate in that noncontiguous State exceeds the national average unemployment rate as determined by the Secretary of Labor. In the blank, insert “the noncontiguous State where the Work is being performed.”)
  - (3) DFARS 252.223-7001, Hazard Warning Labels (Applies if the PO requires the delivery of hazardous materials.)
  - (4) DFARS 252.223-7002, Safety Precautions for Ammunition and Explosives (Applies if the PO involves ammunition or explosives as defined in the clause.)
  - (5) DFARS 252.223-7003, Change in Place of Performance – Ammunition and Explosives (Applies if the PO involves ammunition or explosives as defined in DFARS 252.223-7002.)
  - (6) DFARS 252.223-7006, Prohibition on Storage and Disposal of Toxic and Hazardous Materials (Applies to any services performed at a DoD installation. Alternate I applies if included in the prime.)
  - (7) DFARS 252.223-7007, Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives (Applies if the PO is for development, production, manufacture or purchase of arms, ammunition and explosives or when arms, ammunition or explosives will be provided to Seller as Government Furnished Property. In (b), substitute “all” for “the following.”)
  - (8) DFARS 252.225-7001, Buy American Act and Balance of Payments Program (Applies, in lieu of FAR 52.225-1, to any portion of the PO subject to the Buy American Act.)
  - (9) DFARS 252.225-7007, Prohibition on Acquisition of U.S. Munitions List Items from Communist Chinese Military Companies (Applies if the PO involves the delivery of items covered by the U.S. Munitions List.)
  - (10) DFARS 252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals (Applies if the PO involves the delivery of items containing specialty metals. Delete (d).)
  - (11) DFARS 252.225-7011, Restriction on Acquisition of Supercomputers (Applies if the PO involves the delivery of supercomputers.)
  - (12) DFARS 252.225-7015, Restrictions on Acquisition of Hand or Measuring Tools (Applies if the PO involves the delivery of hand or measuring tools.)
  - (13) DFARS 252.225-7019, Restrictions on Acquisition of Anchor and Mooring Chain (Applies if the PO involves the delivery of shipboard anchor or mooring chain four inches or less in diameter.)
  - (14) DFARS 252.225-7021, Trade Agreements (Applies, in lieu of FAR 52.225-5, to any portion of the PO subject to the Trade Agreements Act, except to the extent purchase from foreign sources is restricted)





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- by any other provision of this PO. Alternate II applies if the PO is for end products in support of operations in Afghanistan.)
- (15) \*DFARS 252.225-7024, Requirements for Products or Services from Iraq or Afghanistan (DEC 2013)
  - (16) DFARS 252.225-7025, Restriction on Acquisition of Forgings (Applies if this PO involves the delivery of forging items or items that contain forgings.)
  - (17) \*DFARS 252.225-7026, Acquisition Restricted to Products or Services from Iraq or Afghanistan
  - (18) DFARS 252.225-7028, Exclusionary Policies and Practices of Foreign Governments (Applies if the PO involves the purchase of supplies or services for international military education training or Foreign Military Sales.)
  - (19) DFARS 252.225-7029, Acquisition of Uniform Components for Afghan Military or Afghan National Police (Applies if the PO is for the acquisition of textile components to be supplied to the Afghan National Army or the Afghan National Police for purposes of production of uniforms.)
  - (20) DFARS 252.225-7030, Restriction on Acquisition of Carbon, Alloy, and Armor Steel Plate (Applies if carbon, alloy or armor steel plate will be delivered.)
  - (21) DFARS 252.225-7038, Restriction on Acquisition of Air Circuit Breakers (Applies if the PO involves the delivery of air circuit breakers for naval vessels.)
  - (22) DFARS 252.225-7040, Contractor Personnel Authorized to Accompany U.S. Armed Forces Deployed Outside the U.S. (Applies if Seller personnel are authorized to accompany U.S. Armed Forces deployed outside the U.S. in contingency operations, humanitarian or peacekeeping operations, or other military operations or military exercises, when designated by the Combatant Commander.)
  - (23) DFARS 252.225-7043, Anti-Terrorism/Force Protection Policy for Defense Contractors Outside the U.S. (Applies if the PO involves performance or travel outside the U.S. Does not apply if Seller is a foreign corporation wholly owned by a foreign Government. Seller may obtain the information specified in (d) from Buyer.)
  - (24) \*DFARS 252.227-7038, Patent Rights – Ownership by the Contractor (Large Business) (Applies in lieu of FAR 52.227-11 if: (1) Seller is not a small business or nonprofit organization; and (2) the PO is for experimental, developmental, or research work.)
  - (25) DFARS 252.235-7002, Animal Welfare (Applies if the PO involves research of live vertebrate animals.)
  - (26) DFARS 252.235-7003, Frequency Authorization (Applies if the PO involves the development, production, construction, testing, or operation of a device requiring a frequency authorization.)
  - (27) DFARS 252.235-7004, Protection of Human Subjects (Applies if the PO involves research with human subjects. All communications and notices shall occur through Buyer.)
  - (28) DFARS 252.237-7010, Prohibition on Interrogation of Detainees by Contractor Personnel (Applies if the PO requires Seller personnel to interact with detainees in the course of their duties.)
  - (29) DFARS 252.237-7019, Training for Contractor Personnel Interacting with Detainees (Applies if the PO requires Seller personnel to interact with detainees in the course of their duties.)
  - (30) DFARS 252.239-7000, Protection Against Compromising Emanations (Applies if the PO involves information technology that requires protection against compromising emanations.)
  - (31) DFARS 252.239-7016, Telecommunications Security Equipment, Devices, Techniques, and Services (Applies if the PO involves securing telecommunications.)
  - (32) DFARS 252.246-7003, Notification of Potential Safety Issues (Applies if required by DFARS 252.246-7003(f). Seller shall copy Buyer's Purchasing Agent on all notifications.)
  - (33) DFARS 252.246-7007, Contractor Counterfeit Electronic Part Detection and Avoidance Systems (Applies if the PO includes electronic parts or assemblies containing electronic parts.)



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- (34) DFARS 252.247-7023, Transportation of Supplies by Sea (Applies in lieu of FAR 52.247-7023 in all POs for ocean transportation of supplies. In the first sentence of (g), insert a period after “Contractor” and delete the rest of the sentence. Delete (f) and (g) if the PO is valued at or below \$150,000).

**15. Additional Clauses Incorporated by Reference**

The clauses below are incorporated by reference and apply to this PO to the extent and with the modifications listed below:

- (1) 52.225-4503, Restriction of Critical Items and Components (Seller may obtain a copy of this clause and identification of the specific items to which it applies from Buyer.)
- (2) 52.247-4505, Transportation Security Requirements (Applies if the supplies furnished under this PO are qualified as sensitive in accordance with DoD 5100.76-M (Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives), or are shipped as DOT Hazard Class A or B Explosives. Seller may obtain a copy of this clause from Buyer.)
- (3) 52.247-4551, Special Transport/Loading Requirements (Hazardous) (Seller may obtain a copy of this clause from Buyer.)



## REPRESENTATIONS AND CERTIFICATIONS FOR POS UNDER A UNITED STATES GOVERNMENT CONTRACT

As used in these representations and certifications, the term “solicitation” shall mean the solicitation for the Prime Contract.

### 1. **FAR 52.213-3, Offeror Representations and Certifications – Commercial Items (NOV 2015)**

(This certification applies whether Seller intends to furnish commercial or non-commercial items.)

(a) Definitions. The definitions contained in FAR 52.212-3 are incorporated by reference.

(b) Intentionally omitted.

(c) Seller must complete the following representations when the PO will be performed in the United States or its outlying areas. Check all that apply.

(1) Small business concern. Seller represents as part of its offer that it  is,  is not a small business concern.

(2) Veteran-owned small business concern. [Complete only if Seller represented itself as a small business concern in paragraph (c)(1) of this provision.] Seller represents as part of its offer that it  is,  is not a veteran-owned small business concern.

(3) Service-disabled veteran-owned small business concern. [Complete only if Seller represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.] Seller represents as part of its offer that it  is,  is not a service-disabled veteran-owned small business concern.

(4) Small disadvantaged business concern. [Complete only if Seller represented itself as a small business concern in paragraph (c)(1) of this provision.] Seller represents, that it  is,  is not a small disadvantaged business concern as defined in 13 CFR 124.1002.

(5) Women-owned small business concern. [Complete only if Seller represented itself as a small business concern in paragraph (c)(1) of this provision.] Seller represents that it  is,  is not a women-owned small business concern.

(6) WOSB concern eligible under the WOSB Program. [Complete only if Seller represented itself as a women-owned small business concern in paragraph (c)(5) of this provision.] Seller represents that—

(i) It  is,  is not a WOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It  is,  is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(6)(i) of this provision is accurate for each WOSB concern eligible under the WOSB Program participating in the joint venture. [Seller shall enter the name or names of the WOSB concern eligible under the WOSB Program and other small businesses that are participating in the joint venture: \_\_\_\_\_.] Each WOSB concern eligible under the WOSB Program participating in the joint venture shall submit a separate signed copy of the WOSB representation.

(7) Economically disadvantaged women-owned small business (EDWOSB) concern. [Complete only if Seller represented itself as a WOSB concern eligible under the WOSB Program in (c)(6) of this provision.] Seller represents that—

(i) It  is,  is not an EDWOSB concern, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It  is,  is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(7)(i) of this provision is accurate for each EDWOSB concern participating in the joint venture. [Seller shall enter the name or names of the EDWOSB concern and other small businesses that are participating in the joint venture: \_\_\_\_\_.] Each EDWOSB concern participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.

(8) Women-owned business concern (other than small business concern). [Complete only if Seller is a women-owned business concern and did not represent itself as a small business concern in paragraph (c)(1) of this provision.] Seller represents that it  is a women-owned business concern.



(9) Intentionally omitted.

(10) HUBZone small business concern. [Complete only if Seller represented itself as a small business concern in paragraph (c)(1) of this provision.] Seller represents, as part of its offer, that—

(i) It [ ] is, [ ] is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material changes in ownership and control, principal office, or HUBZone employee percentage have occurred since it was certified in accordance with 13 CFR Part 126; and

(ii) It [ ] is, [ ] is not a HUBZone joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (c)(10)(i) of this provision is accurate for each HUBZone small business concern participating in the HUBZone joint venture. [Seller shall enter the names of each of the HUBZone small business concerns participating in the HUBZone joint venture: \_\_\_\_\_.] Each HUBZone small business concern participating in the HUBZone joint venture shall submit a separate signed copy of the HUBZone representation.

(d) Representations required to implement provisions of Executive Order 11246—

(1) Previous contracts and compliance. Seller represents that—

(i) It [ ] has, [ ] has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this PO; and

(ii) It [ ] has, [ ] has not filed all required compliance reports.

(2) Affirmative Action Compliance. Seller represents that—

(i) It [ ] has developed and has on file, [ ] has not developed and does not have on file, at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 cfr parts 60-1 and 60-2), or

(ii) It [ ] has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(e) Certification Regarding Payments to Influence Federal Transactions (31 U.S.C. 1352). By submission of its offer, Seller certifies to the best of its knowledge and belief that 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, 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 the award of any resultant prime contract. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of Seller with respect to the prime contract, Seller shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. Seller need not report regularly employed officers or employees of Seller to whom payments of reasonable compensation were made.

(f) Buy American Certificate. (Applies only if the clause at Federal Acquisition Regulation (FAR) 52.225-1, Buy American—Supplies, is included in this PO.)

(1) Seller certifies that each end product, except those listed in paragraph (f)(2) of this provision, is a domestic end product and that for other than COTS items, Seller has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. Seller shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of “domestic end product.” The terms “commercially available off-the-shelf (COTS) item” “component,” “domestic end product,” “end product,” “foreign end product,” and “United States” are defined in the clause of this PO entitled “Buy American—Supplies.”

(2) Foreign End Products:

**Line Item No. Country of Origin**

_____	_____
_____	_____
_____	_____

[List as necessary]



(3) Intentionally omitted.

(g)(1) Buy American—Free Trade Agreements—Israeli Trade Act Certificate. (Applies only if the clause at FAR 52.225-3, Buy American—Free Trade Agreements—Israeli Trade Act, is included in this PO.)

(i) Seller certifies that each end product, except those listed in paragraph (g)(1)(ii) or (g)(1)(iii) of this provision, is a domestic end product and that for other than COTS items, Seller has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The terms “Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end product,” “commercially available off-the-shelf (COTS) item,” “component,” “domestic end product,” “end product,” “foreign end product,” “Free Trade Agreement country,” “Free Trade Agreement country end product,” “Israeli end product,” and “United States” are defined in the clause of this PO entitled “Buy American—Free Trade Agreements—Israeli Trade Act.”

(ii) Seller certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of this PO entitled “Buy American—Free Trade Agreements—Israeli Trade Act”:

Free Trade Agreement Country End Products (Other than Bahrainian, Moroccan, Omani, Panamanian, or Peruvian End Products) or Israeli End Products:

**Line Item No. Country of Origin**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[List as necessary]

(iii) Seller shall list those supplies that are foreign end products (other than those listed in paragraph (g)(1)(ii) of this provision) as defined in the clause of this PO entitled “Buy American—Free Trade Agreements—Israeli Trade Act.” Seller shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of “domestic end product.”

Other Foreign End Products:

**Line Item No. Country of Origin**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[List as necessary]

(iv) Intentionally omitted.

(2) Buy American—Free Trade Agreements—Israeli Trade Act Certificate, Alternate I. If Alternate I to the clause at FAR 52.225-3 is included in this PO, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) Seller certifies that the following supplies are Canadian end products as defined in the clause of this PO entitled “Buy American—Free Trade Agreements—Israeli Trade Act”:

Canadian End Products:

**Line Item No.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



[List as necessary]

(3) Buy American—Free Trade Agreements—Israeli Trade Act Certificate, Alternate II. If Alternate II to the clause at FAR 52.225-3 is included in this PO, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) Seller certifies that the following supplies are Canadian end products or Israeli end products as defined in the clause of this PO entitled “Buy American—Free Trade Agreements—Israeli Trade Act”:

Canadian or Israeli End Products:

**Line Item No. Country of Origin**

_____	_____
_____	_____
_____	_____

[List as necessary]

(4) Buy American—Free Trade Agreements—Israeli Trade Act Certificate, Alternate III. If Alternate III to the clause at 52.225-3 is included in this PO, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) Seller certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of this PO entitled “Buy American-Free Trade Agreements-Israeli Trade Act”:

Free Trade Agreement Country End Products (Other than Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian End Products) or Israeli End Products:

**Line Item No. Country of Origin**

_____	_____
_____	_____
_____	_____

[List as necessary]

(5) Trade Agreements Certificate. (Applies only if the clause at FAR 52.225-5, Trade Agreements, is included in this PO.)

(i) Seller certifies that each end product, except those listed in paragraph (g)(5)(ii) of this provision, is a U.S.-made or designated country end product, as defined in the clause of this PO entitled “Trade Agreements.”

(ii) Seller shall list as other end products those end products that are not U.S.-made or designated country end products.

Other End Products:

**Line Item No. Country of Origin**

_____	_____
_____	_____
_____	_____

[List as necessary]

(iii) Intentionally omitted.

(h) Certification Regarding Responsibility Matters (Executive Order 12689). Seller certifies, to the best of its knowledge and belief, that Seller and/or any of its principals—



(1)  Are,  are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(2)  Have,  have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;

(3)  Are,  are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses enumerated in paragraph (h)(2) of this clause; and

(4)  Have,  have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,500 for which the liability remains unsatisfied.

(i) Taxes are considered delinquent if both of the following criteria apply:

(A) The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(B) The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(ii) Examples. See FAR 52.212-3(h)(4)(ii).

(i) Certification Regarding Knowledge of Child Labor for Listed End Products (Executive Order 13126). [Seller must list in paragraph (i)(1) any end products being acquired under this PO that are included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor.]

(1) Listed end products.

**Listed End Product    Listed Countries of Origin**

\_\_\_\_\_                      \_\_\_\_\_  
\_\_\_\_\_                      \_\_\_\_\_

(2) Certification. [If Buyer has identified end products and countries of origin in paragraph (i)(1) of this provision, then Seller must certify to either (i)(2)(i) or (i)(2)(ii) by checking the appropriate block.]

(i) Seller will not supply any end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product.

(ii) Seller may supply an end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. Seller certifies that it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any such end product furnished under this PO. On the basis of those efforts, Seller certifies that it is not aware of any such use of child labor.

(j) Place of manufacture. (Does not apply unless the PO is predominantly for the acquisition of manufactured end products.) For statistical purposes only, Seller shall indicate whether the place of manufacture of the end products it expects to provide in response to this PO is predominantly—

(1)  In the United States (Check this box if the total anticipated price of offered end products manufactured in the United States exceeds the total anticipated price of offered end products manufactured outside the United States); or

(2)  Outside the United States.

(k) Intentionally omitted.

(l) Taxpayer Identification Number (TIN) (26 U.S.C. 6109, 31 U.S.C. 7701).

(1) Intentionally omitted.

(2) Intentionally omitted.

(3) Taxpayer Identification Number (TIN).



- TIN: \_\_\_\_\_.
- TIN has been applied for.
- TIN is not required because:
- Seller is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;
- Seller is an agency or instrumentality of a foreign government;
- Seller is an agency or instrumentality of the Federal Government.

(4) Type of organization.

- Sole proprietorship;
- Partnership;
- Corporate entity (not tax-exempt);
- Corporate entity (tax-exempt);
- Government entity (Federal, State, or local);
- Foreign government;
- International organization per 26 CFR 1.6049-4;
- Other \_\_\_\_\_.

(5) Common parent.

- Seller is not owned or controlled by a common parent;
- Name and TIN of common parent:  
Name \_\_\_\_\_.  
TIN \_\_\_\_\_.

(m) Restricted business operations in Sudan. By submission of its offer, Seller certifies that Seller does not conduct any restricted business operations in Sudan.

(n) Prohibition on Contracting with Inverted Domestic Corporations.

(1) Government agencies are not permitted to use appropriated (or otherwise made available) funds for contracts with either an inverted domestic corporation, or a subsidiary of an inverted domestic corporation, unless the exception at 9.108-2(b) applies or the requirement is waived in accordance with the procedures at 9.108-4.

(2) Representation. Seller represents that—

- (i) It  is,  is not an inverted domestic corporation; and
- (ii) It  is,  is not a subsidiary of an inverted domestic corporation.

(o) Prohibition on contracting with entities engaging in certain activities or transactions relating to Iran.

(1) Seller shall e-mail questions concerning sensitive technology to the Department of State at CISADA106@state.gov.

(2) Representation and Certifications. Unless a waiver is granted or an exception applies as provided in paragraph (o)(3) of this provision, by submission of its offer, Seller—

(i) Represents, to the best of its knowledge and belief, that Seller does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran;

(ii) Certifies that Seller, or any person owned or controlled by Seller, does not engage in any activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act; and

(iii) Certifies that Seller, and any person owned or controlled by Seller, does not knowingly engage in any transaction that exceeds \$3,500 with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (see OFAC's Specially Designated Nationals and Blocked Persons List at <http://www.treasury.gov/ofac/downloads/t11sdn.pdf>).

(3) Intentionally omitted.





(p) Intentionally omitted.

**2. FAR 52.203-2, Certificate of Independent Price Determination**

(This certification applies if the PO is for a firm fixed price contract or a fixed price contract with economic price adjustment.)

(a) Seller certifies that—

(1) The prices in Seller’s offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to—

- (i) Those prices;
- (ii) The intention to submit an offer; or
- (iii) The methods or factors used to calculate the prices offered.

(2) The prices in Seller’s offer have not been and will not be knowingly disclosed by Seller, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by Seller to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory—

(1) Is the person in Seller’s organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; or

(2)(i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this provision \_\_\_\_\_ [insert full name of person(s) in Seller’s organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in Seller’s organization];

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) of this provision have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this provision.

(c) If Seller deletes or modifies paragraph (a)(2) of this provision, Seller must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

**3. FAR 52.222-38, Compliance with Veterans’ Employment Reporting Requirements**

By submission of its offer, Seller represents that, if it is subject to the reporting requirements of 38 U.S.C. 4212(d) (*i.e.*, if it has any contract containing Federal Acquisition Regulation clause 52.222-37, Employment Reports on Veterans), it has submitted the most recent VETS-100A Report required by that clause

**4. FAR 52.223-4, Recovered Material Certification**

As required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6962(c)(3)(A)(i)), Seller certifies, by signing Seller’s offer, that the percentage of recovered materials content for EPA-designated items to be delivered or used in the performance of the PO will be at least the amount required by the applicable contract specifications or other contractual requirements.

**5. FAR 52.226-2, Historically Black College or University and Minority Institution Representation**

(a) Definitions. As used in this provision—

“Historically black college or university” means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2.

“Minority institution” means an institution of higher education meeting the requirements of Section 365(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k), including a Hispanic-serving institution of higher education, as defined in Section 502(a) of the Act (20 U.S.C. 1101a).

(b) Representation. Seller represents that it—



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[ ] is [ ] is not a historically black college or university;  
[ ] is [ ] is not a minority institution.