



**DEFENSE LOGISTICS AGENCY  
DISPOSITION SERVICES**

**WORLDWIDE SALES**



**SALE BY REFERENCE**

INSTRUCTIONS, TERMS AND CONDITIONS APPLICABLE TO DEPARTMENT OF DEFENSE  
PERSONAL PROPERTY OFFERED FOR SALE BY DLA DISPOSITION SERVICES

**JULY 2012**

## INTRODUCTION

This SALE BY REFERENCE pamphlet contains standard Instructions, Terms and Conditions normally used in the various methods of surplus and foreign excess personal property sales conducted by DLA Disposition Services and its principal Sales Offices worldwide.

The standard Instructions, Terms and Conditions herein will not be published in the majority of our sales auctions. Instead, the sales auctions will incorporate by reference those Instructions, Terms and Conditions which are applicable to each sale.

This SALE BY REFERENCE pamphlet supersedes the March 1994 edition. Many articles contained within this new edition have been changed/modified; therefore, Bidders are cautioned to read all Instructions, Terms and Conditions carefully. Those applicable to property located in the United States (herein referred to as Surplus Property) differ substantially from those applicable to the property located outside of the United States (herein referred to as Foreign Excess Personal Property).

Special attention should be given, but is not limited to the following clauses:

- Bid Information (Part 1 Article 3)
- Storage Charges/Late Removal Charges (Part 2 Article 29)
- Ali-or-None Bid (Part 3 Article E)

### **YOU ARE CAUTIONED TO RETAIN THIS PAMPHLET FOR REFERENCE PURPOSES.**

Questions concerning this pamphlet should be directed to DLA Disposition Services, ATTN: Sales Office, Federal Center, 74 Washington Ave. North, Battle Creek, MI 49037.

FOR THE DIRECTOR



TINA ALDRICH  
Director  
Customer Support

## **PART 1**

### **GENERAL INFORMATION AND INSTRUCTIONS**

DRMS FORM 81

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#### **1. RECEIPTS**

Receipts for payment are not furnished to Purchasers. It is the Purchaser's responsibility to ensure that the Government has received payment prior to effecting removal of property. Property will not be released until payment is received. All payments must be submitted directly to the Sales Office conducting the sale unless the Purchaser is instructed otherwise.

#### **2. REFUNDS**

Bid deposit instruments of unsuccessful Bidders will be returned. Bid deposits submitted in the form of cash will be refunded by U.S. Government check. All refunds will be made as promptly as possible.

#### **3. BID INFORMATION**

Bid Abstracts and List of Successful Bidders will be available on our website after awards are made.

#### **4. PAYMENT & REMOVAL OF PROPERTY**

Upon the official notice of award (DRMS Form 1427), the purchaser is responsible for payment in accordance with the terms and conditions of the contract. Payments processed through Defense Finance Accounting Service (DFAS) generally take

3-5 business days to be cleared. Once cleared, a notice will be sent to DLA Disposition Service Field Office as an official notification that property may be released. A DLA Representative will contact the purchaser to arrange pick up. Purchasers are responsible for making all necessary arrangements for the removal of their property. When employing the services of another party to accomplish removal, purchasers are advised to give their agent or carrier complete information regarding the removal, including weight, packing instructions and final contract removal date. Purchasers should also maintain close contact with their agent or carrier to assure that removal is accomplished as prescribed under the terms and conditions of their contract.

#### **5. COMMON CARRIERS AND PACKING CONCERNS**

Upon request, the activity where the property is located will provide a list of common carriers and packing concerns serving that geographic area. This list is compiled from local sources and may not be complete. The Government does not assume responsibility or liability for services furnished by any of the firms listed, nor does the Government endorse the use or business practices of any listed business.

## 6. STATE OR USE TAX

Any sale or use tax imposed by any state, country or political subdivision will be paid by the Purchaser.

## 7. EXPORT/IMPORT OF PROPERTY

Property purchased from the United States Government may or may not be authorized for export/import from or into another country where property is located. If export/import is allowed, the Purchaser is solely responsible for obtaining required clearances or approvals.

## 8. CUSTOM DUTIES AND TAXES

Items purchased outside the United States may be subject to foreign government taxes, duties, or similar charges. Payment of such assessments is the responsibility of the Purchaser. The Purchaser must provide documentation of payment or customs clearance to the Sales Office before removal of the property will be allowed.

## 9. ORIGIN OF PROPERTY

Unless otherwise stated in the Sales offering, all items are considered to be of United States origin.

## 10. LAW GOVERNING CONTRACT

When a contract dispute arises requiring consideration of the law, the rights and obligations of the parties will be determined by the law of the United States of America.

## 11. TRANSLATION

Where disagreement exists between the English text and a foreign language

translation of this document, the English text will govern.

## 12. CERTIFICATE OF RELEASE OF A MOTOR VEHICLE – STANDARD FORM (SF) 97

An SF97 is not generally issued to Purchasers of vehicles sold as scrap or those subjected to extensive reclamation or cannibalization. However, this document can be issued if requested by the Purchaser, provided a complete serial number can be found on the body or chassis of the vehicle. A request for issuance of an SF97 must be submitted to DLA Disposition Services or Sales Contracting Office for determination prior to removal of the property. Such requests generally will not be honored after removal.

## 13. TRANSIT OF PROPERTY

Purchasers of United States Government property located in countries other than where the Purchaser resides are reminded to check host country requirements for removal and transit of property. The local Customs Office of the host country may require a special type of conveyance and posting of monetary or other security before release of the property from the storage location.

## 14. SAFETY EQUIPMENT

Customers must possess and use appropriate safety equipment and clothing whenever in the operational areas of any DLA Disposition Services Site.

## 15. JOINT BID

### a. Joint Bids are acceptable if:

(1) The joint bid and all principles of the joint venture are disclosed on the bid form (SF114) of the Bidder registration (DRMS Form 1581);

(2) The joint bid does not disregard the required CERTIFICATE OF INDEPENDENT PRICE DETERMINATION clause Part 2, Condition 19 of this pamphlet;

(3) The joint bid does not appear to restrict competition. (NOTE: COLLUSIVE BIDDING IS ILLEGAL. IT VIOLATES THE SHERMAN ANTITRUST ACT, 15 U.S.C. 1, A FELONY OFFENSE.)

b. The person signing the bid is certifying that they:

(1) are the person in the organization responsible for determining the prices being offered in this bid, and that they have not participated and will not participate in any action contrary to the Certificate of Independent Price Determination provision; or

(2) are authorized to act for the principals of the Bidder's organization in certifying that the principals have not participated, and will not participate in any

action contrary to the Certificate of Independent Price Determination.

## 16. DENIAL OF ACCESS TO DLA DISPOSITION SERVICES FACILITIES

The following individuals and firms are prohibited from participating in and receiving an award from any sale or entering the facilities of this agency:

a. Those who have committed a security trade control violation under a surplus or foreign excess sales contract.

b. Those who are indebted to the Government under surplus or foreign excess sales contracts.

c. Those who are either suspended, proposed for debarment or debarred by DLA Disposition Services, Department of Defense (DoD) or any other Executive Agency from participation in the Surplus and Foreign Excess Sales Program.

d. Those who are listed in the Department of Commerce Excluded Parties Lists.

## **PART 2**

### **SALE OF GOVERNMENT PROPERTY GENERAL SALE TERMS AND CONDITIONS**

#### **1. INSPECTION**

The Bidder is invited, urged, and cautioned to inspect the property prior to submitting a bid. Property will be available for inspection at the places and times specified in the Sale.

#### **2. CONDITION AND LOCATION OF PROPERTY**

Unless otherwise provided in the Sale, all property listed therein is offered for sale "as is" and "where is." Unless otherwise provided in the Sale, the Government makes no warranty, express or implied, as to quantity, kind, character, quality, weight, size, or description of any of the property, or its fitness for any use or purpose. Except as provided in Conditions No. 12 and 14, or other special conditions of the Sale, no request for adjustment in price or for rescission of the sale will be considered. This is not a sale by sample.

#### **3. CONSIDERATION OF BIDS**

a. Unless otherwise provided in the Sale, telegraphic or telephonic bids will not be considered.

b. The Bidder agrees that their bid will not be withdrawn within the period of time specified for the acceptance thereof following the opening of bids (60 calendar days if no period is specified by the Government or by the Bidder, but not less than 10 calendar days in any case) and that

during such period their bid will remain firm and irrevocable. The Government reserves the right to reject any or all bids, including bids under which a Bidder would take unfair advantage of the Government or other Bidders, to waive any technical defects in bids, and unless otherwise specified by the Government or by the Bidder, to accept any one item or group of items in the bid, when in the best interest of the Government. Unless the Sale otherwise provides, a bid covering any listed item must be submitted on the basis of the unit specified for that item and must cover the total number of units designated for that item.

#### **4. FORMS OF BID DEPOSITS/PRE PAYMENTS**

Unless otherwise provided in the Sale, bid deposits/or pre-payments (when required by the Sale) and payments shall be in U.S. currency or any form of credit instruments other than promissory notes, made payable on demand in U.S. currency: Provided, that uncertified personal or business checks must be first party instruments: Provided further, that if in connection with any prior sale, the Bidder or Purchaser tendered an uncertified personal or business check which was not paid by the drawee for any reason and the Bidder, Purchaser, and the Drawer of the check were so notified in writing by the selling agency, uncertified personal or business checks will not be an acceptable form of bid deposit/pre-payment. Bids submitted after the effective date specified

in the written notification referred to which are not accompanied by the property bid deposit will be summarily rejected.

## 5. BID PRICE DETERMINATION

When bids are solicited on a unit price basis, Bidders will insert their unit prices and total prices in the space provided for each item.

a. In the event the Bidder inserts a total price on the item but fails to insert a unit price, the Government will determine the unit price by dividing the total price by the quantity of the item set out in the Sale. The unit price so determined shall be used for the purpose of bid evaluation, award, and all phases of contract administration.

b. When bids are solicited on a "lot" basis, Bidders should submit a single total price in the Total Price Bid column of the bid sheet. Bidders should not make any entry in the Unit Price Bid column. In the event a Bidder submits a total bid price and also a unit bid price which are not identical, the unit bid price will not be considered.

## 6. PAYMENT

The Purchaser agrees to pay for property awarded in accordance with the prices quoted in the bid. Subject to any adjustment made pursuant to other provisions of this contract, payment of the full purchase price, after applying the total bid deposit/pre-payment, if any, must be made within the time specified in the Sale and prior to delivery of any of the property. If an adjustment is made requiring additional payment, such payment must be made

immediately upon notice of adjustment. In the absence of any debts owed to the selling agency, where the total sum becoming due to the Government from the Purchaser on a contract awarded to their under the Sale is less than the total amount deposited with their bid, the difference will be promptly refunded, and deposits accompanying bids which are not accepted will be promptly refunded to the Bidder. No refund or demands will be made for any amount less than ten dollar (\$10).

## 7. TITLE

Unless otherwise provided in the Sale, title to the property sold shall vest in the Purchaser when removal is affected. On all motor vehicles and motor-propelled or motor-drawn equipment requiring licensing by a State motor vehicle regulatory agency, a certificate of release, Standard Form 97, will be furnished for each vehicle and piece of equipment unless otherwise provided in the Sale.

## 8. DELIVERY, LOADING, AND REMOVAL OF PROPERTY

a. Unless otherwise provided in the Sale, the Purchaser shall be entitled to obtain the property upon full payment with delivery being made only from the exact place where the property is located within the installation. The Purchaser must make all arrangements necessary for packing, removal, and transportation of property. The Government will not act as liaison in any fashion between the Purchaser and carrier, nor will the Government recommend a specific common carrier. Loading will only

be performed as set forth in the Sale, and unless otherwise provided in the Sale, loading will not be performed on Saturdays, Sundays, Federal holidays, or any date that the installation where the property is located is closed. Where it is provided that the Government will load, the Government will make the initial placement of the property on conveyance(s) furnished by the Purchaser and the initial placement of the Purchaser's conveyance shall be as determined by the Government. Unless otherwise provided in the Sale, the Government will not block, chock, brace, lash, band, or in any other manner secure the cargo on such conveyance(s) furnished by the Purchaser.

b. Where it is provided in the Sale that the Government will not load or that the Purchaser will load, the Purchaser will make all arrangements and perform all work necessary to effect removal of the property. The Purchaser shall remove the property at their expense within the period of time allowed in the Sale. If the Contracting Officer determines that the failure to remove the property within the period of time originally allowed arose out of causes beyond the control and without the fault or negligence of the Purchaser, such determination shall be documented, and a reasonable extension of time for removal shall be allowed. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and severe weather. If the Purchaser is permitted to remove the property after the expiration

of the time originally allowed for removal or any additional time allowed by the Contracting Officer pursuant to this clause, the Government, without limiting any other rights which it may have, may require the Purchaser to pay a reasonable storage charge. The Purchaser shall reimburse the Government for any damage to Government property caused during the removal operations by the Purchaser or their authorized representative.

c. Items purchased under the Sale will be released only to the Purchaser or their authorized representative. The authorized representative must furnish authorization from the Purchaser to the Custodian of the property location before any delivery of release will be made. When property is described as being boxed, packed, crated, skidded, or in containers, the Government does not warrant that the property, as packaged, is safe or suitable for shipment.

d. Segregation, culling, or selection of property for the purpose of effecting partial or increment removals will not be permitted except as specifically authorized and prescribed by the Government.

## 9. DEFAULT

If, after the award, the Purchaser breaches the contract by failure to make payment within the time allowed by the contract as required by Condition No. 6, or by failure to remove the property as required by Condition No. 8, then the Government may send the Purchaser a 15-day written notice of default (calculated from date of notification), and upon Purchaser's failure to

cure such default within that period (or such further period as the Contracting Officer may allow) the Purchaser shall lose all right, title, and interest which he/she might otherwise have acquired in and to such property as to which a default has occurred. The Purchaser agrees that in the event he/she fails to pay for the property or remove the same within the prescribed period(s) of time, the Government shall be entitled to retain (or collect) as liquidated damages a sum equal to the greater of (a) 20 percent of the purchase price of the item(s) as to which the default has occurred, or (b) \$25, whichever is greater: Provided, That in the event of multiple awards of items under a single Sales offering, the amount to be charged, if the minimum charge provided for in (b) above is applicable, shall be determined by the total purchase price reflected in the award documents: Provided further, That the maximum sum which may be recovered by the Government as damages for failure of the Purchaser to pay for and remove the property shall be the formula amount. The Government shall specifically apprise the Purchaser, either in its original notice of default (or in separate subsequent written notice), that upon the expiration of the period prescribed for curing the default, the formula amount will be retained (or collected) by the Government as liquidated damages. However, if the property was sold on a "per lot" basis and the Purchaser removes a portion of the lot but fails to remove the balance, no portion of the purchase price will be refunded. If the Purchaser otherwise fails in the performance of his/her obligations, the Government may exercise such rights and may pursue such

remedies as are provided by law or under the contract.

#### 10. SETOFF OF REFUNDS

The Bidder or Purchaser agrees that the selling agency may use all or a portion of any bid deposit/pre-payment or refund due him/her to satisfy, in whole or in part, any debts arising out of prior transactions with the Government.

#### 11. INTEREST

Notwithstanding any other provision of this contract, unless paid within 30 calendar days from the date of first written demand, all amounts that become payable by the Purchaser to the Government under this contract shall bear simple interest at the rate which has been established by the Secretary of the Treasury as provided in Section 12 of the Contract Disputes Act of 1978 (Public Law 95-563), from the date of first written demand until paid.

#### 12. ADJUSTMENT FOR VARIATION IN QUANTITY OR WEIGHT

Unless otherwise provided in the Sale, when property is sold by a unit other than "weight", the Government reserves the right to vary the quantity tendered or delivered to the Purchaser by 10 percent; when the property is sold by "weight", the Government reserves the right to vary the weight tendered or delivered to the Purchaser by 25 percent. The purchase price will be adjusted upward or downward in accordance with the unit price and on the basis of the quantity or weight actually delivered. Unless otherwise specifically

provided in the Sale, no adjustment for such variation will be made where property is sold on a "price for the lot" basis.

### 13. WEIGHING, SWITCHING, AND SPOTTING

Where weighing is necessary to determine the exact purchase price, the Purchaser shall arrange for and pay all expenses of weighing the property (unless Government scales are available on the premises). All switching and spotting charges shall be paid by the Purchaser unless such services are performed with Government-owned or Government-operated locomotives on Government property. When removal is by truck, weighing shall be under the supervision of the Government and at its option on: (a) Government scales, (b) certified scales, or (c) other scales acceptable to both parties. When removal is by rail, weighing shall be on railroad track scales, or by other means acceptable to the railroad for freight purposes.

### 14. RISK OF LOSS

Unless otherwise provided in the Sale, the Government will be responsible for the care and protection of the property subsequent to it being available for inspection and prior to its removal. Any loss, damage, or destruction occurring during such period will be adjusted by the Contracting Officer to the extent it was not caused directly or indirectly by the Purchaser, its agents, or employees. At the discretion of the Contracting Officer, the adjustment may consist of rescission. With

respect to losses only, in the event the property is offered for sale by the "lot," no adjustment will be authorized under this provision unless the Government is notified of the loss prior to removal from the installation of any portion of the lot with respect to which the loss is claimed.

### 15. LIMITATION ON GOVERNMENTS LIABILITY

Except for reasonable packing, loading, and transportation costs (such packing, loading, and transportation costs being recoverable only when a return of property at Government cost is specifically authorized in writing by the Contracting Officer), the measure of the Government's liability, in any case where liability of the Government to the Purchaser has been established, shall not exceed refund of such portion of the purchase price as the Government may have received.

### 16. ORAL STATEMENTS AND MODIFICATIONS

Any oral statement or representation by any representative of the Government, changing or supplementing the Sale or contract or any Condition thereof, is unauthorized and shall confer no right upon the Bidder or Purchaser. Further, no interpretation of any provision of the contract, including applicable performance requirements, shall be binding on the Government unless furnished or agreed to, in writing, by the Contracting Officer or his/her designated representative.

## 17. COVENANT AGAINST CONTINGENT FEES

a. The Purchaser warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

b. "Bona fide agency," as used in this clause, means an established commercial or selling agency, maintained by a Purchaser for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

c. "Bona fide employee," as used in this clause, means a person, employed by Purchaser and subject to the Purchaser's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

d. "Contingent fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

e. "Improper Influence," as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

## 18. OFFICIALS NOT TO BENEFIT

No member of or Delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit arising from it. However, this clause does not apply to this contract to the extent that this contract is made with a corporation for the corporation's general benefit.

## 19. CERTIFICATE OF INDEPENDENT PRICE DETERMINATION

a. The Purchaser certifies that—

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other Purchaser 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 this offer have not been and will not be knowingly disclosed by the Purchaser, directly or indirectly, to any other Purchaser or competitor before bid opening (in the case of a formally advertised 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 the Purchaser to include 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 the Purchaser'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 subparagraphs (a)(1) through (a)(3) above; or

(2)(i) Has been authorized, in writing, to act as agent for the principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above.

(ii) As an authorized agent, does certify that the principals have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above, and

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

c. If the Purchaser deletes or modifies subparagraph (a)(2) above, the Purchaser must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

## 20. ASSIGNMENT OF CONTRACTS

Any contract awarded under the Sale is subject to the provisions of 41 U.S.C. 15 which generally precludes assignment of such contract.

## 21. CLAIMS LIABILITY

The Bidder or Purchaser agrees to save the Government harmless from any and all actions, claims, debts, demands, judgments, liabilities, costs and attorneys' fees arising out of, claimed on account of, or in any manner predicated upon loss of or damage to property and injuries, illness or disabilities to or death of any and all persons whatsoever, including members of the general public, or to the property of any legal or political entity including State, local and interstate bodies, in any manner caused by or contributed to by the Bidder or Purchaser, its agents, servants, employees, or any person subject to its control while in, upon or about the sale site and/or the site on which the property is located, or while the property is in the possession of or subject to the control of the Bidder or Purchaser, its agents, servants or employees after the property has been removed from Government control.

## 22. WITHDRAWAL OF PROPERTY AFTER AWARD

The Government reserves the right to withdraw for its use any or all of the property covered by this contract, if a bona fide requirement for the property develops or exists prior to actual removal of the property from Government control. In the

event of a withdrawal under this condition, the Government shall be liable only for the refund of the contract price of the withdrawn property or such portion of the contract price as it may have received.

### 23. ELIGIBILITY OF BIDDERS

The Bidder warrants that he/she is not: (a) under 18 years of age; (b) an employee of an agency of the Federal Government (either as a civilian or as a member of the Armed Forces of the United States, including the United States Coast Guard, on active duty) prohibited by the regulations of that agency from purchasing property sold hereunder; (c) an agent or immediate member of the household of the employee in (b), above. For breach of this warranty, the Government shall have the right to annul this contract without liability.

### 24. REQUIREMENTS TO COMPLY WITH APPLICABLE LAWS AND REGULATIONS

It is the Bidder's responsibility to ascertain and comply with all applicable Federal, State, local, and multi-jurisdictional laws, ordinances, and regulations pertaining to the registration, licensing, handling, possession, transportation, transfer, export, processing, manufacture, sale, use or disposal of the property listed in the Sale. Purchasers or users of this property are not excused from any violation of such laws or regulations either because the United States is a party to this sale or has had any interest in the property at any time.

### 25. DEFINITIONS

As used herein, the following terms shall have the meaning set forth below:

a. "Telegraphic bid" and "telegraphic notice" include bids and notices by telegram or by mailgram.

b. "Contracting Officer" means the person accepting the bid in whole or in part on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer; and includes, except as otherwise provided in this contract, the authorized representative of a Contracting Officer acting within the limits of the representative's authority.

c. A "small business concern" for the purpose of the sale of Government-owned property is a concern which can qualify under the small business classification criteria referenced in 13 CFR § 121.3-9.

### 26. PRIVACY ACT NOTICE

In accordance with the Privacy Act (5 U.S.C. 552a), the following notice is provided: The information requested on this form is collected pursuant to section 31001 of the Debt Collection Improvement Act of 1996 (Pub. L. 104-134) for purposes of collecting and reporting on any delinquent amounts arising under or relating to any contract awarded to you as a result of this sale. The information collected is mandatory. Failure to provide the information prior to contract award will result in rejection of your bid or offer. Routine uses which may be made of the collected information are as follows:

1. Disclosure where pertinent in any legal proceeding to which GSA is a party before a court or administrative body.

2. Disclosure to the Department of Justice, U.S. Attorney, or the Department of Treasury in a proceeding when (a) the United States, GSA, a component of GSA, or when arising from his/her employment, an employee of GSA, is party to litigation or anticipated litigation or has an interest in such litigation, and (b) GSA determines that the disclosure is relevant or necessary in the litigation.

3. Disclosure to a Member of Congress or a congressional staff member in response to an inquiry from that congressional office made on behalf of and at the request of the individual about whom the record is maintained.

4. Disclosure to any Federal agency where the debtor is employed or receiving some sort of remuneration for the purpose of enabling that agency to collect a debt owed the Federal government on GSA's behalf.

5. In the event a record indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute or by regulation, rule or order issued pursuant thereto, disclosure to the appropriate Federal agency and/or state or local agencies charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order.

6. Disclosure to a Federal agency in response to a request in connection with hiring or retention, the letting of a contract, or the issuing a license, grant, or other benefit.

7. Disclosure to a debt collection contractor or to other Federal agencies for the purpose of collecting and reporting on delinquent debt.

8. Disclosure for purposes of debt collection, publication or public dissemination regarding the identity of delinquent non-tax debtors and the existence of non-tax debts.

9. Disclosure to credit reporting agencies/credit bureaus for the purpose of adding to a credit history file or obtaining a credit history file or comparable credit history information for use in the administration of debt collection.

10. Disclosure to the Internal Revenue Service to: (1) obtain mailing addresses to locate a taxpayer to collect a Federal claim against the taxpayer; or (2) offset a Federal claim against a taxpayer's income tax refund.

11. Disclosure to the Internal Revenue Service and applicable state and local governments for tax reporting purposes.

12. Disclosure to banks enrolled in the Treasury Credit Card Network to collect payment or debt when the individual has given his/her credit card number for this purpose.

13. Disclosure to Treasury or other Federal agencies with which GSA has entered an agreement for debt collection cross servicing operations to satisfy, in whole or in part, debts owed the U.S. Government.

14. Disclosure to Treasury, government corporations, state or local agencies, or other Federal agencies to conduct computer matching programs to identify and locate individuals who are receiving Federal salaries or benefit payments in order to collect the debts by voluntary repayment or administrative or salary offset.

15. Disclosure to the National Archives and Records Administration for records management inspections.

16. Disclosure for any other use specified by GSA in the system of records entitled "Credit Data on Individual Debtors, PPFM-7," as published in the Federal Register periodically by GSA.

STANDARD FORM 114C  
REVISED 4/2001  
PRESCRIBED BY GSA FPMR (41 CFR)  
101-45.3

## PART 2

### ADDITIONAL GENERAL SALE TERMS AND CONDITIONS

DRMS FORM 84

OCT 93

#### 27. LAWS AND REGULATIONS

The Purchaser, its employees and agents must identify and comply with all applicable Federal, International, State, Department of Transportation and local safety and environmental statutes, municipal laws, ordinances, and regulations applicable to the processing, use or disposal of any property purchased.

#### 28. PALLETS AND CONTAINERS

All pallets, skids and containers in or on which the property is stored or displayed are not for sale and will not be removed unless specifically provided in the Sales offering.

#### 29. STORAGE CHARGES

In accordance with Part 2, Condition 8, DELIVERY, LOADING AND REMOVAL OF PROPERTY, if the purchaser is allowed to remove property after the final removal date, as stated on the award document (DRMS Form 1427) or any extended date as granted by the Sales Contracting Officer, the Purchaser will be required to pay storage charges.

Unless otherwise specified in the Sales offering, storage charges for each line item stored inside will be twelve cents (\$.12) per hundred pounds, or \$.264 per hundred kilograms (overseas), per day. Rates for outside storage will be six cents (\$.06) per

hundred pounds or \$.132 per hundred kilograms (overseas) for each line item per day. Fractions of hundred weights will be rounded up to the nearest hundred weight (e.g., 201 pounds = 300 pounds).

Storage charges will be assessed for all property using the estimated or advertised weight contained in the item description. However, when property is sold by weight, storage will be assessed in accordance with the actual weight delivered.

Purchaser will only be assessed storage charges for the property actually removed. The minimum charge is \$10.00 per line item.

Storage charges will not exceed 50 percent of the total line item price, unless 50 percent of that total line item price is less than the minimum rate. In those instances, the minimum rate will apply.

When storage charges are assessed, payment must be made by the Purchaser prior to removal of the property unless otherwise authorized by the Sales Contracting Officer.

Storage charges will not be assessed for Saturdays, Sundays, Federal holidays or any day that the installation of DLA Disposition Services site is closed, unless otherwise specified in the Sales offering.

### 30. LETTERS OF CREDIT

Letters of credit may be used to support uncertified personal or company checks as bid deposits or payments, if the letter of credit meets all of the following requirements:

a. It must be either an original document on bank stationary or clearly state on its face that reproductions of the original may be considered as an original document.

b. It must be signed by a bank officer or duly authorized representative of the bank.

c. It must either clearly state that it is a letter of credit or otherwise constitute a letter of credit under Article 4 of the Uniform Commercial Code.

d. It cannot be revocable.

e. It must state the name and address of the Bidder/Purchaser which is covered by the letter of credit.

f. It must reference the sale number for which it is provided.

g. It must indicate the maximum amount guaranteed.

h. Under terms or letter of credit, drafts must be honored at any time they are presented.

### 31. GUARANTEED DESCRIPTIONS

Despite any other conditions of sale, the Government guarantees to the original Purchaser that the property will be as described in the Sales offering; however:

a. If a misdescription is determined to exist prior to removal of property, the Government will:

(1) Allow the purchaser to sign a waiver accepting the property as is, with no adjustment made to contract price for that item.

(2) Cancel the item from the contract and refund the Purchaser any money the Government has already received for the item.

b. If a misrepresentation is determined to exist after removal of the property, the Government will adjust the price paid for the property or any portion thereof determined to be misdescribed commensurate with the fair market value of the property actually received; however:

(1) No adjustment will be made for shortages of property sold by the "lot", and

(2) No adjustment will be made unless the Purchaser notifies the Sales Contracting Officer of any misdescription by written notice, within 30 calendar days after removal of the property (except for property purchased overseas for import to United States, in which case the Purchaser has 60 calendar days from the date of removal or 30 calendar days from the date of importation, whichever is less). The Purchaser must hold the property intact to permit inspection or identification by the Government. **FURTHERMORE, THE GOVERNMENT DOES NOT WARRANT OR GUARANTEE ANY OF THE FOLLOWING:**

(a) Information in the item description pertaining to condition, acquisition cost, estimated total weight, estimated shipping dimensions, manufacturer's part number, Federal Stock Number of the property's fitness for any use of purpose.

(b) Estimated "weight" of property offered for sale by the "unit" of by the "lot".

(c) Estimated number of "units" of property offered for sale by "weight".

c. Should the Contracting Officer determine that a misdescription exists after removal of property, regardless of the exceptions stated above under this clause, the Government will accept return of the misdescribed property at the Purchaser's expense, to a location specified by the Contracting Officer, for a refund of any money received for that property, provided the Contracting Officer received timely notice of the misdescription as stated in paragraph b(2) above.

d. This warranty is in lieu of all other guarantees, expressed or implied and all other obligations on the part of the Government. The Purchaser is not entitled to any payment for loss of profits or any other monetary damages, special, direct, indirect, or consequential. Recovery of any kind against the Government under this provision is limited to a refund of the purchase price of the material found to have been misdescribed. **THE GOVERNMENT DOES NOT WARRANT THE MERCHANTABILITY OF THE**

**PROPERTY OR ITS FITNESS FOR ANY USE OR PURPOSE.**

### **32. NOTICE OF DEBARRED OR SUSPENDED CONTRACTORS**

Any contract awarded to an individual or firm is voidable, at the option of the Government if, at the time of award the Purchaser was proposed for debarment, has been disbarred, suspended, or for any other reason is ineligible to receive a Government contract.

### **33. DISPUTES**

Any contract awarded as a result of this sale is subject to the Contract Disputes Act 1978 (41 U.S.C. 601-613).

### **34. TIE-IN AND ALL-OR-NONE BID**

Unless specified in the Sales offering, qualified, tie-in, all-or-none or combination Bid are not acceptable and will be rejected as nonresponsive. This includes bid conditioned upon the acceptance or nonacceptance of Bid on other items. The Sales offering may specify that such Bid is only acceptable for certain items.

### **35. DEMURRAGE AND OTHER STANDBY COSTS**

Whenever the Sales offering specifies that the Government will load, the Government will not be liable for any costs, direct or indirect, incurred by the Purchaser because of the Government's failure to load property in a timely manner. The only remedy for such a failure is an appropriate extension of the free removal period.

## PART 3

### SALE OF GOVERNMENT PROPERTY SPECIAL SEALED BID CONDITIONS

#### A. BID DEPOSITS

Where a bid deposit is required by the Sale, all bids must be accompanied by such deposit in the amount of 20% of the total amount bid which must be in the possession of the Contracting Officer by the time set for bid opening. Bid deposits shall be in the form prescribed in Condition No. 4, General Sale Terms and Conditions (Standard Form 114C). Deposit Bond-Individual Sale, Sale of Government Personal Property (Standard Form 150) properly executed or, when provided for in the Sale, reference to an approved Deposit Bond-Annual, Sale of Government Personal Property (Standard Form 151) be acceptable in lieu of the form of deposit authorized in Condition No. 4, General Sale Terms and Conditions (Standard Form 114C). Any bid which is not timely supported by an acceptable bid deposit may be rejected as nonresponsive. Any bid deposit received after bid opening will be considered in the same manner as late bids.

#### B. MODIFICATION OR WITHDRAWAL OF BIDS

Bids may be modified or withdrawn by written or telegraphic notice and a bid also may be withdrawn in person by a bidder or his/her authorized representative, provided his/her identity is made known and he/she signs a receipt for the bid. Where a bid deposit is required by the Sale, any modification which increases the amount of

a bid already submitted or which submits bids on items not previously bid upon must provide for an increased bid deposit.

#### C. CONSIDERATION OF LATE BIDS, MODIFICATIONS, OR WITHDRAWALS

Bids and modifications or withdrawals thereof, must be in the possession of the Contracting Officer by the time set for bid opening. Any bid, modification, or withdrawal received after the time set for bid opening will not be considered unless received by the Contracting Officer prior to award, was mailed (or telegraphed where authorized) and in fact delivered to the address specified in the Sales offering in sufficient time to have been received by the Contracting Officer by the time and date set forth in the Sale for the bid opening, and, except for delay attributable to personnel of the sales office or their designees, would have been received on time. In no event will hand-carried bids or withdrawals be considered if delivered to the Contracting Officer after the exact time and date set for bid opening. However, a modification which makes the terms of the otherwise successful bid more favorable to the Government will be considered at any time it is received prior to award and may be accepted.

#### D. AWARD OF CONTRACT

The contract will be awarded to that responsible Bidder whose bid conforming to the Sale will be most advantageous to the Government, price and other factors

considered. A written award mailed (or otherwise furnished) to the successful Bidder within the time for acceptance provided in the Sale shall be deemed to result in a binding contract without any further action by either party.

STANDARD FORM 114C-1  
REVISED 4/2001  
PRESCRIBED BY GSA FPMR (41 CFR)  
101-45.3

## PART 3

### SALE OF GOVERNMENT PROPERTY SPECIAL SEALED BID CONDITIONS

DRMS FORM 99

OCT 93

#### ARTICLE E: ALL-OR-NONE-BID

Unless otherwise specified in the Sales offering, all-or-none bids are acceptable on this sale. The Sale may limit which items are eligible for such Bid. Check the Sale.

a. Bids may be submitted conditioned upon the Government accepting or not accepting bids on other line items. Bids may also be submitted on an "all-or-none" basis.

b. When an "all-or-none" bid is submitted, the Bidder may not submit individual bids for the same items. If an "all-or-none" bid is submitted along with individual item bid(s) and the individual item bid cover a part or all the same items of the "all-or-none" bid, only the "all-or-none" bid will be considered. Those individual item bids that are encompassed in the "all-or-none" bid will be rejected and not considered for individual award.

c. When an "all-or-none" bid is submitted, the Government reserves the right for contract administration purposes to establish individual line item prices against the "all-or-none" bid against the same high responsive individual bids received. If no other bids were received, the proration will be made using what the Government considers to be a fair market value for the items.

d. When an "all-or-none" bid is received, and the Government has withdrawn any of the items involved in the bid, all remaining items in the bid cannot be considered for award unless the bid is qualified by inserting the following language:

IN THE EVENT THE GOVERNMENT WITHDRAWS ANY OF THE ITEMS COVERED BY MY "ALL-OR-NONE" BID, I DESIRE THE REMAINING ITEMS TO BE CONSIDERED ON A PRO RATA "ALL-OR-NONE" BASIS.

## PART 4

### SALE OF GOVERNMENT PROPERTY SPECIAL SEALED – TERM CONDITIONS

#### 1. BID DEPOSITS

All bids must be accompanied by a bid deposit which must be in the possession of the Contracting Officer by the time set for bid opening. Bid deposits shall be in the form prescribed in Condition No. 4, General Sale Terms and Conditions (Standard Form 114C). Unless otherwise provided in the Sale, a bid deposit of 20% of the estimated total contract price is required on sales not exceeding one year; sales exceeding one year's duration will require a bid deposit computed at 20% of the total price estimated for one year's removal of property. Deposit Bond-Individual Sale, Sale of Government Personal Property (Standard Form 150), or Deposit Bond-Annual, Sale of Government Personal Property (Standard Form 151) are NOT acceptable as bid deposits. In accordance with Condition No. 6 of the General Sale Terms and Conditions entitled "Payment" (Standard Form 114C), the 20% bid deposit submitted by the Purchaser will be retained by the Government and applied against the last delivery effected under the contract. At the option of the successful bidder, a Performance Bond (Standard Form 25) may be substituted by the successful bidder for his/her bid deposit at any time after notification of award of the contract. Any bid which is not timely supported by a proper bid deposit may be rejected as nonresponsive. Any bid deposit received after bid opening will be considered in the same manner as late bids.

#### 2. PRE-PAYMENT

A pre-payment of 20% of the estimated total price for one year's removal of property will be required. In accordance with Condition No. 4 of the General Sale Terms and Conditions entitled "Payment", the 20% pre-payment submitted by the Purchaser will be retained by the Government and applied against the last delivery effected under the contract.

#### 3. MODIFICATION OR WITHDRAWAL OF BIDS

Bids may be modified or withdrawn by written or telegraphic notice and a bid also may be withdrawn in person by a bidder or his/her authorized representative, provided his/her identity is made known and he/she signs a receipt for the bid. Any bid modification which increases the amount of a bid already submitted or which submits bids on items not previously bid on must provide for an increased bid deposit.

#### 4. CONSIDERATION OF LATE BIDS, MODIFICATIONS, OR WITHDRAWALS.

Bids and modifications or withdrawals thereof, must be in the possession of the Contracting Officer by the time set for bid opening. Any bid, modification, or withdrawal received after the time set for bid opening will not be considered unless received by the Contracting Officer prior to award, was mailed (or telegraphed where authorized) and in fact delivered to the

address specified in the Sales offering in sufficient time to have been received by the Contracting Officer by the time and date set forth in the Sale for the bid opening, and, except for delay attributable to personnel of the sales office or their designees, would have been received on time. In no event will hand-carried bids or withdrawals be considered if delivered to the Contracting Officer after the exact time and date set for bid opening. However, a modification which makes the terms of the otherwise successful bid more favorable to the Government will be considered at any time it is received prior to award and may be accepted.

#### 5. ADJUSTMENT FOR VARIATION IN QUANTITY OR WEIGHT.

Part 2, Condition No. 12, General Sale Terms and Conditions (Standard Form 114C) is modified to authorize the Government to vary the quantity or weight delivered by 50% from the quantity or weight listed in the Sale.

#### 6. TERMINATION

Unless otherwise provided in the Sale, this contract may be terminated by either party without cost to the Government upon 30 days' written notice to the other, to be calculated from the date the notice is mailed.

#### 7. FAILURE TO PERFORM

In the event the Purchaser fails to make payment as required by Part 2, Condition No. 6, General Sale Terms and Conditions (Standard Form 114C), or fails to remove the property as required by Part 2, Condition No. 8, General Sale Terms and Conditions, and fails to cure the default within the time allowed by the notice given in accordance with Part 2, Condition No. 9, General Sale Terms and Conditions, the Purchaser will lose all right, title and interest which he/she might otherwise have acquired in and to the property as to which the default occurred and said Part 2, Condition No. 9, is modified to provide that the Government shall be entitled to retain or collect as liquidated damages a sum equal to 20% of the contract price for the quantity estimated to be generated within a 30-day period.

#### 8. AWARD OF CONTRACT

The contract will be awarded to that responsible Bidder whose bid conforming to the Sale will be most advantageous to the Government, price and other factors considered. A written award mailed (or otherwise furnished) to the successful Bidder within the time for acceptance provided in the Sale shall be deemed to result in a binding contract without any further action by either party.

STANDARD FORM 114C-2  
REVISED 4/2001  
PRESCRIBED BY GS FPMR (41 CFR)  
101-45.3

**PART 5**

**ADDITIONAL SPECIAL CIRCUMSTANCE CONDITIONS – MISCELLANEOUS**

DRMS FORM 86  
OCT 93

**ARTICLE A: SCRAP WARRANTY**

The Purchaser certifies this property is being purchased as scrap and will ensure scrapping is accomplished in a manner that prevents recognition or reconstruction. The Contracting Officer will be notified prior to removal where scrapping will take place. Part 2, Condition 7, TITLE, is modified so that the title will not transfer until all scrapping has been accomplished. If the Purchaser fails to scrap the property and provide the Contracting Officer with a certification of completion within 30 days after removal, or any additional time as may be provided for or granted by the Contracting Officer, the Government may elect to default the contract and repossess the property. In addition to the provisions stipulated under the clause entitled, "Default", the Purchaser will be charged with all costs incurred by the Government to repossess and resell this property.

**ARTICLE B: CONVICT LABOR**

In connection with the performance of work under this contract, the Purchaser agrees not to employ any person undergoing sentence or imprisonment except as provided by Public Law 89-176, September 10, 1965 (18 U.S.C. 4082(c)(2)) and Executive Order 11755, December 29, 1973.

**ARTICLE C: CONTRACT WORK  
HOURS AND SAFETY STANDARDS  
ACT-OVERTIME COMPENSATIONS**

This contract is subject to the following provisions and all other applicable provisions and exceptions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 37) and the regulations of the Secretary of Labor thereunder.

a. Overtime requirements. No contractor or Subcontractor shall require or permit any laborer or mechanic to work in excess of eight (8) hours per calendar day or forty (40) hours a work week on work subject to the provisions of this contract. Such laborer or mechanic should receive compensation at a rate not less than one and one-half times their basic rate of pay for all hours worked in excess of an eight hour workday or forty hour workweek.

b. Violation: liability for unpaid wages; liquidated damages. When a violation occurs regarding the provisions identified above, the Contractor and Subcontractor(s) responsible thereof shall be liable to the affected employee(s) for their unpaid wages. In addition the Contractor and Subcontractor(s) will also be liable to the United States for liquidated damages. Such liquidated damages shall be computed for each laborer or mechanic in violation of the provisions identified above at a sum of \$10

for each calendar day the employee was required or permitted to perform such work in excess of eight hours, or a standard 40-hour week without receiving the overtime wages entitled under this article.

c. Withholding for unpaid wages and liquidated damages. The Contracting Officer may withhold from the Prime Contractor, any money payable for work performed by the Contractor or Subcontractor(s) which is determined necessary to satisfy any liabilities for unpaid wage and liquidated damages under this article.

d. Subcontracts. The Contractor shall insert the above paragraphs of this clause in all subcontracts and shall require their inclusion in all subcontracts of any tier.

e. Records. The Contractor shall maintain payroll records containing the information specified in 29 CFR 516.5. Such records shall be preserved for three years from the completion of the contract.

#### ARTICLE D: LIABILITY AND INSURANCE

a. The Purchaser shall, at no expense to the Government and prior to contract performance, furnish the Contracting Officer with the following Certificates of Insurance, effective throughout the term of the contract or any extensions thereof.

(1) Standard Workmen's Compensation and Employee's Liability Insurance as may be proper under applicable State or Federal statutes. The Purchaser may however, be self-insured against the

risk of this subparagraph if it has obtained prior approval of the Contracting Officer. This approval will be given upon receipt of satisfactory evidence that the Purchaser has qualified as a self-insurer under the applicable provisions of law.

(2) Bodily Injury Insurance in an amount of not less than \$50,000 any one person and \$250,000 any one accident or occurrence.

(3) Property Damage Liability Insurance in the amount of \$25,000 (which shall include any and all property whether or not in the care, custody or control of the Purchaser).

b. The Purchaser, during the performance of this contract, shall be responsible for and shall hold the Government harmless for any and all loss of damage to or liability incurred with respect to property of every kind and description, except as provided in Condition 14 of the General Sales Terms and Conditions (Standard Form 114C) entitled "Risk of Loss" whether or not owned by the Government. The Purchaser shall also hold the Government harmless from bodily injury to or death caused either in whole or in part by the negligence or fault of the Purchaser, its officers, agents or employees in the performance of work under this contract.

c. The general liability and responsibility of the Purchaser under this clause are subject to the following limitations: The Purchaser shall not be responsible to the Government for loss, damage, bodily injury to or death of persons when the damage, injury or death results solely from an act or

omission of the Government, its employees or results solely from proper compliance by officers, agents or employees of the Purchaser when specific written directions are provided from the Contracting Officer or its authorized representative.

#### ARTICLE E: PAPER RECORDS AND DOCUMENTS

Paper Records or Documents are offered for sale as waste paper only. Therefore, the Purchaser represents, warrants and certifies to the United States Government that these types of items will not be used, offered for sale or sold for use as records or documents.

#### ARTICLE F: PRIVACY ACT MATERIALS

The Purchaser understands and agrees that property purchased under this contract may contain records previously maintained as a system of records subject to the Privacy Act, 5 U.S.C. 552 (a). The Purchaser, by executing this contract, understands and agrees that the Purchaser is subject to the Provisions of the Privacy Act and shall exercise all care necessary to ensure compliance with its provisions with respect to the handling and disposal of protected information.

#### ARTICLE G: TIRE REMOVAL

Despite the provisions in Part 2, Condition 8, the Purchaser will be permitted to cull, sort and segregate tires. Payments shall only be assessed for the weight of those tires removed by the Purchaser.

#### ARTICLE H: RADIO FREQUENCY DEVICES

Some military radio frequency equipment does not comply with Federal Communications Commission rules and specifications or International Post Office and other telecommunication authority. Use of this equipment could be in violation of Federal or International law. Therefore, the Purchaser must comply with all pertinent rules and regulations under penalty of the law in the use, sale or disposition of such equipment. Contact the Federal Communications Commission for questions regarding FCC Law.

International inquiries should be addressed to the applicable foreign country.

#### ARTICLE I: US MUNITIONS LIST (USML) ITEMS

a. The Purchaser certifies that none of the items identified in the Sales offering and listed on its sales contract will be directly or indirectly used or disposed of for military use or exported unless a full disclosure of the origin of the property is made by the Purchaser. The disclosure must reference the Sales offering and sales contract numbers when submitted to the appropriate export licensing department or agency.

b. Despite the provisions of paragraph (a) above, US Munitions List Items which do not require demilitarization may be sold for military or other use to the United States Government, its designees and those foreign governments or international organizations the United States Department of State issues

an export license to, under the International Traffic In Arms Regulation (see 22 CFR Subchapter M, Part 121, et seq.).

#### ARTICLE J: COMMERCE CONTROL LIST ITEMS

a. The Purchaser warrants and covenants that none of the items identified in the Sales offering and listed on its sales contract will be directly or indirectly used or disposed of for military use or exported unless a full disclosure of the origin of the property is made by the Purchaser. The disclosure of the origin of the property is made by the Purchaser. The disclosure must reference this Sales offering, sales contract number and be submitted to the Office of Export Administration.

The Purchaser understands and agrees that the Office of Export Administration may require the Purchaser to mutilate the property to the extent necessary to preclude its use for its originally intended purpose, and/or require the Purchaser to have or obtain an export license before the property may be exported outside of the United States, Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands or the Virgin Islands.

#### ARTICLE K: US MUNITIONS AND COMMERCE CONTROL LIST ITEM (USML/CCLI) COMPLIANCE

a. The use, disposition, export and reexport of this property is subject to all applicable United States Laws and Regulations, including the Export Administration Control Act of 1979 (50

U.S.C. Appx. 2401, et. Seq.); Arms Export Control Act (22 U.S.C. 2751, et. seq.); International Traffic in Arms Regulation (22 C.F.R. 121); and Export Administration Regulation (15 C.F.R. 368 et. seq.), which in part prohibit:

(1) Making false statements and concealment of any material information regarding the use, disposition, export or reexport of the property;

(2) Any use, disposition, export or reexport of the property not authorized in accordance with the provisions of this contract.

b. Any false information provided and/or concealment of any material information regarding the use, disposition or export of this property may constitute a violation of:

(1) The provisions of 18 U.S.C. 1001, which provides a maximum penalty of five years imprisonment.

(2) The provisions of 22 U.S.C. 2778, which provides a maximum penalty of twenty years imprisonment and/or maximum fine \$1,000,000;

(3) The provisions of 50 U.S.C. Appx. 2410, which provides a maximum penalty of ten years imprisonment and/or a maximum fine of five times the value of the property exported or \$1,000,000, whichever is greater, and which also provides for administrative sanctions, including civil penalties of up to \$10,000, and the revocation of authority to export goods from the United States.

## ARTICLE L: MEDICAL DEVICES

Purchasers of the medical device items identified in the Sales offering shall certify and assure in writing that such items shall be used or resold only under the conditions specified below:

(a) Medical device items are subject to the laws and regulations administered by the Food and Drug Administration (FDA) or host nation statutes when the property is located overseas. Provisions of the governing statute, the Federal Food, Drug and Cosmetic Act, appear in 21 U.S.C. 301 et seq.

In summary, the Act prohibits the movement in interstate commerce of medical devices that are misbranded or

altered. The act emphasizes FDA to initiate criminal enforcement proceedings against companies and/or individuals responsible for violations of its provisions. Moreover, the Act authorizes FDA to initiate civil proceedings to seize or enjoin the distribution of such items.

(b) It shall be the responsibility of the Purchaser to comply with local, state or other applicable laws.

(c) The FDA certification, appearing elsewhere in the Sales offering, is required by FDA for the purchase of the medical device items. Provisions of the governing International statutes, must be determined by the Purchaser and complied with as stipulated by the foreign country.

**PART 6**

**ADDITIONAL SPECIAL CIRCUMSTANCE CONDITIONS – DEMILITARIZATION AND MUTILATION**

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**ARTICLE A: DEMILITARIZATION OR MUTILATION ON GOVERNMENT PREMISES**

Property requiring demilitarization or mutilation will not be removed from Government premises and title will not pass to the Purchaser until demilitarization or mutilation has been completed by the Purchaser and the Contracting Officer, or their authorized representative has received an approved demilitarization certificate. The Purchaser agrees to assume all costs associated with the demilitarization or mutilation of this property as specified in the Sales offering and to restore the working area back to the previous condition as it appeared before the demilitarization or mutilation began. Upon completion of the demilitarization or mutilation required by the terms of this offering, the Government reserves the right to perform additional demilitarization or mutilation of the item(s) at no cost to the Purchaser.

**ARTICLE B: DEMILITARIZATION OR MUTILATION ON OTHER THAN GOVERNMENT PREMISES**

Property requiring demilitarization or mutilation will be shipped in sealed container to the processing site where demilitarization or mutilation will be accomplished by the Purchaser. Title will

not pass to the Purchaser until demilitarization or mutilation has been completed and the Contracting Officer or his authorized representative has received an approved demilitarization certificate. The Purchaser agrees to assume all costs associated with the demilitarization or mutilation of this property as specified in the Sales offering. Upon completion of the demilitarization or mutilation required by the terms of this offering, the Government identifies or determines additional demilitarization or mutilation requirements exists, not stipulated under the award, the Government reserves the right to perform this additional demilitarization or mutilation of the item(s) at no cost to the Purchaser.

**ARTICLE C: FAILURE TO DEMILITARIZE OR MUTILATE**

If the Purchaser fails to demilitarize or mutilate the property in accordance with the terms of this contract, the Government may, at its option and upon 10 days written notice (calculated from date of mailing) to the Purchaser:

a. Repossess the property, complete the demilitarization or mutilation thereof, and return the property to the Purchaser. The Purchaser hereby agrees to pay the Government prior to return of the property, all costs incurred in repossessing,

demilitarizing or mutilating and returning the property to the Purchaser.

b. Default the contract, repossess the property, complete the demilitarization or mutilation thereof, resell the property and in addition to the provisions stipulated under the clause entitled, "Default" assess the defaulting Purchaser with all excess costs accrued by the Government. The Government will deduct such costs from the purchase price of the item(s) involved and refund the balance, if any, to the Purchaser. In the event the excess costs exceed the purchase price, the defaulting Purchaser hereby agrees to pay such excess costs to the Government.

c. Default the contract, repossess the property and resell it under similar terms and conditions. In the event this option is exercised, the defaulting Purchaser will be charged in addition to the provisions stipulated under the clause entitled, "Default" with all excess costs incurred by the Government. The Government will deduct such excess costs from the original purchase price and refund the balance, if any, to the defaulting Purchaser. Should these cost exceed the purchase price, the defaulting Purchaser hereby agrees to pay such excess costs to the Government.

In no event will the Purchaser's liability to the Government for failure to comply with the demilitarization or mutilation requirements of this contract be less than 20 percent of the contract price of the items concerned.

## ARTICLE D: CHANGE IN CONTRACT REQUIREMENTS

The Sales Contracting Officer may, at any time, by written order to the Purchaser, make changes in the method by or extent to which the property will be scrapped, mutilated, or demilitarized, including the movement, stripping or disposition of the stripped property. When a change causes an increase or decrease in the Contractor's performance cost or market value of the property, an equitable adjustment will be made to the contract. Claims of this adjustment will be made to the contract. Claims for this adjustment must be submitted, in writing, by the Purchaser within 30 days from the date notification of the change was provided to the Purchaser, unless the Sales Contracting Officer grants an extension to the final date of performance under the contract. If both parties fail to agree upon an equitable adjustment, the dispute shall be processed under the "Disputes" clause of the contract. Nothing provided in this clause shall excuse the Purchaser from proceeding with the performance requirements stipulated under this change.

## ARTICLE E: QUALIFICATION OF BIDDERS

The Purchaser or proposed Subcontractor must possess all necessary permits, licenses and authorization required by its respective government, and have the capability and facilities to perform the operations required by the contract. The United States Government reserves the right to inspect the premises and facilities of any Purchaser or

Subcontractor to determine whether it has the capability to ensure the security and safety of the property during the period of demilitarization/mutilation.

#### ARTICLE F: SUBCONTRACTS

The Purchaser shall not subcontract with any other party for demilitarization/mutilation or any other phase of the operations involved in this contract without the prior written approval of the Sales Contracting Officer.

#### ARTICLE G: GOVERNMENT MAY ENTER PREMISES

The Purchaser agrees to cooperate with and to permit all authorized Government representatives to enter the premises of the Purchaser at any time for the purpose of inspecting the scrapping, demilitarization, and/or stripping of property sold hereunder.

#### ARTICLE H: MUTILATION OF CHLOROBROMOMETHANE FIRE EXTINGUISHERS

These items require mutilation in the manner and to the degree set forth below:

a. Mutilation of each extinguisher will be completed in a manner that precludes any possibility of restoration to its original intended purpose. This will be accomplished by either torch cutting the bottom, torching the valve thread, or by smelting/crushing.

b. Purchaser is advised that if it elects to mutilate the extinguishers through use of a torch, personal protective equipment which provides full respiratory protection must be worn by the personnel accomplishing the mutilation.

#### ARTICLE I: MUTILATION OF CHLOROBROMOMETHANE FIRE EXTINGUISHERS ON GOVERNMENT PREMISES

Property requiring mutilation will not be removed from Government premises and title will not pass to the Purchaser until mutilation has been completed by the Purchaser and approved by the Contracting Officer or authorized representative. Mutilation will be accomplished as specified in the Sales offering. The Purchaser agrees to assume all costs associated to perform mutilation of this property.

**PART 7**

**ADDITIONAL SPECIAL CIRCUMSTANCE CONDITIONS – HAZARDOUS AND DANGEROUS PROPERTY**

DRMS FORM 98  
OCT 93

**ARTICLE A: TRANSPORTING  
HAZARDOUS MATERIAL  
CONTAINERS**

These drums/containers previously held hazardous material(s); therefore, Purchasers must comply with Department of Transportation (DOT) Regulation 49 CFR 173.29, which requires that the drums/containers be transported over public highways in the same manner as when they contained a greater quantity of hazardous material(s).

**ARTICLE B: CONTAINERS  
(HAZARDOUS MATERIALS)**

The containers in which property is offered for sale may or may not meet the transportation specifications as regulated by the country in which they are located. If it is necessary to repackage the property, suitable space and facilities will be made available. If the Purchaser obtains a one-time permit from the Department of Transportation and/or the regulatory transportation office of a foreign country exempting this repackaging requirement, a copy of such permit must be submitted to the Sales Contracting Office prior to transporting the property.

**ARTICLE C: TRANSPORTING  
HAZARDOUS MATERIALS**

The transport of hazardous materials is governed by Department of Transportation Hazardous Materials Regulations (Title 49, Code of Federal Regulations, Parts 170-189). Although the Purchaser is responsible for certifying to the DOT that such hazardous materials are properly classified, described, packaged, marked and labeled and are in a condition safe to transport based on the Purchaser's own examination of the material, Section 173.7(a)(1) of the DOT Regulations states that a certification from the Department of Defense to the Purchaser describing the condition if containers will also be accepted. When shipping containers other than those authorized by Interstate Commerce Commission (ICC) or DOT are used for shipment, a DOT special permit must be obtained from the Department of Transportation prior to the movement of the material. The exemptions provided for Department of Defense containers in Section 173.7 do not apply for this purpose.

**ARTICLE D: TOXIC CHEMICALS**

Purchasers are warned that the item(s) generated from chemicals or munitions may contain minute quantities of a chemical agent or decontaminate which might cause skin burn or other injury, regardless of the

precautions taken to completely decontaminate this property.

#### ARTICLE E: DANGEROUS PROPERTY

Purchasers are cautioned that articles or substances of a dangerous nature may remain in the property regardless of the care exercised to remove same. The Government assumes no liability for damages to property of the Purchaser or for personal injury, disability or death of the Purchaser, its employees or to any other person arising from or affiliated with the purchase, use or dispositions of this material. The Purchaser shall hold the Government harmless from any and all such demands, suits, actions, or claims arising from or otherwise relating to the purchase of this material.

#### ARTICLE F: COMPRESSED GAS CYLINDERS

Purchasers are warned that this material may contain constituents of an explosive or toxic nature regardless of the care exercised by the Government to remove them or render the material harmless. Additionally, prior to reuse or resale of Government cylinders, the Purchaser must obliterate the registered Government symbol, by stamping or penning over the symbol and stamping the new users identification on the cylinder shoulder. The new cylinder identification will be reported to the Bureau of Explosives. No cylinder(s) obtained from the Government will be reused by the Purchaser for transportation of compressed gasses unless it meets the requirements of hazardous materials regulation in 49 CFR

173 and the serviceability criteria of the Compressed Gas Association Pamphlet C-6.

#### ARTICLE G: HYDROSTATIC TESTING

Hydrostatic testing of each cylinder shall be performed by the Purchaser as prescribed by Method 1, 2, or 3 described in "Methods for Hydrostatic Testing of Compressed Gas Cylinders", Pamphlet C-1, Compressed Gas Association Inc., which may be obtained for a fee from the Compressed Gas Association.

#### ARTICLE H: DISPOSITION OR END USE OF COMPRESSED GAS CYLINDERS

Cylinders that pass Hydrostatic or other acceptable test will be held by the Purchaser until the Purchaser furnishes the Sales Contracting Officer (within 60 days of removal) a certification that stipulates the size, serial number, retesters Materials Transportation Bureau identification number or approval by the Bureau of Explosives, as specified in 49 CFR 173, for each cylinder that passed the test. These cylinders will not be reused or sold for reuse until this certification has been furnished the Sales Contracting Officer. The Purchaser will, at its own expense, return those cylinders which do not pass the Hydrostatic or other acceptable test, to a location specified by the Sales Contracting Officer. A refund of the purchase price will be made for those cylinders returned.

#### ARTICLE I: VESTING OF TITLE

Notwithstanding any other conditions of sale, title (ownership) to the compressed gas cylinders will not vest in the Purchaser until the Purchaser furnishes the required

certification to the Sales Contracting Officer for those compressed gas cylinders which have passed hydrostatic or other acceptable thing.

#### ARTICLE J: RESPIRATORY PROTECTION PROGRAM

Personnel shall be protected by personal protective equipment that provides full protection of nose, mouth, and respiratory system in accordance with 29 CFR 1910.1001. Personnel engaged in the removal or demolition of pipes, structures, or equipment covered or insulated with asbestos and in the removal or demolition of asbestos insulation or coverings shall be provided and shall use respirators as stipulated in 29 CFR 1910.1001. Asbestos shall be presumed present unless shown to the contrary by air samplings.

#### ARTICLE K: RESPIRATORS – RELEASE OF LIABILITY

The Government assumes no liability for personal injuries, illness, disabilities or death of the Purchaser, its employees or agents, or to any person arising from or related to the purchase of any respirator and/or its use or disposition, whether intentional or accidental.

#### ARTICLE L: ASBESTOS

Purchasers are warned that unprotected exposure to asbestos fibers will significantly increase the risk of incurring four diseases: Lung cancer, certain gastrointestinal cancers, mesothelioma and asbestos. Care must be taken to avoid releasing or causing to be released, asbestos fibers into the

atmosphere so that they may be inhaled or ingested. The Occupational Safety and Health Administration at 29 CFR 1910.1001 and 53 FR 35610, September 14, 1988, sets standards for permissible exposure to airborne concentration of asbestos fibers, methods of compliance, personal protective equipment and other measures that must be taken when working with, or in proximity to, asbestos, in the U.S., its territories and possessions. Purchaser certifies that it will, as a minimum, comply with the provisions of 29 CFR 1910.1001 and 53 FR 35610, September 14, 1988. For actions occurring outside the U.S., its territories and possessions, the provisions apprising of U.S. requirements for protection from asbestos are advisory in nature.

#### ARTICLE M: PACKING, MARKING, AND DISPOSAL OF ASBESTOS

Asbestos waste, scrap, debris, bags, containers, equipment and asbestos-contaminated clothing cosigned for disposal, which may produce airborne concentrations of asbestos fibers, shall be collected and disposed of in leak-proof, sealed, impermeable bags, as prescribed in 29 CFR 1910.1001, 53 FR 35610, September 14, 1988, and 40 CFR 61.20 et. seq. Prior to placing in bags, asbestos wastes shall be wet down to reduce airborne concentrations. It is essential that the waste asbestos material, whether in bags or containers, be disposed of by burial as specified in 40 CFR Part 260 et. seq. and 40 CFR 61.140.

When practicable, scrap material containing asbestos shall be wet down before handling, hauling or dumping to

reduce the generation of airborne fibers. When requested by the SCO, Purchaser must provide specific information as to the "wetting down" methods to be used. The Purchaser must assure that all containers holding asbestos and/or disposable garments with asbestos on them are transported by a safe route to an authorized disposal facility as specified in the Department of Transportation Regulations 49 CFR 172, 173.1090, 174-177 and 40 CFR Parts 260 et. seq.

#### ARTICLE N: ASBESTOS DUST CONTROL AND HOUSE-KEEPING AND CLEANUP PROCEDURES

All external surfaces where work shall be performed must be maintained free of accumulations of asbestos fibers to prevent further dispersion. Meticulous attention must be given to restricting the spread of asbestos dust and larger forms of waste. To the extent required by 29 CFR 1910.1001 and 53 FR 35610, September 14, 1988, a dropcloth under work areas, curtains and other enclosures designed to contain the asbestos dust and debris shall be used to keep asbestos from being distributed over the general area. To the extent required by 29 CFR 1910.1001 and 53 FR 35610, September 14, 1988, appropriate asbestos hazard warning signs shall remain posted until the site cleanup is complete and the soil, surrounding environment and atmosphere are tested and found safe. The cleanup crew should be under the direction and supervision of the Purchaser to ensure that proper cleanup is performed when asbestos dust/waste is present. All

personnel engaged in cleaning up asbestos scrap and waste shall be equipped with the appropriate respiratory and protective clothing, as stipulated in 29 CFR 1910.1001 and 53 FR 35610, September 14, 1988.

#### ARTICLE O: PROTECTIVE CLOTHING

Purchasers will provide and require their employees to wear coveralls and other clothing that will cover the entire body, head, hands, and feet, when they are exposed to airborne concentrations of asbestos fibers, as specified in the OSHA Regulation, 29 CFR 1910.1001 and 53 FR 35610, September 14, 1988.

#### ARTICLE P: IMPREGNATED CLOTHING

This clothing has been impregnated with varying amounts of antitoxological chemical agent CC3 (chloramide, chlorinated paraffin and zinc oxide). Impregnated clothing will not be used for, or converted into, any items to be worn by the person. However, impregnated clothing may be deimpregnated by the Purchaser for ultimate use as clothing, rags or scrap provided the items are dry cleaned. The purchaser is cautioned that this property should not be burned. Disposal should be effected by burial in an appropriate landfill.

#### ARTICLE Q: CARTRIDGE CASES ARE NOT REPRESENTED TO BE CLEAN AND/OR INERT

Regardless of the care exercised, the Purchaser is cautioned that live rounds and/or other contamination may remain in these items. The Government assumes no

liability for damages or personal injuries, illness, disabilities, or death of the Purchaser, its employees or any member of the general public arising from or related to the purchase, transportation, sorting, use or other disposition of these items.

#### ARTICLE R: DISPOSITION AND USE OF HAZARDOUS PROPERTY

Purchasers represent, warrant, and certify to the United States Government that they will use and ultimately dispose of any hazardous property purchased under this Sales offering as stipulated under applicable local, national, and international laws and regulations.

#### ARTICLE S: GOVERNMENT'S RIGHT OF SURVEILLANCE

a. The Government reserves the right to conduct inspections of the Purchaser's and/or its agent's representatives, assignee's and/or vendee's transportation conveyances and/or equipment utilized to effect removal of the property purchased under this Sales offering. Such actions may be accomplished prior to, during and/or subsequent to removal of the property from Government premises. The Purchaser shall furnish Government employees, or authorized representative with the free access and reasonable assistance required to conduct such inspections.

b. The Government reserves the right to conduct inspections of treatment, storage and disposal facilities of the Purchaser, its agent, representative, assignee and vendee including the equipment, instrumentalities,

and records thereof. Such action may be accomplished prior to, during and subsequent to removal of property from Government premises. The Purchaser shall furnish Government employees, or authorized representative with free access and assistance as requested to conduct such inspections.

c. Where the Purchaser transfers any property acquired under this contract to a third party, the Purchaser warrants that by the terms of that transfer, the Government shall retain all rights and privileges conferred upon it by parts a and b of this clause.

#### ARTICLE T: RIGHT OF REFUSAL FOR HAZARDOUS PROPERTY

Despite the provisions in Part 2, Condition 8d, the Purchaser will be permitted to cull, sort and segregate those item(s) it desires to remove from each item referenced to this article in the Sales offering. In the event the Purchaser elects to exercise this right of refusal, it hereby agrees that:

a. When items are sold by the "lot", no refund will be made to the purchase price on any portions of the property not removed.

b. When items are sold by the "unit", (each or weight) the purchase price will be adjusted on the basis of the unit price and the quantity or weight actually removed.

If the Purchaser fails to remove sales property or exercise the right of refusal provision during the free removal period, the Purchaser will be considered to be in default

for failure to perform and liquidated damages will be assessed as stipulated by Part 2, Condition 9, for that item. For term sales, if the Purchaser (1) fails to remove the sale property after being notified by the Government as prescribed in the Sales offering, and (2) during the notification period does not exercise the right of refusal provision, the liquidated damages will be assessed as stipulated by Part 4, Condition 6 or as otherwise specified in the Sales offering, for the quantity of property available and not removed.

#### ARTICLE U: RECORDS MAINTENANCE

Purchasers of hazardous material/waste are required to maintain an audit trail on all appropriate sales documents for a period of two years subsequent to delivery. The Purchasers' records must include a minimum the following documents:

- a. DRMS Form 1427 (Notice of Award and Release Document)
- b. Bill of Sale (For property sold or donated to another individual or company)
- c. Hazardous waste manifest (If items are purchased as waste)
- d. Copy of the DRMS Form titled, "Continuation of Government's Right to Surveillance"

The Government reserves the right to request and inspect these documents as they deem necessary. In the event a Purchaser fails to maintain or provide any of these documents to the Government, the Government may at its discretion cancel the

contract, freeze future deliveries and/or declare the Purchaser nonresponsible, until the appropriate documents have been furnished.

#### ARTICLE V: CERTIFIED AND NON-CERTIFIED RADIATION EMITTING ELECTRONIC PRODUCTS

Purchasers are warned that the item purchased herewith may not be in compliance with Food and Drug Administration radiation safety performance standards prescribed under 21 CFR 1000 or foreign country regulations, and use may constitute a potential for personal injury unless the item is modified. The Purchaser agrees that the Government shall not be liable for personal injuries to, disabilities of or death of the Purchaser, its employees or any other person arising from or incident to the purchase of the item, its use, or disposition. The Purchaser shall hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions or claims of any nature arising from or incident to the purchase or resale of this item. The Purchaser agrees to notify any subsequent Purchaser of this property of the potential for personal injury in using this item without a radiation survey to determine the acceptability for use and/or modification to bring it into compliance with the radiation safety performance standards prescribed for the item under 21 CFR 1000.

#### ARTICLE W: RADIOACTIVE MATERIAL

Purchasers are warned that some property purchased under this contract such as, but

not limited to, switches, circuit breakers, knobs, controls, pointers, instrumental dials, markers, etc., may be capable of emitting ionized radiation in varying degrees. The Government assumes no liability for damages to the property of the Purchaser of for personal injuries, disabilities or death of the Purchaser, its employee or to any other person arising from or incident to the purchase of this material or its use or dispositions. The Purchaser shall hold the Government harmless from any or all such demands, suits, actions or claims of whatsoever nature arising from or relating to the purchase of this material. As a safety precaution, the Purchaser should also warn the future possessor or user of this property that the item may be capable of emitting ionized radiation.

#### ARTICLE X: BERYLLIUM DUST/POWDER

Beryllium dust/powder is harmful if inhaled and may cause immediate or delayed injury. Use only with adequate local exhaust ventilation, approved respiratory and personal protective devices. May cause rash or external ulcers. Wash thoroughly after handling.

#### ARTICLE Y: GOVERNMENT'S RIGHT TO MAKE CONTINGENT AWARDS

In the event that more than one bid is received on any hazardous item(s) in the Sales offering, the Government at the discretion of the Sales Contracting Officer, if in the best interest of the Government, may award the item to one or more Bidders provided the bid prices are reasonable for the property offered. The provision will go into effect when the high Bidder refuses to accept any or all of the property contained in an item award, based on the provisions set forth in Article titled, "Right of Refusal for Hazardous Property". The Government may offer the remainder of the property, in succession, to the other awardees until all property has been removed, or all awardees have exercised their right of refusal.

The primary award would be made to the highest Bidder; secondary awards would be made on a contingency basis to the next highest Bidder. If the primary awardee refused to accept any portion of an item or generation, the remaining material would be offered to the secondary buyer.

**PART 8**

**ADDITIONAL SPECIAL CIRCUMSTANCE CONDITIONS – FOREIGN EXCESS  
PERSONAL PROPERTY**

DRMS FORM 94  
OCT 93

**ARTICLE A: TAXES AND DUTIES**

Purchaser is responsible for compliance with all laws and regulations which may apply to this transaction and shall pay all custom duties, taxes and similar charges which may be levied by respective governments against a Purchaser of United States Government property. The United States Government shall not be liable for taxes, duties, or other assessments imposed by any government as a result of this transaction or imposed on any property transferred under this contract.

**ARTICLE B: IMPORTATION  
RESTRICTIONS**

a. This sale document does not constitute a guarantee that the property listed herein can be legally imported into the United States.

b. This sale document does not constitute a guarantee that the property sold hereunder is authorized for export from the country where the such property is located. It is the responsibility of the Purchaser to obtain clearance and approval for export from the host country concerned.

**ARTICLE C: COMPLIANCE WITH  
LAWS, RESTRICTIONS, LIMITATIONS,  
OBTAINING OR LICENSES, ETC.**

Bidders are cautioned that there may be local laws, regulations, restrictions, etc., or that various countries may require licenses, permits or clearances relative to the purchase, payment, importation, exportation, transportation, resale, etc., of the property herein offered for sale. Bidders assume full responsibility to ascertain and comply with all such laws, regulations, and requirements.

**ARTICLE D: GOVERNMENT AS  
SHIPPER (EXPORT)**

When the Purchaser proposes to transport property from the country designated in the Sales offering to an acceptable destination, they will be required to ship the property, at their risk and expense, on a commercial shipping document showing the United States Government as the shipper, as follows: "United States of America (Name of Sales Contracting Officer) Sales Contracting Officer on behalf of (Name of Purchaser)" to a consignee and destination named by the Purchaser and acceptable to the United States. Each such shipping document shall include this statement: "Only the United States Government may divert this shipment to other than the named consignee or destination." The Purchaser agrees to furnish the Sales Contracting Officer a true copy of the original onboard bill of lading within five days after delivery

of the property to the transporting carrier. All insurance will be borne and prepaid by the Purchaser. The United States Government will in no way be held responsible for any loss or damage to the material or for any suits or claims arising from the loading, storage, carriage, discharging, damage to vessel or injury to personnel, general or particular average, nor in any other circumstances not covered above of any nature arising under or incidental to the contract by reason of the fact that the United States Government appears as shipper on the commercial bill of lading. When property has been released for export, the Purchaser agrees to furnish evidence of its arrival at the approved destination and delivery of the approved consignee through a receipted copy of the bill of lading, a landing certificate issued by the country of import, or other documentation acceptable to the Sales Contracting Officer.

#### ARTICLE E: REPRESENTATION

Bidder represents that the price(s) bid, the item or items bid upon, and the quantity of any item on which it bid has been arrived at unilaterally and without collusion. The Bidder further represents that the intention to bid these prices, items, and quantities, and the contents of the bid submitted have not been communicated by the Bidder or any employee or agent of the Bidder to any person not an employee or agent of the Bidder and will not be communicated to any such person before public disclosure of the bid by the Government.

#### ARTICLE F: IMPORT CERTIFICATE AND DELIVERY VERIFICATION (IC/DV)

a. Prior to removal of the property, the Purchaser agrees to submit to the Sales Contracting Officer an Import Certificate issued by the Government of the country into which the property, or any part of it, is to be imported. A triangular Import Certificate (stamped with a triangular symbol) to indicate that the importer is uncertain about the ultimate destination of the property will not be accepted.

b. Prior to release of the property for import into a country that does not issue an Import Certificate or Delivery Verification, the Purchaser agrees to submit to the Sales Contracting Officer a notification of consignee for approval of the destination and consignee by the Sales Contracting Officer.

c. Within 60 days after release of the property, the Purchaser agrees to submit to the Sales Contracting Officer a Delivery Verification issued by the Government that issued the Import Certificate.

d. Within 90 days after release of the property for import into a country that does not issue an Import Certificate or Delivery Verification, the Purchaser agrees to submit to the Sales Contracting Officer evidence of the arrival of the property at the approved destination and delivery to the approved consignee. Such evidence may consist of a receipted copy of the bill of lading, a Landing Certificate issued by the country of import, or other valid documentary evidence

identifying the final destination and consignee.

e. Failure of the Purchaser or any Subpurchaser to submit a required Delivery Verification or other documentary evidence of the arrival and delivery may be cause for administrative action to be taken against the Purchaser or Subpurchaser which could result in the denial of future contracts with the U.S. Government.

#### ARTICLE G: DISPOSITION AND USE OF PROPERTY

a. The Bidder agrees to submit with its bid a completed End-Use Certificate (Statement Regarding Disposition and Use of Property) in the form prescribed in this Sale.

b. The Bidder represents and warrants that the ultimate destination, use, and disposition of the property shall be in accordance with the End-Use-Certificate as submitted and approved by the Sales Contracting Officer.

c. When property is annotated "Cat II" in the item description, changes to the Bidder's End-Use Certificate will require the prior written approval of the Sales Contracting Officer.

d. The bidder further agrees to notify in writing any and all subsequent Purchasers or Receivers of this property regarding the provisions of this article and of the Bidder's End-Use Certificate relative to the authorized destination; the requirement for approval by the Contracting Officer of any change of such destination prior to

exportation thereto; the specific United States restrictions on exports and re-exports directly and indirectly to denied areas or other prohibited destinations that may have been specified in this contract; the documentation (e.g., IC/DV documents, lading certificates, answers to follow-up requests) that may be required; and the United States sanctions against violators. Subsequent Purchasers and Receivers must also agree to make similar notification to its Purchasers and Receivers. Any unauthorized disposition of the property shall be the responsibility of such Subpurchaser or Subreceiver and, where at fault, of the original buyer from the United States.

e. When property purchased under a single contract is intended for more than one destination, the Bidder agrees to submit, with the End-Use Certificate, a listing of those items specifying quantities intended for each destination and consignee. The Bidder further agrees to furnish the listing referred to herein with each request for approval of a change in destination.

f. Whenever requested by the Contracting Officer to furnish information regarding the actual disposition made of the property awarded to the Purchaser, the Purchaser agrees to furnish the requested information within 30 calendar days after the date of the request.

g. On those items requiring resale approval, the Purchaser agrees to maintain detailed records of their disposition and to provide such records to the Contracting Officer whenever so requested.

h. The trade control actions required by paragraphs (a) through (c) of this article will be applied to all items included in the original sale. Resale breakdowns of such sales will still be subject to the same control requirements applicable to the original sale.

#### ARTICLE H: SPECIAL WASTE NOTICE

While the material offered under this solicitation is not a regulated waste as offered, subsequent actions take with regard to the material may cause a regulated waste to come into existence. Purchaser is cautioned that, if ultimate disposal of this material is intended, international, federal, regional, and local laws and regulations of the country or regions where disposal is intended may apply specific restrictions concerning the disposal of the material. Purchaser is cautioned that it is solely responsible to ascertain the extent to which these regulations may affect it and comply therewith. A list of agencies which should be contacted for information regarding restrictions which apply to the disposal of this material is provided for informational purposes only in the General Information and Instructions.

#### ARTICLE I: TRANSPORTING DANGEROUS GOODS

The Inland Transport Committee of the Economic Commission for Europe sets requirements for the shipping of dangerous goods by road (ADR), rail (RID), and inland waterway (AND). Some nations also have laws and regulations which impose additional requirements upon the shipper of dangerous goods. The Purchaser, as

shipper, is solely responsible for determining the extent to which these regulations affect it and comply therewith. A list of some of the agencies which should be contacted for specific information regarding restrictions which may apply to the transportation of this material in the respective region or country is provided for informational purposes only in the General Information and Instructions.

#### ARTICLE J: LIABILITY AND INSURANCE

a. The Purchaser, during the performance of this contract, shall be responsible for and shall hold the Government harmless from any and all loss of, damage to or liability incurred with respect to property of every kind and description, except as provided in Condition No. 14 of the General Sale Terms and Conditions entitled "Risk of Loss", whether or not such property is owned by the Government. The Purchaser shall also hold the Government harmless from bodily injury to or death caused either in whole or in part by the negligence or fault of the Purchaser, its officers, agents or employees in the performance of work under this contract.

b. The general liability and responsibility of the Purchaser under this clause are subject to the following specific limitations: The Purchaser shall not be responsible to the Government for loss, damage, bodily injury to or death of persons when the damage, injury or death results solely from an act or omission of the Government, its employees or results solely from proper compliance by officers, agents, or employees of the

Purchaser when specific written direction directions are provided from the Contracting Officer or its authorized representative.

c. The Purchaser certifies that it will, at no expense to the Government, maintain adequate insurance to be effective during the term of this contract and any extension thereof.

#### ARTICLE K: COMPRESSED GAS CYLINDERS

a. Purchasers are warned that the material may contain items of an explosive or toxic nature, regardless of the care exercised by

the Government to remove them or render the material harmless.

b. Purchaser agrees that, prior to reuse of Government cylinders for transporting compressed gasses or resale of the cylinders, the registered Government symbol will be obliterated by stamping or penning over the symbol. In addition, the Purchaser agrees that it will not reuse or ultimately dispose of any cylinder, unless it meets the requirements of all applicable local, national, international laws and regulations and is used in a manner that is safe for the public and the environment.

## PART 9

### SPECIAL SPOT BID CONDITIONS OF SALE OF GOVERNMENT PROPERTY

#### 1. MAILED-IN OR HAND CARRIED BIDS

Unless otherwise provided in the Sale, mailed-in or hand-carried bids will not be considered.

#### 2. BID DEPOSIT

In the event mailed-in or hand-carried bids are provided for in the Sale and a bid deposit is required, such bids must be accompanied by a bid deposit of 20% of the total amount bid and must be in the possession of the Contracting Officer by the time and date set forth in the Sale. Bid deposits shall be in the form prescribed in Condition No. 4, General Sale Terms and Conditions (Standard Form 114C), Deposit Bond-Individual Sale, Sale of Government Personal Property (Standard Form 24) properly executed or reference to an approved Deposit Bond-Annual, Sale of Government Personal Property (Standard Form 34) are acceptable when their use is authorized as acceptable forms of bid deposit in the Sale. Any such bid which is not timely supported by an acceptable bid deposit may be rejected as nonresponsive. Any deposit received after the time and date set forth in the Sale for the receipt of bids will be considered in the same manner as late bids.

#### 3. MODIFICATION OR WITHDRAWAL OF BIDS

(Applicable only when mailed-in or hand-carried bids are authorized by the terms and conditions of the Sale.)

a. Bids may be modified or withdrawn by written or telegraphic notice and a bid also may be withdrawn in person by a bidder or his/her authorized representative, provided his/her identity is made known and he/she signs a receipt for the bid, but only if the withdrawal is prior to the exact time for the start of the sale.

b. Where a bid deposit is required by the Sale, any bid modification which increases the amount of a bid already submitted or which submits bids on items not previously bid on must provide for an additional bid deposit.

#### 4. CONSIDERATION OF LATE BIDS, MODIFICATIONS, OR WITHDRAWALS

(Applicable only when mailed-in or hand-carried bids are authorized by the terms and conditions of the Sale.)

a. Mailed-in or hand-carried bids or modifications or withdrawals thereof, must be in the possession of the Contracting Officer by the time and date set forth in the Sale. Any mailed-in bid or modification or withdrawal thereof, received after the time and date set forth in the Sale for receipt of

bids will not be considered unless received by the Contracting Officer before the time set for the start of the sale, was mailed and in fact delivered to the address specified in the Sale in sufficient time to have been received by the Contracting Officer by the time and date set forth in the Sale for receipt of bids, and, except for delay attributable to personnel of the sales office or their designees, would have been received on time. In no event will mailed-in bids or modifications or withdrawals, be considered if received by the Contracting Officer after the time set for the start of the sale, regardless of the cause of delay.

b. Any hand-carried bid or modification not received by the Contracting Officer by the exact time set for the receipt of bids will not be considered, regardless of the cause of the delay. The foregoing sentence does not, however, preclude the submission of bids from the floor, item by item, as the sale progresses.

#### 5. SUBMISSION OF BIDS AND AWARD

Each numbered item will be offered separately by requesting bids from the floor which may be submitted by means of a bid card showing the item number, unit bid price, registration number and signature of the Bidder. After announcement is made that bidding for that item is closed, no further bids will be accepted for that item. Bids submitted from the floor will be compared with mailed-in or hand-carried bids (if authorized) to determine the high bid. Award of each item offered will be made to the highest responsible and responsive Bidder, item by item, as the sale progresses

unless the Contracting Officer specifically announces that the award of a particular item must be delayed. Awards so delayed will be made on a later date by mailing or otherwise furnishing a notice of award to the successful Bidder. The amount of the high acceptable bid, and the name or registration number of the successful Bidder will be publicly announced. All awards publicly announced will be confirmed in writing. In the event that all bids are rejected, the amount of the high bid received will be publicly announced. Items for which all bids have been rejected may be reoffered during the sale or at a later date at the discretion of the Contracting Officer. Qualified, tie-in, all-or-none or combination bids will not be acceptable and will be rejected as non-responsive.

#### 6. PARTIAL PAYMENTS

a. Payment shall be made as required within the time set forth in the Sale, except that whenever mailed-in or hand-carried bids are authorized and a bid deposit is required, the successful Bidder present at the sale must make a partial payment on the day of the sale of at least 20% of the total amount awarded to him/her.

b. Full or partial payments shall be made in the form prescribed in Condition No. 4, General Sale Terms and Conditions (Standard Form 114C).

c. In the event the successful Bidder has on file an approved Deposit Bond-Annual, Sales of Government Personal Property (Standard Form 34), that deposit bond may be used in lieu of a 20% partial payment

required in subparagraph (a), above, when its use is authorized as an acceptable form of partial payment in the Sale. Deposit Bond-Individual Sale, Sale of Government Personal Property (Standard Form 24) is also acceptable, if it has been approved in advance by the selling agency and its use authorized as an acceptable form of partial payment in the Sale.

d. The Purchaser agrees that in the event he/she fails to make partial payment on the day of the sale, as required by this clause, the contract price shall be increased in a sum equal to 5% of the amount of the required partial payment which remained unpaid on the date of the sale for each day that the amount remains unpaid not to exceed 20% of such amount. Such amount will be considered paid at such time as payment is deposited in the mail or with a telegraph company.

STANDARD FORM 114C  
REVISED 4/2001  
PRESCRIBED BY GSA FPMR (41 CFR)  
101-45.3

## PART 10

### SALE OF GOVERNMENT PROPERTY SPECIAL AUCTION CONDITIONS

#### 1. SUBMISSION OF BIDS AND AWARD

a. The Auctioneer will offer each numbered item separately. Bidders will communicate the amount of their bids either orally or by such other means as may be recognized by and acceptable to the Auctioneer. Unless otherwise provided in the Sale, bid offers will not be recognized from any person not properly registered and where applicable issued a numbered paddle.

b. All items cataloged by weight, count or measure will be sold in like units unless specifically changed by announcement by the Auctioneer. The Government reserves the right to sell in such units or groups thereof as it deems most expedient. Items will not be subdivided or grouped unless specific announcement is made.

c. The Auctioneer's "knocking down" an item will constitute an award by the Contracting Officer to the successful Purchaser for each item except as otherwise herein specifically provided.

d. In the event of a dispute as to the amount bid, item or item number, and/or paddle number of a Bidder, the Contracting Officer reserves the right to reoffer the item in question. Once an item is "knocked down", the Purchaser may not withdraw the bid.

e. Records of the Government, certified by the Contracting Officer, as to name and number of the Bidder, the bid, and amount thereof shall be prime facie evidence of the circumstances of the sale, and all disagreements will be resolved in accordance with such records.

f. Special provisions made by the Bidder will not be acceptable and will be cause for rejection of bids. The General Sale Terms and Conditions, (Pages 1 - 4) and Special Conditions of Sale constitute a part of the contract of sale between the Government and the Purchaser. All Bidders acknowledge (by signing the registration card) that they have full and complete understanding of the terms and conditions, and agree to be bound thereby.

#### 2. PARTIAL PAYMENTS

a. Unless full payment is required, the successful Bidder for any item must make a partial payment on the day of the sale of at least 20% of the total amount awarded to him/her.

b. Full or partial payments shall be made in the form prescribed in Condition No. 4, General Sale Terms and Conditions (Standard Form 114C).

c. In the event the successful Bidder has on file an approved Deposit Bond-Annual, Sale of Government Personal Property

(Standard Form 151), that deposit bond may be used in lieu of the 20% partial payment required in subparagraph (a), above, when its use is authorized as an acceptable form of partial payment in the Sale. Deposit Bond-Individual Sales, Sale of Government Personal Property (Standard Form 150), is also acceptable if it has been approved in advance by the selling agency, when its use is authorized as an acceptable form of partial payment in the Sale.

d. The Purchaser agrees that in the event he/she fails to make partial payment on the

day of the sale, as required by this clause, the contract price shall be increased in a sum equal to 5% of the amount of the required partial payment which remained unpaid on the date of sale for each day that the amount remains unpaid not to exceed 20% of such amount. Such amount will be considered paid at such time as payment is deposited in the mail or with a telegraph company.

STANDARD FORM 114C

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101-45.3

## TIPS FOR BIDDERS

**1. Review the terms and conditions of each sale carefully.**

They can vary from sale to sale. If you have questions, consult the Sales Contracting Officer at the Sales Office.

2. Don't bid for more material than you can pay for and/or remove within the removal time allowed. Overbuying may result in forfeiture of your bid deposit or assessment of storage charges.
3. Be sure your bid is responsive. Bids are solicited on many different bases; i.e., pound, foot, each, ton. Be sure your bid is submitted on the proper unit of measure.
4. Always verify your unit price and your total price before submitting the bid. Mistakes can prove costly to you and will delay processing your bid. Initial the erasures and changes made on your bid.
5. Be sure to address your bid to the exact mailing address given in the sales auction.
6. **END USE CERTIFICATE/BID and AWARD PAGE:** When bidding on any items which require an End Use Certificate, make sure the certificate is properly filled out and accompanies your Bid and Award page.

**NOTE:** The name and address on the End-Use Certificate must be identical to that entered on your Bid and Award page.

7. Mail your bid early to allow extra time for postal handling. If you are using a courier service, ensure their delivery time is prior to the bid acceptance time and date.
8. To ensure Bid are expeditiously processed, proper credit is given for your participation and to preclude opening sealed Bid for identification, your bid envelope must contain:
  - a. Your complete return address. (Always use the same name and address that appears on your bid form).
  - b. The sale number, and opening date and time.
  - c. Your Bidder identification number if one has been assigned.
9. All payments made on sales contracts must be submitted directly to the Sales Office conducting the sale unless otherwise instructed by the Sales Contracting Officer.