

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT

32a. QUANTITY IN COLUMN 21 HAS BEEN

RECEIVED INSPECTED ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED: _____

32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32c. DATE	32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE
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32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE
32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE	

33. SHIP NUMBER <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR	36. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	37. CHECK NUMBER
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38. S/R ACCOUNT NO.	39. S/R VOUCHER NUMBER	40. PAID BY
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41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT	42a. RECEIVED BY (<i>Print</i>)	
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER	41c. DATE	
	42b. RECEIVED AT (<i>Location</i>)	
		42c. DATE REC'D (<i>YY/MM/DD</i>)
		42d. TOTAL CONTAINERS

Form**52.233-9001 DISPUTES - AGREEMENT TO USE ALTERNATIVE DISPUTE RESOLUTION (NOV 2011) DLAD**

(c) The offeror should check here to opt out of this clause:

[] . Alternate wording may be negotiated with the contracting officer.

52.233-9000 AGENCY PROTESTS (NOV 2011) DLAD**sow****STATEMENT OF WORK (SCOPE)****INTRODUCTION**

DLA Troop Support Europe and Africa intends to enter into an Indefinite Quantity Contract (IQC) contract with commercial firms to supply a full line of the European equivalents to USDA No.1 or better Fresh Fruit and Vegetable (FF&V) products to Department of Defense (DoD) Customers located in Southern Europe. Payments to awardee are to be made in Euros. All offers are to be made in Euros.

This solicitation consists of one zone (Southern Europe) covering Department of Defense (DoD) customers. The Government intends to make one (1) award per zone, but reserves the right to award more than one (1) contract per zone. Offerors are required to offer on all items in the Schedule of Items for this zone; failure to do so may result in exclusion from award consideration.

This solicitation is Unrestricted with Full and Open Competition It utilizes the Lowest Price Technically Acceptable Source Selection Process as specified in FAR 52.212-2 Evaluation -Commercial Items.

Any award made against this solicitation will result in an Indefinite Quantity Contract (IQC) Fixed Price with an Economic Price Adjustment –Actual Material Costs for Subsistence Delivered Price Business Model. An IQC will provide for an indefinite quantity, within stated limits, of specific supplies or services to be furnished during a fixed period, with deliveries to be scheduled by placing orders with the Contractor (reference FAR 16.504(a)).

EFFECTIVE PERIOD OF CONTRACT

Each resultant contract may be for a total of 4 years (one [12 month] base period plus three [12 month] option periods) commencing on the effective date of the contract. The base term of the resultant contract, and the term of any option under that contract, will not exceed 12 months. The contract period is from date of award, including the 45 day the start-up (implementation) period (as noted in the requirements on page 10), for a total of four years of performance, one (1) year base and three (3) one-year option periods. The total length of the contract will not exceed forty-eight (48) months, or four (4) years.

OPTIONS**CONTINUED ON NEXT PAGE**

There are three (3) 12-month option periods in this solicitation. Acceptance of these options by the Contractor is mandatory. Distribution Prices (see Economic Price Adjustment (EPA) Clause 52.216-9064, solicitation, for definition), must be submitted for each option period, as well as for the base term. The Distribution Prices offered on each option year will be calculated with the delivered price (see Economic Price Adjustment Clause 52.216-9064 (solicitation) for definition), proposed for each evaluated item. The Distribution Price per option period may be offered as a dollar value, increase or decrease, from the base period. **Changes expressed as a percentage will not be accepted.** Failure to propose an increase or decrease of distribution prices in the option periods will be considered, and evaluated as, no change per option period.

ESTIMATED DOLLAR VALUE/GUARANTEED MINIMUM/MAXIMUM

The following chart includes the 12-month estimated dollar value and the 4 year estimated dollar value, along with the guaranteed 10% minimum and 250% maximum. The guaranteed minimum, although based on estimates, is a firm dollar amount calculated as a percentage of the estimated dollar value; that firm dollar amount constitutes the Government's legal ordering obligation under the contract.

	12- Month Estimate (Base Year)	4 Year Estimate (Total incl. Options)	10% MIN (Base Year)	250% MAX (4 Years)
Southern Europe				
Group I DOD	\$3,576,587	\$14,306,345	\$357,659	\$35,765,862

The term "12 Month Estimate" refers to the Government's good faith estimate of the requirement for the base period.

The minimum contract dollar value is \$357,659.

The maximum contract dollar value is \$35,765,862 for the entire 4 year period.

REQUIREMENTS

I. START-UP PERIOD

The Contractor's startup period will take place prior to the first order. The Contractor shall submit a proposed implementation schedule to the Contracting Officer within fifteen (15) days after award highlighting the steps that will be taken to implement a fully functional distribution account, including all EDI transactions for all customers covered by this solicitation. An additional thirty (30) days will be granted for actual implementation. No more than forty-five (45) days after award will be permitted for each Contractor to have fully functional distribution accounts in place for all customers.

II. ORDERING CATALOGS

Offerors will be required to maintain electronic catalogs that list all items available to the customers covered under this solicitation. Each item in the catalog shall contain the corresponding national or local stock number, Government item description, packaging characteristics, unit of issue and unit price.

III. CATALOG MAINTENANCE

In accordance with clause 52.216-9064 Economic Price Adjustment –Actual Material Costs for Subsistence Delivered Price Business Model, vendors may change prices in their Subsistence Total Order and Receipt Electronic System (STORES). The submissions are to be made by **Tuesday, 16:00 PM EST**, to be in effect the following Sunday. All catalog changes to STORES must be submitted to DLA Troop Support Europe and Africa via 832 EDI Transaction Set. DLA Troop Support Europe and Africa will review all catalog updates to check for price and other changes; however, **the accuracy of the vendor item catalogs is the responsibility of the vendor.** **If catalog updates are not submitted by Tuesday, 16:00 EST, they shall only be submitted with approval from the Contracting Officer. Late catalog submissions shall require the vendor to hold their prices from the previous submission at the discretion of the Contracting Officer.**

IV. NEW ITEMS

Prior to commencement of the first order, DLA Troop Support Europe and Africa, the customer and the vendor will collaborate to identify items not found in the Schedule of Items which are to be added to the ordering catalog. Neither the vendor nor customer is permitted to add a new item to the catalog without initiating a new item request to the Contracting Officer.

The Government reserves the right to add Fresh Fruit and Vegetable (FF&V) items to the catalog after award. After ordering commencement, if a customer desires to order a Fresh Fruit and Vegetable (FF&V) item that is not part of the ordering catalog, the Contractor will be allowed a maximum of twenty (20) days to source the item, obtain a stock number from DLA Troop Support Europe and Africa (if required) and add the item to the ordering catalog via an 832 catalog transaction. These items should then become a permanent part of the Contractor's inventory, dependent upon availability, after the Contracting Officer's determination of fair and reasonable pricing. The contractor shall utilize the Contracting Officer provided form when requesting all item approvals (additions and/or changes). The form is mandatory and is Attachment 2. Addition of a new item(s) may not exceed the contract maximum dollar value stated.

The successful awardees shall assume the responsibility of introducing new produce items to the customers, as well as showing cost effective alternatives to their current choices.

CATALOG PRICING

A. **Best Price Guarantee:** During contract performance, the Contractor shall provide unit prices that are equal or lower than its most favored commercial customers, including any applicable discounts and allowances.

B. **Schedule of Items Pricing:** Items priced in the Schedule of Items (See Attachment1) will be included in the ordering catalog following award. Schedule of Items will be determined fair and reasonable prior to award.

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The final proposed price for each item in the Schedule of Items will be the catalog price during the first week of customer ordering.

C. **Catalog Price Changes:** Once an item is listed on the ordering catalog, the Contracting Officer will make on-going price reasonableness determinations. In accordance with clause 52.216-9064 Economic Price Adjustment –Actual Material Costs for Subsistence Delivered Price Business Model, Contractors are permitted to submit a weekly EPA for items found on the catalog. For each item the vendor is requesting a price change, the Contracting Officer will conduct a separate price reasonableness determination. The item will be removed from the catalog until a fair and reasonable price can be determined by the Contracting Officer. Vendors are required to submit weekly catalog updates **submitted on Tuesdays, prior to the 16:00 EST deadline**. The vendor **must provide invoices or quotes** from their sources upon any request from the Contracting Officer or Contract Specialist. The prices on the submitted quotes and invoices **must match up with the delivered prices being submitted without adding in the distribution price or any other fees**.

D. **Catalog Additions:** Before an item is added to the catalog, vendors are required to submit to the Contracting Officer a request of proposed catalog additions (See Attachment 2). The Contractor shall utilize the form provided by the Contracting Officer when requesting all item approvals (additions and/or changes). The request shall include the stock number, Government item description, proposed unit price and a corresponding supplier invoice or quote, and proposed distribution price. **The request is due by 9:00 AM EST on the Monday prior to inclusion of the Tuesday catalog updates**. The Contracting Officer will review the catalog addition request, and upon determining the price fair and reasonable, will contact the Contractor to indicate acceptance. The Contractor shall then include the item on Tuesday's catalog update. Should the proposed price fail to be determined fair and reasonable, the Contracting Officer will conduct negotiations with the vendor. If after negotiations the proposed pricing still cannot be determined fair and reasonable, the item will not be added to the catalog.

E. **Pricing Requirements:** The final negotiated contract fixed unit price for each item delivered to all customers shall be in effect for a minimum of all orders issued during the first ordering week (from Sunday at 12:01 AM EST through the following Saturday until 11:59 PM EST) The prices shall remain in effect for all subsequent ordering weeks except as otherwise adjusted IAW clause 52.216-9064 Economic Price Adjustment –Actual Material Costs for Subsistence Delivered Price Business Model (Nov 2011).

On the first week's catalog the vendor shall submit final evaluated prices as awarded using the 832 transaction unless lower market prices are available at time of award, whereby the vendor shall adjust their catalog prices to provide all available lower prices to the Government. Because this award is being made as Low Price Technically Acceptable, there is no upward adjustment on the final evaluated price for the first week's catalog. For DoD Customers, the vendor retains the right to limit deliveries under the contract's first week's catalog to delivery days in the first week plus the following Monday and Tuesday.

VI. REBATES/DISCOUNTS & PRICE RELATED PROVISIONS

A. Definitions.

(1) "*Added value*" means that the Contractor performs subcontract management functions that the Contracting Officer determines are a benefit to the Government (e.g., processing orders of parts or

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services, maintaining inventory, reducing delivery lead times, managing multiple sources for contract requirements, coordinating deliveries, performing quality assurance functions).

(2) “*Excessive pass-through charge*,” with respect to a Contractor or subcontractor that adds no or negligible value to a contract or subcontract, means a charge to the Government by the Contractor or subcontractor that is for indirect costs or profit on work performed by a subcontractor (other than charges for the costs of managing subcontracts and applicable indirect costs and profit based on such costs).

(3) “*No or negligible value*” means the Contractor or subcontractor cannot demonstrate to the Contracting Officer that its effort added value to the contract or subcontract in accomplishing the work performed under the contract (including task or delivery orders).

(4) “*Subcontract*” means any contract, as defined in section 2.101 of the Federal Acquisition Regulation, entered into by a subcontractor to furnish supplies or services for performance of the contract or a subcontract. It includes but is not limited to purchase orders, and changes and modifications to purchase orders.

(5) “*Subcontractor*” means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for the Contractor or another subcontractor.

B. The Contractor or subcontractor shall not include excessive pass-through charges in their contract prices to the Government. If the Contracting Officer determines that excessive pass-through charges exist, the Government shall be entitled to a price reduction for the amount of excessive pass-through charges included in the contract price. The Contracting Officer (or authorized representative) shall have the right to examine and audit all the Contractor's records as necessary to determine whether the Contractor proposed, billed, or claimed excessive pass-through charges.

C. The Contractor shall employ all prevailing commercial methods in the pursuit of discounts, rebates, allowances or other similar economic incentives or benefits, for the customers supported under this contract, throughout the period of performance of this contract.

D. All discounts, rebates, allowances and other monies provided by the Supplier to the Contractor, or directly by the Contractor, for the benefit of the customers supported under this contract, shall be returned to DLA Troop Support Europe and Africa in the form of a reduced Delivered price, and designated as the Product Allowance portion of the contract unit prices. Monies provided by the Supplier to the Contractor as compensation for services rendered by the Contractor (sometimes called Earned Income) and monies provided for an Early-Pay Discount, which are not designated by the supplier to be returned to customers in the way of a delivered price reduction, may be retained by the Contractor, subject to the terms below.

E. All discounts, rebates, or allowances on particular items which are reflected in the amounts shown on the face of the Supplier invoice (referred to as “off-invoice allowances”) or designated by the Supplier to be passed on to the Government or to any commercial customer, shall be passed by the Contractor to the Government in the form of an up-front price reduction. The total of these discounts, rebates, or allowances (Product Allowance) shall be reflected via a reduced STORES price, resulting in a lower invoice price to the customer. Any rebates that must be passed to the Government and which cannot be applied as an up-front

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price reduction must be coordinated with the Contracting Officer, and any such rebates must be submitted to the Government via check made to the US Treasury, attached with itemized listing of all customer purchases by line item to include contract number, call number, purchase order number and CLIN number.

F. The Contractor may retain Earned Income that meets the following conditions:

- (1) Earned Income that the Vendor obtains from the Supplier and retains for its own use as payment for value added services for product Suppliers, such as supply chain management, product development, regional and national marketing, freight management, procurement leverage, quality assurance, and performance-based product marketing, and is received and retained in the normal course of its commercial business. Earned income may be retained by the Contractor and is not required to be included in the Contract Unit Price.
- (2) Earned income does not include Supplier generated discounts, rebates, or allowances that are reflected on the face of the Supplier invoice or otherwise designated by Supplier to be passed on to customers.

G. The Contractor may retain Early Payment Discounts that meet the following conditions:

- (1) The Early Payment discount is an incentive to encourage payment earlier than the normal payment due date;
- (2) The Early Payment discount is consistent with commercial practice;
- (3) The Early Payment discount is routinely given by the suppliers to customers other than the Contractor at the same discount rate and under the same conditions as provided to the Contractor and not to exceed 2% / 10 days.
- (4) The Early Payment discount is not established, requested, or negotiated for the purpose of avoiding giving DLA Troop Support Europe and Africa a lower cost or a rebate or in exchange for a higher invoice price; and
- (5) The Contractor actually made the required payment within the time period required to receive the discount. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

H. Verification and Audit.

The Government has the unilateral right to perform price verification analyses, and to post-acceptance audit, for any and all contract unit prices, to include existing catalog items, price changes to existing catalog items, and new items being added to the catalog.

The Government may require the Contractor to submit invoices and other documentation from all subcontractor tiers, any supplier or commercial customer sales, or person in the delivered price supply chain, to substantiate that all discounts, rebates, allowances or other similar economic incentives or benefits, provided by the Supplier or the Contractor, are passed on to the Government as required. The Vendor shall keep all delivered price invoices for a period of at least three (3) years after the completion of the contract year in which they were delivered, or as otherwise required by the terms of the contract.

If the Contracting Officer determines that a discount, rebate, allowance or other similar economic incentive or benefit was not passed on to the Government, or if price verifications reveal any instances of overpricing, the Government shall be entitled to a prospective delivered price reduction and a retroactive refund for the amount

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of the overcharges. The Contractor shall promptly refund any overcharges discovered during this process. Overcharges will probably also result in more frequent price verification analyses. No credit will be given the Contractor for any undercharges. The Government reserves all rights and remedies provided by law or under the contract in addition to recovering any overcharges.

The Contracting Officer, or authorized representative, shall have the right to examine and audit all the Contractor's records relevant to the existence of discounts, rebates, allowances or other similar economic incentives or benefits, and most favored customer delivered prices. Failure to exercise this right shall not constitute a defense or alter the Government's entitlement to any other remedies by contract or by law. The Government has the right to conduct and perform audits at any time.

The parties specifically acknowledge that the finding of overcharges may result in more frequent and extensive price verifications, or a determination by DLA Troop Support Europe and Africa to discontinue the placing of further delivery orders and performance under the contract.

VII. CUSTOMERS

Additional Customers: The Government reserves the right to add or remove DOD customers in the solicited area to each resulting contract based on a mutually agreed upon implementation plan at no additional cost to the Government. All new customers' additions will be put under the same catalog as the existing customers, with the same distribution price, delivered prices and total evaluated prices.

Although customers in the following countries are not all current customers, the Southern Europe Zone includes all DoD customers located in the countries of Italy, Spain, Portugal, Romania, Slovenia, Bulgaria, Greece, Turkey, Albania, Macedonia, Serbia, Kosovo, Croatia, Cyprus, Montenegro, Malta, Moldova, Southern France, and all Naval activity with ports in these countries and/or south of the Alps. Any new countries or republics that may be created out of the areas listed above over the life of this contract are also required to be serviced. Addition of a new customer(s) may not exceed the contract maximum dollar value stated. The specific list of customers is found in attachment 3.

VIII. CUSTOMER SERVICE

Vendors shall treat every customer covered under its contract as their best customers. Therefore, any treatment and/or customer service policy given to other accounts shall also be given to the customers under these contracts.

DOD customers have periodic food menu board and other types of meetings which the vendor may be required to attend. At these meetings, the customers not only review their internal business practices, but the offeror can utilize this forum to show new products, demonstrate produce preparation, and provide nutritional information. The email addresses of the respective agencies' representatives, or any other method of communicating, shall be furnished to the customers after award.

Vendors shall provide at least one (1) full time Customer Service representative to maintain continuous contact with all of the ordering activities. The name of the representative and the phone

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number, mobile phone number, beeper number, email address, or any other method of communicating with the representative, shall be furnished to the customer after award.

Because many of our customers only have access to the Government phone network, it is strongly preferred that a toll free number be provided.

IX. VALUE ADDED SERVICES

Market Forecast: The vendor is required to provide the customer and the Contracting Officer with a weekly produce market forecast bulletin on Friday which outlines for the following week's information regarding supply availability, product quality, associated growing areas, price trends, weather conditions, and handling tips.

X. ORDERING SYSTEMS

A. Subsistence Total Order & Receipt Electronic System (STORES)

DOD customers will order using the Subsistence Total Order and Receipt Electronic System (STORES) catalog. STORES EDI information can be found in Attachment 4 of this solicitation. The vendor is responsible for establishing and maintaining the STORES catalog in accordance with Attachment 4.

Accessed via the Internet, STORES is the Government's translator/ordering system that is capable of accepting orders from any of the Services, i.e. **Army, Air Force, Navy, or Marines**, individual ordering systems and translating them into an Electronic Data Interchange (EDI) format. In addition, this information is passed to DLA Troop Support Europe and Africa for the purposes of Contractor payment and customer billing. Additional EDI information has been provided as an Attachment 4.

Customers will be able to order all of their requirements through STORES. The System will transmit orders to the vendor and DLA Troop Support.

The awardee shall be required to interface with STORES and must be able to support the following EDI transactions:

- 810 Electronic Invoice
- 820 Payment Voucher Information
- 832 Catalog (Outbound - Vendor to DLA Troop Support Europe and Africa)
- 850 Purchase Order
- 861 Receipt
- 997 Functional Acknowledgement

NOTE: A complete description of these transaction sets is included in the "EDI Implementation Guidelines" can be found at <http://www.troopsupport.dla.mil/>. Select supply chains: Select Subsistence, Select Information: Select Stores & EDI Reqts.

The vendor shall have access to the Internet and be able to send and receive electronic mail (email).

Unit prices must be formatted not more than two (2) places to the right of the decimal point in all ordering catalogs.

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Vendors are required to utilize the Government's item descriptions on all electronic ordering catalogs (832 transmissions) as well as on its invoices, delivery ticket to customer and 810 invoice transaction set.

The offeror may be required to transmit 810,832, and 997 transactions, prior to award and during proposed evaluations, in order to demonstrate its EDI capability.

The vendor will utilize the DLA Troop Support invoice reconciliation process, or other such systems as may become available, to the maximum extent, towards the goal of correcting invoices early and facilitating the payment process.

In the event the STORES system or the vendors interface is not operational, the vendor must provide alternate ways for the customer to order (e.g., by fax by phone, pick up orders, etc.)

B. Public Key Infrastructure (PKI)/ External Certificate Authorities (ECA) Certificates

The Department of Defense (DOD) Public Key Infrastructure (PKI) Certificate will be required for all DOD users. A DOD PKI certificate will be required for all Contractors. The requirement for PKI certificates is implemented in accordance with DOD security policy promoting secure electronic transactions.

1. Obtaining a PKI certificate:

(a) Contractors who do not work on-site at a Department of Defense facility may purchase a DOD PKI certificate from one of three External Certificate Authorities (ECAs). The ECAs are vendors who provide digital certificates to DOD's industry partners who are using their own equipment or working in non – Governmental facilities. Certificate prices range from \$99 - \$115 per certificate per year, with volume discounts at some ECAs. A list of ECAs is available at https://www.daas.dla.mil/daashome/pki_contacts.asp

(b)Each Contractor must fully comply with the DOD requirement to implement PKI in order for our information systems to remain secure and viable.

XI. ORDER PLACEMENT

Troop Customers shall place their orders to accommodate at a minimum a "skip day" delivery. An order placed on 1 September would have a required delivery date of 3 September. Orders may be placed with longer lead time not to exceed fourteen (14) days in advance of the requested delivery date; however, the minimum lead-time is "skip-day." Minimum order requirement for any resultant contract is \$250.00. The \$250.00 minimum order shall be based on the aggregate total of orders to all customers located within a particular base or location. The \$250.00 minimum does not apply to any emergency orders.

All invoice pricing will be based upon the unit price at time of order. For example, for any item ordered on a Friday to be delivered the following week, pricing will be based upon the Friday price, regardless of whether the unit price for that item changed as part of the weekly catalog update.

XII. ITEM AVAILABILITY

Vendors must have access to items in sufficient quantities to fill all ordering activity requirements. All supplies shall be furnished on a “fill or kill” basis. Partial shipments are acceptable if the customer is notified in advance and agrees to the partial shipments; however, the unfilled quantity is to be reported as not-in-stock (NIS). Offerors are required to have procedures for handling NIS situations. The Contractor is required to stipulate timeframes in which the NIS item will be identified to the customer prior to delivery, in order that a substitute item may be requisitioned via a new order. Only substitutes of comparable description, quality, and price may be offered to the customer.

Vendors shall notify the customer within 24 hours of order placement of the non-availability of any item. Vendors shall offer the customer a substitute of equal or higher quality and at an equal or lower cost, or advise them of the not-in-stock position of the item. Substituted product shall not be delivered without prior consent by the customer. Substituted items must be noted as such on the invoice.

XIII. PACKAGING, PACKING, LABELING AND MARKINGS

All packaging and packing shall be in accordance with good commercial practice. Labeling shall be in accordance with European Union Commercial Labeling requirements.

Shipping containers shall be in compliance with the National Motor Freight Classification and Uniform Freight Classification Code. To ensure that the carrier and the receiving activity properly handle and store items, standard commercial precautionary markings such as “KEEP REFRIGERATED” shall be used on all cases when appropriate.

Protection during inclement weather is required. All products that are susceptible and sensitive to temperature must be protected by any means to prevent damage.

XIV. DELIVERY INSTRUCTIONS

Vendors shall ensure all products are delivered in sanitary trucks that are of a commercially acceptable standard. All trucks shall maintain proper temperatures, as determined through standard commercial practices. Deliveries shall be F.O.B. Destination to all ordering activities and delivery points. All items will be delivered to customer locations, free of damage, with all packaging and packing intact. The Contractor shall remove all excess pallets used for delivery from the delivery point. A listing of all the delivery points per zone can be found at Attachment 3.

Troop installation delivery schedules (days and times) routes and stop-off sequence will be coordinated and verified with the customers on a post award basis by the awardee(s). The current delivery schedules and number of deliveries are included in attachment 3.

Products for individual customers/dining facilities must be segregated on separate pallets. Many of the military bases have more than one delivery point. All products shall be segregated by individual ordering locations and loaded into the delivery vehicle in reverse drop sequence. The intent is to provide expeditious off-loading and delivery to the customer.

The offeror shall also ensure that the personnel loading and delivering the product provide prompt and efficient service to the customer.

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XV. INSPECTION AND ACCEPTANCE

Inspection and Acceptance of products will be performed at destination. The inspection is normally limited to identity, count and condition; however, this may be expanded if deemed necessary by either the military Veterinary Inspector, Dining Facility Manager, Food Service Advisor/Officer, or the Contracting Officer. Delivery vehicles may be required to stop at a central location for inspection before proceeding to the assigned delivery point(s). In addition, the delivery vehicles will be inspected for cleanliness and condition. Supplies transported in vehicles that are not sanitary, or which are not equipped to maintain prescribed temperatures, may be rejected without further inspection.

It is a requirement of this solicitation that product shall be inspected upon receipt as promptly as practicable. However, failure to promptly inspect or accept supplies shall not relieve the Contractor from responsibility, nor impose liability on any of the customers, for nonconforming supplies. See clause 52.212-4, paragraph (o) and addendum to clause 52.212-4, paragraph 1

The authorized Government receiving official at each delivery point is responsible for inspecting and accepting products as they are delivered. The delivery ticket shall not be signed prior to the inspection of each product. All overages/shortages/returns are to be noted on the delivery ticket by the Government receiving official and truck driver. The authorized Government receiving official's signature and printed name on the delivery ticket is required for acceptance of the product.

The Contractor shall forward three (3) copies of the delivery ticket with the shipment. The Government receiving official will use the delivery ticket as the receipt document. Two (2) copies of the signed and annotated delivery ticket will serve as the acceptance document. No electronic invoice may be submitted for payment until acceptance is verified. Additionally, upon completing the delivery (or deliveries) and before the carrier leaves the installation, copies of the invoices may be required to be delivered to a central "Accounting/Troop Issue" activity on the installation.

XVI. AUTHORIZED RETURNS

The Contractor/vendor shall accept returns under the following conditions:

- Products shipped in error;
- Products damaged in shipment;
- Products with concealed or latent damage;
- Products that are recalled;
- Products that do not meet shelf life requirements;
- Products that do not meet the minimum quality requirements as defined for the items listed in the schedule;
- Products delivered in unsanitary delivery vehicles;
- Products delivered that fail to meet the minimum/maximum specified temperature;
- Products that do not comply with DFARS 252.225-7012 Preference for Certain Domestic Commodities (Berry Amendment), if no waiver to this clause has been granted; or
- Any other condition not specified above that is deemed by the customer to be valid reasons for return. (i.e. Quantity excess as a result of order input error and/or purchase ratio factor error.)

XVII. REJECTION/RETURN PROCEDURES

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In the event an item is returned, the delivery ticket/invoice shall be annotated as to the item(s) rejected. These items shall then be deducted from the delivery ticket/invoice. The invoice total must be adjusted to reflect the correct dollar value of the shipment. Replacements will be authorized based on the customer's needs. On an as-needed basis, same day re-delivery of items that were previously rejected shall be made, so that the customer's food service requirements do not go unfulfilled for that day. The re-delivered items will be delivered under a separate invoice utilizing the same call number, clin number, and purchase order number for the discrepant line. These re-deliveries will not constitute an emergency order requirement.

In the event a product is rejected after initial delivery is made, the vendor will pick up the rejected product. Credit due to the ordering activity as a result of the rejected product being returned, will be handled through a receipts adjustment process in STORES. If the vendor has already been paid for the product, a claim will be issued through DLA Troop Support's financial system.

If a customer requires a one-to-one replacement, no additional paper work is necessary; the vendor delivery ticket/invoice will show that product is a replacement for a rejected item. The invoice shall reference the call number, CLIN number, and Purchase Order Number of the originally ordered product.

XVIII. INVOICING

Each delivery will be accompanied by the Contractor's delivery ticket/invoice. Three (3) copies (an original plus two) shall accompany the shipment. The customer shall sign all copies of the invoice/delivery ticket, keep one (1) copy and return the **Original** copy to the vendor. **Any changes must be made on the face of the delivery ticket/invoice; attachments are not acceptable.**

No paper invoices shall be submitted to DFAS for payment. For all orders placed via STORES and sent via EDI transaction set 850, invoicing for payment is to be filed electronically using EDI transaction set 810 (see <http://www.troopsupport.dla.mil/>, Select supply chains: Select Subsistence, Select Information: Select Stores & EDI Reqts for EDI guidelines).

All invoices submitted by the vendor must be "clean", i.e. all debits and/or credits must be reflected on the invoice prior to its submission. All vendors are required to ensure the accuracy of their invoices; the reconciliation tool provides you that medium.

All internal debit/credit transactions must be completed prior to the submission of the invoice. Invoice lines that do not contain the correct invoice data and/or contain incorrect quantities delivered or prices charged will be rejected. The vendor will be responsible for correction and re-submission.

The same invoice cannot be submitted with different dollar amounts.

The 810 invoices do not go through a testing phase. The vendor can immediately submit the 810 after delivery has been accepted by the customer. Payment will be in accordance with the three way match of order, receipt and invoice before payment is released. The testing of the 850 transaction is to ensure that the vendor is able to receive and read the data. The vendor will not send in a purchase order back to DLA Troop Support. The vendor will fill the order and acceptance of the order is needed before the vendor can submit an invoice.

For catch weight items, standard rounding methods must be observed i.e. <.5, rounded down; > or =.5, rounded up. All weights must be rounded to whole pounds using standard rounding methods. Any line submitted for other than whole numbers will be rejected and require correction and re-submission by the vendor. Note: Currently, no catch weight items apply to this solicitation. This does not preclude the possibility that catch weight items may be added in the future for certain items.

Unit prices and extended prices must be formatted not more than two (2) places to the right of the decimal point. STORES will not accommodate positions of three (3) and above beyond the decimal point.

Although invoices must be submitted electronically via an 810 Electronic Invoice, the following address must appear in the "Bill To" or "Payment Will Be Made By" block of the Contractor's invoice.

DFAS – Columbus Center (SL4701)
Attn: DFAS-BVDP
P. O. Box 369031
Columbus, OH 43236-9031

Each invoice shall contain sufficient data for billing purposes. This includes, but is not limited to:

Contract Number
Call or Delivery Order Number
Purchase Order Number;
DoDAAC
Contract line listed in numeric sequence (also referred to as CLIN order);
Item nomenclature;
LSN or NSN;
Quantity purchased per item in DLA Troop Support Europe and Africa's unit of issue;
Total dollar value on each invoice (reflecting changes to the shipment, if applicable).
Invoice transactions may be submitted to DLA Troop Support Europe and Africa daily.
All internal debit/credit transactions must be completed prior to the submission of the invoice. Invoice lines that do not contain the correct invoice data and/or contain incorrect quantities delivered or prices charged will be rejected. The vendor will be responsible for correction and re-submission.

Vendor Reconciliation Tool - in an effort to improve the payment process, vendors have the ability to view what the customer has or has not receipted, via the STORES website.

https://www.stores.dla.mil/stores_web/default.aspx The vendor will have access to "un-reconciled" information, i.e., the invoice does not match the receipt because of the quantity price discrepancy, or because the customer has not posted a receipt. Both invoice information and receipt information will be available for review on the STORES website by the vendor. While the vendor will not have the capability to update customer receipt information, update capability will be available for un-reconciled invoice information for approximately thirty days (30) days. It is the vendor's responsibility to ensure accurate invoices. This tool has been developed as an additional means for your internal accounting process.

XIX. PRICE AUDITS

Price Verification Audits. Contractors are advised that the Government may conduct price verification analysis in the following manner:

Monthly, an internal Price Verification Team in conjunction with the Contracting Officer, may require the Contractor to provide copies of specific invoices from suppliers covering up to 100 items that were previously ordered.

The Price Verification Team will request the above documentation in writing and the Contractor will have thirty (30) days after the request to furnish the documentation.

A report of overcharges and undercharges (if applicable) will be forwarded to the Contractor, and the Contractor will pay the Government for the net amount owed for overcharges. The Government reserves all rights and remedies provided by law or under the contract in addition to recovering any overcharges.

The Government may elect to expand the scope of the price verification analysis if overcharges are discovered. The Government may also elect to reduce the scope of the price verification analysis if no overcharges are discovered.

The Government reserves the right to conduct additional price audits to verify price accuracy and recoup overcharges. In such instances, Contractors will be required to submit invoices and any other supporting price documentation.

The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention.

XX. FILL RATE

Order fill rates shall be calculated on an on-time, per order basis and tracked for monthly submission to the Contracting Officer/Account Manager. The fill rate shall be calculated as follows and shall not include substitutions, mis-picks, damaged cases or rejected product (**No other method of calculating fill rate will be accepted**):

$$\frac{\text{Cases accepted}}{\text{Cases ordered}} \times 100 = \text{fill rate \%}$$

Definitions:

Cases accepted - product that the customer has received and receipted not including damaged cases, mis-picks, and product substitutions.

Cases ordered - product requested by a customer via 850 transaction.

Vendors are required to maintain at a minimum a **98.0%** fill-rate without substitutions.

The Contractor will submit a monthly report, by customer, to the DLA Troop Support Europe and Africa Contracting Officer with the following information:

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Fill Rate with and without Substitution

List of all items that were Not in Stock, Returned, Damaged, Mis-picks and Substitutions.

XXI. HOLIDAYS

All orders are to be delivered on the specified delivery date, except for Federal holidays, as outlined below. When a scheduled delivery day falls on one of these days, or one designated by your firm, delivery should occur on the next business day, unless otherwise agreed to by the customer. Vendors must give at least one (1) month notice of all approaching holidays (Local and US) to coordinate deliveries and accommodate customers. Spaces for Local Holidays, which may be observed, have been added below and the vendor shall fill them in before an award is made.

New Year's Day
Martin Luther King's Birthday
President's Day
Memorial Day
Independence Day

Labor Day
Columbus Day
Veteran's Day
Thanksgiving Day
Christmas Day

Note: Saturday holidays are celebrated on the preceding Friday; Sunday holidays are celebrated on the following Monday.

XXII. EMERGENCY ORDERS

Troop requirements can accelerate and surge during adverse weather or other conditions; therefore, last minute ordering may take place as necessary to fulfill customers' requirements.

Unless specified by the customer, all emergency order(s) for supplies must be same day service. Expeditious fulfillment of the emergency requirement is imperative. The vendor is responsible for providing the ordering facilities with the name of the Contractor representative responsible for notification of receipt and handling of such emergency service and his/her phone number and/or cell phone number. The Contractor will provide a minimum of up to one emergency order per month per customer at no additional cost to the Government.

XXIII. FOOD DEFENSE

The DLA Troop Support Europe and Africa Subsistence Directorate provides world-wide subsistence logistics support during peace time as well as during regional conflicts, contingency operations, national emergencies, and natural disasters. At any time, the United States Government, its personnel, resources and interests may be the target of enemy aggression to include espionage, sabotage, or terrorism. This increased risk requires DLA Troop Support to take steps to ensure measures are taken to prevent the deliberate tampering and contamination of subsistence items. The offeror must ensure that products and/or packaging have not been tampered with or contaminated throughout the growing, storage, and delivery process. The offeror must immediately inform DLA Troop Support Subsistence of any attempt or suspected attempt by any party or parties, known or unknown, to tamper with or contaminate subsistence supplies.

As the holder of a contract with the Department of Defense, the awardees should be aware of the vital role they play in supporting our customers. It is incumbent upon the awardees to take all necessary actions to secure product delivered to all military customers, as well as any applicable commercial destinations.

The Offeror will insure that all products and/or packaging have not been tampered or contaminated throughout the manufacturing, storage and delivery process. The Offeror shall immediately notify the The DLA Troop Support Europe and Africa Subsistence Contracting Officer of any attempt or suspected attempt by any party or parties, known or unknown, to tampering with or contaminate subsistence supplies.

The Vendors shall have a Food Defense Plan, in accordance with the Food Defense Checklist http://www.troopsupport.dla.mil/subs/fs_check.pdf that describes what procedures are in place to prevent product tampering and contamination. After contract award, the Food Defense Plan may be reviewed / verified to ensure compliance of the Food Defense Checklist.

PRODUCT QUALITY

Shelf-life: All products delivered shall be as fresh as possible and within the Growers/Packers' original shelf life (i.e., Best if Used- by-Date, Expiration Date, or other markings). Applicable products shall be identified with readable open code such as "Best-Used-by- Date", "Sell-by-Date", date of production, or similar marking indicating the end of the guaranteed freshness date.

For Fresh-Cut Products: Bags must be marked with the appropriate shelf life from the date of production.

Testing of Fresh-Cut Products:

Fresh-Sliced Apples: Each lot or daily production of finished bagged product must be tested for Total Aerobic (Standard) Plate Count (TPC), E.coli, Listeria, Salmonella, and Shigella. The antioxidant solution used on apples slices must be tested for TPC, E.coli, and Listeria Monocytogens daily.

Baby-Cut and Peeled Carrots: Each lot or daily production of finished bagged product must be tested for E.coli, Listeria Monocytogens, Salmonella, and Coagulase Positive Staph Aureus.

Commercial standards should be used to maintain temperatures appropriate for individual produce items during storage and delivery to DLA Troop Support customers.

Level of Product Quality:

When designating an item as a match for the DOD item in the schedule of items listed in the solicitation, the item must be:

Identical in respect to packaging when the DOD unit of issue is not described by weights (e.g. pound or ounce).
Equivalent in respect to grade or fabrication.

QUALITY PROGRAM

The Contractor shall develop and maintain a quality program for product acquisition, warehousing and distribution to assure the following:

Standardized product quality.

Wholesome product by veterinary standards.

The usage of First-In, First-Out (FIFO) principles and/or First-Expired, First-Out (FEFO).

Product shelf life managed and monitored (by date of pack/production of the item).

Items are free of damage.

Items are segregated in OCONUS warehouses from commercial products, if applicable.

Correct items and quantities are selected and delivered.

Ensure requirements of the Berry Amendment are met, when applicable.

Customer satisfaction is monitored.

Product discrepancies and complaints are resolved and corrective action is initiated.

Grower/manufacturer, FDA, or DOD initiated food recalls are promptly reported to customers and DLA Troop Support Contracting Officer.

Compliance with EPA and OSHA requirements.

Distressed or salvaged items or products shall not be used.

Hazard Analysis and Critical Control Point (HAACP), if applicable.

Commercial standards are used to maintain temperatures appropriate for individual items.

The vendor is responsible to contract for independent third party warehouse audits for each proposed place of performance as part of any resultant contract. At a minimum, the third party audits are to take place annually. The vendor must achieve a passing score without major deficiencies in order to continue performance under any resultant contract. The vendor is to submit a copy of each third party warehouse audit to the Contracting Officer within 30 calendar days of completion of audit. Failure to submit timely and complete audit reports may result in termination of the contract. **(Third party warehouse audits exclude Government agency audits).**

The vendor shall have in place refrigeration and humidity controls in their warehouse to ensure product is stored at commercially acceptable temperature and humidity settings.

The contractor shall provide a full line of USDA No. 1 or better (or European Equivalent) Fresh Fruit and Vegetable (FF&V) products in accordance with the item description.

XXVI. WAREHOUSING AND SANITATION PROGRAM/STORED PRODUCT PEST MANAGEMENT

The Contractor shall develop and maintain a sanitation program and a stored product pest management program for food and other co-located non-food items that comply with European Union industry standard programs as well as all pertinent local laws and regulations. Records of inspections performed by the firm, subcontractor, or recognized industry association shall be maintained and made available to the Government at the Contracting Officer's request. Any findings by the firm or its agent documenting a critical sanitation deficiency shall be reported immediately to the Contracting Officer with an attached report of corrective action.

XXVII. PRODUCT SANITARILY APPROVED SOURCE REQUIREMENTS

Applicable food products including pre-cut and packaged fruits, vegetables and salads, etc., delivered to customers listed in this solicitation, as well as any customer added at a later date, shall originate either from an establishment (this includes suppliers/subcontractors or direct farm deliveries) listed in the "Directory of Sanitarily Approved Establishments for Armed Forces Procurements" or one which has been inspected under the guidance of the United States Department of Agriculture (USDA). The USDA Guidance for fresh fruits and vegetables is the USDA-AMS Good Agricultural Practices (GAP) Verification Directory or the USDA-AMS Good Handling Practices (GHP) Verification Directory for fresh fruits and vegetables, as applicable. For detailed information see Clause 52.246.9044 "Sanitary Conditions" in this solicitation. It may also be found <http://vets.amedd.army.mil/vetcom/directory.htm>.

XXVIII. CONTRACTOR QUALITY AUDITS

QUALITY SYSTEMS MANAGEMENT VISITS & PRODUCE QUALITY AUDITS

Unannounced Quality Systems Managements Visits (QSMVs):

The DLA Troop Support Quality Audit personnel may conduct unannounced Quality Systems Management Visits (QSMVs) to review the contractor's compliance with the terms

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of the contract. The visits will be scheduled as a result of unsatisfactory ratings received during Troop Support Produce Quality Audits, customers' complaints, requests from the Contracting Officer, or as deemed necessary by the Government. QSMVs may include visits to subcontractors, growers, and/or suppliers/food distributors used by the contractor. If DLA Troop Support deems it necessary to conduct an on-site visit with a subcontractor, grower, produce supplier, and/or food distributor used by the contractor, the contractor shall make arrangements for these visits.

During the QSMV the Government will review/verify the contractor's implemented Quality Program and several or all of the following areas (this list is not inclusive) as deemed necessary: The methods and procedures used to comply with the terms of the contract; condition of storage facilities; product shelf-life management; inventory in-stock (age of product and condition, labeling, product rotation, etc.); product substitutions; control of material targeted for destruction/disposal as a result of DLA customers' returns including DLA Troop Support's audit results and recalls; review of paperwork for product destroyed/condemned including but not limited to product rated Blue/Red during the last DLA Troop Support audit, customer, returns, etc.; customer's notification on product recalls (product rated Blue/Red/other reason), etc; contractor's response to customer returns/issues, and contractor's visits to customers. The QSMV may also include unannounced visits to DLA Troop Support customers served by the contractor. When the Troop Support Produce Quality Audit Team arrives at the contractor's facility, the contractor must provide the following: A copy of the current Produce Catalog for DLA customers and an inventory list of all items intended for DLA customers (identifying quantities by item, label/brand/Grower name, items Not-in-Stock, etc.) by commodity and sorted by warehouse location.

The contractor's proposal will be incorporated by reference into the contract. The contractor will be responsible for complying with its proposal. Procedures and processes set forth in the contractor's proposal may be used as standards for a QSMV. If there is any conflict between the solicitation language and the contractor's proposal, the solicitation/contract/ language governs.

The Contractor must take corrective action to address any concerns identified as a result of the QSMV. Concerns identified during the QSMV, or contractor failure to take corrective action in response to QSMV findings, will be grounds for terminating the contract. The government may, at its discretion, take other action to correct the concerns identified during the QSMV such as but not limited to another QSMV or Special Produce Audit. Such action will not eliminate the government's right to terminate the contract should the identified concerns or contractor failure to take corrective action continue.

Produce Quality Audits:

Basic Audits:

The DLA Troop Support Produce Quality Audit Program covers all produce items listed in the contractor's catalog (fresh, fruits and vegetables, fresh-cut products, etc.)

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and functions as a Service and Quality Assurance check for DLA Troop Support customers to ensure customers are receiving safe produce of an optimum quality level. The audit objectives focus on the following:

Contractor's adherence to contractual requirements.

Compliance with the specified US Grade or higher.

The quality level of the products supplied is satisfactory and uniform.

There is no product misrepresentation or unapproved substitution.

The Produce Quality Audit objectives are accomplished utilizing the expertise of the US. USDA Agricultural Marketing Service (AMS) Fresh Products Branch personnel and DLA Troop Support Quality Auditors. Representatives from the above agencies form the DLA Troop Support Produce Quality Audit Team.

Each contractor will undergo an initial audit once per contract period with the first audit occurring during the base period and other initial audits or QSMVs occurring once per option period. The Audits are conducted as a product cutting. The average cost of one Produce Quality Audit is approximately \$1,000.00 (product cost only). The contractor is expected to provide samples of the Government's choice of a cost of approximately \$1,000.00 per audit. The contractor is required to provide the following support to the DLA Troop Support Produce Quality Audit Team: Personnel and equipment to select separate/move/discard audit samples, control of samples while at the contractor facility and during the audit. Additional cost may be incurred by the contractor if additional produce samples are selected due to initial audit failure or customer complaint or if the contractor's facility does not have a facility/kitchen or the equipment needed to perform the audit and/or space to accommodate customers attending the audit. NOTE: The Government reserves the right to conduct an Unannounced QSMV in lieu of an initial audit or a follow-up audit during the base period and/or any option period if deemed in the best interest of the Government.

Audit Process:

The Contractor will be given advanced notice of sixty (60) calendar days of an impending audit. Notwithstanding this, the Government reserves the right to conduct unannounced Produce Quality Audits or QSMVs.

The DLA Troop Support Produce Quality Audit is typically a two (2) day process. Day one is devoted to sample selection at the contractor's warehouse and performance of the USDA's Good Agricultural Practices (GAP) & Good Handling Practices (GHP) Audits. Day two encompass the performance of the actual Produce Quality audit.

Upon arrival at the contractor's facility (Day One), the Lead Auditor will provide a list of items identified for evaluation and the samples will be selected by a USDA-AMS'

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Auditor. The Lead Auditor will accompany the USDA-AMS during the performance of the GAP/GHP Audits.

Items selected for evaluation will be segregated from the contractor's regular inventory and appropriate procedures shall be used to maintain the integrity of the samples. Evidence that the contractor has replaced or tampered with samples, or otherwise interfered with the audit samples and/or audit process will result in the contractor failing the audit. One or more audit failures may be grounds for terminating the contract.

During the Produce Quality Audit (two days), the DLA Troop Support Lead Auditor will assign an item rating based on compliance with or departure from stated requirements in the DLA Troop Support NSN catalog and the specified US Grade Standard. Items will also be audited to determine compliance with the Berry Amendment, as applicable, approved source requirements, FDA Retail Food Code, USDA Warehousing Standards, Good Manufacturing Practice, additional provisions of the Code of Federal Regulations and other applicable standards.

Failure to meet the specified US Grade, deviations from the required contract or stock number requirements will be color coded and classified based on the severity of departure from requirements as follows:

Contractor Product Audit Ratings (Color Code Ratings Symbology):

ACCEPTABLE (GREEN) = Acceptable. No deviations from the contract or the item description stock number requirements.

MINOR NONCONFORMANCE (YELLOW) = Not fully acceptable. A Minor nonconformance is a deviation from the contract or the item description stock number requirements. This minor nonconformance is not likely to materially reduce the usability or serviceability of the item for its intended purpose and, depending on the defect, or affect its condition and/or the continued storage of the item for further use. Products that meet the specified US Grade but exhibit product defects (decay, spoilage, skin breakdown, etc.) likely to continue affecting the condition of the product and continue deteriorating during storage and/or effecting good product if defective units are not removed from cases/containers. Examples of other minor nonconformances: Cataloging issues; Minor or workmanship/fabrication violations (fresh pre-cut products); Minor weight violations; Minor deviations from packing, packaging, labeling and marking requirements that would not necessitate a regulatory market suspension or affect DLA Troop Support's ability to recall the item. **ACTION REQUIRED:** Produce with defects (decay, spoilage, skin breakdown etc.) that will continue deteriorating or condition/defects that will affect the condition of good product during storage requires attention from the contractor such as reworking and removing defective product while in-storage or prior to delivering to customers. Minor nonconformances that will not change or further deteriorate (scars, size, weight, etc.) while product is in-storage or when delivered to the customer may be tolerated by the customer for a short period of time (until the contractor receives a new product at OCONUS but for no more than 30 days at CONUS locations).

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MAJOR NONCONFORMANCE (BLUE) = A major nonconformance, other than critical, is a deviation from the contract, the item description stock number and/or failure to meet the specified US Grade requirements. This major nonconformance is a deviation that materially affects or is likely to have a major affect on the serviceability, usability, condition and/or continued storage of an item for further use. Examples of major nonconformance's: Grade failures; Domestic source/regulatory/approved source violations; Wrong item; Major workmanship/fabrication violations (pre-cut items); Major weight violations; Item shelf life/ expiration date violations; Not latest season pack/crop year violations; Items that exhibit temperature abuse, and/or other off condition that although not likely to result in hazardous or unsafe conditions, the defect and/or combination of defects materially affect the item serviceability for its intended purpose; and/or major deviations from packing, packaging, labeling and markings that would necessitate a regulatory market suspension or have a major affect on DLA Troop Support 's ability to recall the product. **ACTION REQUIRED:** The contractor is required to STOP ISSUE of the item immediately, unless otherwise approved by the Contracting Officer.

CRITICAL NONCONFORMANCE (RED) = A critical nonconformance is a deviation that judgment and experience indicate consumption of the item is likely to result in hazardous or unsafe conditions for individuals. An item will receive a Red Rating if it contains a critical defect(s) that involve food safety issues such as wholesomeness, foreign material, contamination or adulteration issues that judgment and experience indicate consumption of the item is likely to result in hazardous or unsafe conditions for individuals. Examples of critical nonconformance's: Items with food safety concerns are those items that exhibit contamination, foreign material, and/or other conditions that render an item unfit for human consumption. **ACTION REQUIRED:** Contractors are required to immediately STOP ISSUE of the product and notify DLA Troop Support customers to return or dispose of the product in question, and notify grower/supplier/distributor of the product (if applicable).

Notes:

MAJOR NONCONFORMANCE (BLUE) = In OCONUS locations only, the Contracting Officer may approve continue issue of the product because of location extenuating circumstances and on a case-by-case basis. This approval is depending on the type and severity of the deviation/defect, the DLA Troop Support Quality Lead Auditor (lead Auditor that performed the audit) recommendation, customer approval, and if the substitute of equal/higher quality is Not-in-Stock at OCONUS location. Continue issue of the item may require and include contractor screening/rework of the nonconforming product (removal of defective product) and follow-up Government inspection/audit to verify action taken by the contractor (at no cost to the Government for inspection/travel costs). At CONUS/OCONUS locations, only the Contracting Officer, **NOT** the customer or the Lead Auditor, has the authority to accept wrong items (not meeting item description cited in DLA Troop Support catalog or not meeting the specified US Grade cited in the contract, etc.). The Rating assigned to the item WILL NOT be changed by the Lead Auditor because of acceptance with a waiver/rework/repair of the product in question. The DLA Troop Support Food Safety Office at the request of the Contracting Officer, may issue a restricted (to DLA Troop Support customers only) a Hazardous Food Recall for all those items originating

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from an unapproved source and distributed to DLA Troop Support customers.

CRITICAL NONCONFORMANCE (RED) = The DLA Troop Support Food Safety Office will issue a Hazardous Food Recall for all critical nonconformance's involving items with food safety concerns that render an item unfit for human consumption or may present a health hazard for DLA Troop Support customers . If applicable, the Contracting Officer should suggest growers/suppliers of the item to review shipping documents to ensure the same item was not delivered to other DOD customers.

Contractor Audit Preparation:

The contractor is responsible and will bear all costs for the facility and the equipment/supplies used during the audit. Immediately upon receipt of the audit notification, the contractor shall make arrangements to use their normal product cutting room/kitchen (if adequate) or find another facility for the audit. If there is no space available at the contractor facility or the space is inadequate other arrangements must be made by the contractor. The room must be equipped with running water. To ensure accurate weight of audited items, it is highly recommended that scales used during the audit are calibrated within the 60-day notification period and an applicable set of test weights are available to verify scale accuracy. A digital scale capable of weighing small items and a scale capable of weighing full cases are required. Clean up of the cutting area/room and continuous clean up of equipment will be the contractor's responsibility. The contractor must contact the Lead Auditor to discuss the location, adequacy of the facility, and equipment available as soon as possible but no later than 45 Calendar days prior to the audit. The following is the list of equipment/supplies needed:

Storage area to store samples selected. (Approximately 2 pallets).

Chill storage area for samples that require refrigeration (Approximately 2 pallets).

Tables for conducting the audit and demonstration.

Sinks/wash area equipped with sanitizing soap for cleaning knives and equipment.

Water jet spray attachment for the sink.

Calibrated Scales/Test Weights: One small digital scale able to record product weights in both ounces and grams and capable of measuring down to the nearest hundredth is preferable and a set of test weights with a recommended weight range of 1.0 ounce to 1 pound; and, one scale able to record product weights for full cases with an approximate weight range of 0 -100 lb and capable of measuring down to the nearest tenth is preferable and a 25 lbs test weight.

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Cart to move samples around.

Cutting boards (two or three).

Large trash cans with bags.

Power hook-up for 2 computers.

Access to a copy machine.

Miscellaneous supplies: Paper towels; large heavy-duty plastic trash bags; one box of large latex gloves; paper flip chart/easel with markers (RED, BLUE, ORANGE, GREEN, BLACK); cellophane tape; binder clips; and a stapler.

Optional but considered highly desirable: Cloth towels and floor covering to maintain clean and sanitary floor areas.

Sample List / Selection of Samples:

Sample List/Selection of Samples the DLA Troop Support Lead Auditor will provide a list of sample items upon arrival at the contractor's facility. Two-case sample for each item will be selected. An on-hand inventory quantity report (i.e. number of cases on hand) should be developed for each item after receipt of the list. Warehousing assistance will be required to pull and prepare samples for the audit. Assistance with moving samples from the storage areas to the audit area and also continuous removal of items after review will be required on audit days. Some samples may require refrigeration; an area will need to be provided for sample storage. All samples must be stored in a controlled environment to protect from temperature abuse or tampering. Fruit and Vegetable commodities will consist of 8 - 13 samples (2-case/ shipping container per item) randomly selected per each commodity depending on last audit acceptability rating for each commodity. The entire contents of the two-case samples will be examined during the audit. Additional samples may be selected at the request of the Contracting Officer due to customer complaints.

Note: Certification/Documentation - To avoid delays/questions during the audit, the contractor should ensure that ALL products intended for DLA Troop Support's customers are derived from Approved Sources and meet the Berry Amendment requirements (unless otherwise is excluded in the contract/FAR/DFAR or authorized by the Contracting Officer). The contractor should obtain and have certification/documentation available during the sample selection (preferable) and/or during the audit should the Lead Auditor need to review documentation to verify compliance.

Audit Results:

The audit results are performance indicators that will be used in conjunction with a contractor's past performance. DLA Troop Support considers 85% acceptability for each commodity (fresh fruits and vegetables) as the minimum standard for acceptable performance. Contractors will be given a detailed report on each product reviewed. It will be the Contractor's responsibility to take immediate action to correct any deficiency uncovered during the audit. Corrective action must include action to address the deficiency and the system which allowed the deficiency to occur. Audit failures and/or failure to take corrective action will be grounds for terminating the contract.

Follow-Up Audits:

Follow up audits may be scheduled within a one-year period of the initial audit or sooner as deemed necessary by the Government. Grounds for follow-up audits include but are not limited to failure to obtain an acceptable rating (<85%) in one or more commodities, repetitive failures, and customer complaints. All samples, audit facility, and equipment/supplies needed for the follow-up, same as indicated above for the initial audit, are to be at the expense of the Contractor. During a follow-up audit only the commodity that failed the initial audit (scored <85%) will be audited. Also, a commodity that had an unreasonable number of items not-in-stock (more than 50% of items listed in the contractor's catalog were NIS) during the initial audit, may also be audited during a follow-up. If the follow-up audit is for failure of the USDA-AMS' GAP or GHP Audits or other non-product issue, no product will be audited during the follow-up audit.

C. Audit Failures:

As noted herein, audit failures and/or failure to take connective action will be grounds for terminating the contract. The government may, at its discretion, take other action to address the audit failure such as, but not limited to unannounced QSMVs and/or follow-up audits. Such action will not eliminate the government's right to terminate the contract should the deficiency or system which allowed the deficiency to occur remain uncorrected.

Markings:

Code Dates:

Products, as applicable, shall be identified with readable open code dates clearly showing the Use by Date, Date of Pack (DOP), Expiration Date, Manufacturer Sell-by-Date, and/or similar marking. The contractor/packer's product label shall clearly identify the item(s) shelf life information (using an open code date on the exterior of each case, if required or applicable). Fresh-cut products bags must be marked with the appropriate shelf life from the Date of Production (DOP).

Traceability Requirements for Contractors, Contractor's Suppliers Re-Packaging and Re-Labeling Products:

All fresh fruits and vegetables must be able to be traced back to the grower/supplier of the product. If the contractor or the contractor's distributor/supplier removes the produce from the grower/packer's original packaging/shipping container and re-packages/re-labels an item, documentation must be maintained to trace back to the grower/packer to verify domestic origin, approved source as applicable, and/or in case of a hazardous food recall or an item is rated Red/Critical during a DLA Troop Support Produce Quality Audit. The contractor shall maintain or request from their suppliers/distributors documentation/certificates containing the following information: Item nomenclature, name of establishment/Grower, location, country of origin, date of production/pack (DOP), lot number, etc. If packaging of the item occurred in more than one establishment, documentation for each item must also be maintained / provided. These records must maintain traceability of the item to the extent that an item can be traced back to the original grower/packer of a product. In addition; the contractor shall maintain records of quantities and when and where the re-packaged/re-labeled item(s) were shipped. The contractor must be able to show/provide DLA Troop Support Produce Quality Audit Team the documentation for samples selected during Produce Quality Audits or Unannounced QSMVs. It is the contractor's responsibility to notify and ensure their suppliers understand and comply with this requirement. The above requirements are necessary in the event of a Hazardous Food Recall (i.e., ALFOODACT) of potentially hazardous product when a recall is issued by a Regulatory Agency and for the contractor to isolate suspected items in order to notify customers in an expeditious manner whenever products are rated "Red/Critical" during a DLA Troop Support Produce Quality Audit. The above requirements serve two main purposes:

To protect DLA Troop Support 's customers and expeditiously notify them in case of accidental or intentional tempering/contamination and/or to prevent consumption of unsafe/hazardous Produce.

To maintain traceability of re-packaged/re-labeled products in order to verify country of origin, approved source requirement during the shelf life cycle of a pre-cut/packaged product in the contractor storage and during the customer's receipt/storage of the product and be able to expedite the recall process for all suspected products intended for DLA Troop Support customers.

XXIX. RECALL PROCEDURES REQUIREMENTS

In the event that a product recall is initiated by the USDA, vendor, supplier or manufacturer, the vendor should follow the procedures as outlined below:

- (1) Immediately notify the following personnel:
 - a. Customers that have received the recall product
 - b. DLA Troop Support Europe and Africa Contracting Officer
 - c. DLA Troop Support Europe and Africa Account Manager
 - d. DLA Troop Support E & A Food Safety and Quality Assurance at +49(0)6314115409
- (2) Provide the following information to the DLA Troop Support Consumer Food Safety and Quality

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Assurance Officer:

- (a) Reason for recall
- (b) Level of recall, i.e., Type I, II or III
- (c) Description of product
- (d) Amount of product
- (e) List of customers that have received product
- (f) Name and phone number of responsible person (Recall Coordinator)

(3) The vendor should provide a Final Status Report of Recall, when completed, to the DLA Troop Support Europe and Africa Consumer Food Safety and Quality Assurance Officer.

(4) At the discretion of the affected customers, the vendor shall either replace at no additional cost or adjust the invoice quantity for any recalled product. Delivery of replacement product shall occur at the discretion of the customer.

XXX. NON-COMPETE PROVISION

The offeror warrants that it will not actively promote, encourage, or market any of the customers on this acquisition away from a resultant DLA Troop Support Europe and Africa contract and onto a contract of any other Government agency or commercial entity. This prohibition applies both on a pre-award and post-award basis. The Contracting Officer reserves the right not to exercise the option and to re-solicit the requirement should the vendor violate this provision.

XXXI. SEASONAL ACQUISITION

When seasonally available, of the European equivalent of USDA #1 or better quality and competitive price, the government's preference is for locally grown produce. The successful contractor shall utilize local produce to the maximum extent feasible. The vendor shall record and update local items on their catalog on a weekly basis. The vendor is responsible for defining local produce in their geographical area.

XXXII. SURGE/MOBILIZATION

Readiness Plans - Surge/Mobilization

Surge: The capability to handle a large increase in case volume for short periods of time with very little lead-time may be required at various times throughout the term of the contract. Services may experience unscheduled arrival of troops, with only a few hours notice, as part of normal operations, where the order requirements could more than double from their normal usage on a given days notice. The timing of these types of surges will be impossible to anticipate. Pricing for items furnished in this fashion shall be the same as those for routine, non-surge orders.

Mobilization: The capability to handle full-scale military mobilization or national emergency wherein consumption could easily triple the case requirements at any site for a protracted period must also be provided for. The offeror must develop a readiness plan outlining how it would meet this increased workload by, for

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example using additional suppliers, subcontractors, etc. As with surge support, pricing for items furnished in this fashion shall be the same as those for routine, non-mobilization orders.

The Government reserves the right to test the vendor's Readiness Plan. Any test will be a paper exercise not subject to compensation. Vendor participation is mandatory; failure to participate may result in termination of contract for cause.

When units deploy for training exercises outside their zone, their current vendor may be given the first opportunity to supply the unit's requirements at the discretion of the contracting officer. If the current vendor cannot perform this function at no additional cost, or the vendor does not wish to accept the mission, the requirements will be turned over to the vendor supporting the zone in which training will occur.

MANAGEMENT REPORTS

The Contractor shall electronically transmit the following reports to the DLA Troop Support Europe and Africa Contracting Officer and Account Manager on a monthly basis. All reports shall be cumulative for a one (1) month period and submitted no later than the seventh day of the following month (e.g., reporting period of January 1 through January 31, the reports must be received by February 7).

Product Line Grower/Supplier Listing - this report shall list all items purchased along with quantity and dollar value.

Fill Rate Report - the fill-rate is calculated by dividing the number of cases and bins accepted by the customer by the number of cases and bins ordered. No other method of calculating fill rates should be included. Mis-picks and damaged cases should not be included in this calculation. This report should reflect the fill-rates without substitutions. The report should specify fill rates per customer and an overall average fill-rate for all customers under the contract for the month being reported.

Rebate Reports - All rebates that have been passed along to the customer or that are due to the customers, shall be summarized by listing each customer and the rebate amount. Also include the grower/supplier offering the rebate and the product usage. The total should be per customer and per order.

- Funds Tracker- On a monthly basis, the Contractor shall create and electronically transmit an excel spreadsheet to the contracting office with the stock number, item description, case count, pounds, and dollar value of total orders filled during the month. All subsequent reports shall be cumulative for one (1) month period and submitted no later than the seventh day of the following month (e.g. reporting period of June 1 through June 30, the report must be received by July 7).
- Financial Status Reports- In order to track timely payments, an accounts receivable and/or a "days of outstanding sales" shall be submitted on a monthly basis, at a minimum. Many vendors elect to submit this report, in the form of a spreadsheet, on a weekly basis. The report should contain information on: customer, invoice number, call number, and invoice amount, amount paid, credit adjustments and balance due. It is suggested that this report contain as much information as possible to alleviate problems immediately.

6. *Customer Service Report* - The Contractor shall develop and provide a report summarizing all discrepancies, complaints and all positive feedback from ordering activities and the respective resolutions by providing details of each customer service incident, including any customer service visits.
7. *Descending Dollar Value Report* – Sorted by line item; each line is to contain, at a minimum: DLA Troop Support stock number, Item Description, pack or size, brand description, quantity, and total dollar value of units shipped. Dollar amounts will be totaled. This report shall be submitted by individual customer accounts and also by the total customer base in each zone.

CONTRACT ADMINISTRATION INFORMATION

I. CONTRACTING AUTHORITY

The DLA Troop Support Europe and Africa Contracting Officer is the only person authorized to approve changes, or modify any requirement of the contract. Notwithstanding any provisions contained elsewhere in the contract, said authority remains solely with the DLA Troop Support Europe and Africa Contracting Officer.

In the event the vendor effects any change at the direction of any person other than the DLA Troop Support Europe and Africa Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made. The Contracting Officer must authorize any modification or costs associated with a change.

Requests for information on matters related to this contract, such as an explanation of terms or contract interpretation, shall be submitted to the DLA Troop Support Europe and Africa Contracting Officer.

II. PAYMENTS

DFAS Columbus Center is the payment office for this acquisition.

Payment of delivery orders will be made in accordance with the terms and conditions of Paragraph (i) of Clause 52.212-4 “Contract Terms and Conditions - Commercial Items” that is incorporated by reference into this solicitation.

Payment will be made in ten (10) days after the receipt of a proper invoice, however, is still subject to the terms and conditions of the Prompt Payment Act (31 U.S.C. 3903). **All 810 electronic invoices must be submitted with accurate, sufficient, clean data before any payment can be made.**

Vendor is responsible to make arrangements with their financial institution to obtain data, if information by the vendor is required. DFAS Columbus will no longer forward a detailed summary of payment(s); this information will only be available from your bank.

The Government intends to make payments under the resultant contract by electronic funds transfer (EFT) based on the information contained in the Central Contractor Registration (CCR). Reference Clause 52.232-33, “Payment by Electronic Funds Transfer-Central Contractor Registration” is incorporated by reference.

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However, the election as to whether to make payment by check or electronic funds transfer is at the option of the Government.

III. ADMINISTRATION

The DLA Troop Support Europe and Africa: European Subsistence - Produce Division will perform administration of the contract.

A designated representative at the ordering activity will perform administration of the individual delivery order. This includes approving product substitutions and delivery changes.

The DLA Troop Support Europe and Africa Contracting Officer must approve any changes to the resultant contract.

Part 12 Clauses

52.212-04 CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS (FEB 2012) FAR

- (a) Inspection/Acceptance. The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the Government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post-acceptance rights—
- (1) Within a reasonable time after the defect was discovered or should have been discovered; and
 - (2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.
- (b) Assignment. The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act ([31 U.S.C. 3727](#)). However, when a third party makes payment (e.g., use of the Governmentwide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.
- (c) Changes. Changes in the terms and conditions of this contract may be made only by written agreement of the parties.
- (d) Disputes. This contract is subject to the Contract Disputes Act of 1978, as amended ([41 U.S.C. 601-613](#)). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR [52.233-1](#), Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.
- (e) Definitions. The clause at FAR [52.202-1](#), Definitions, is incorporated herein by reference.
- (f) Excusable delays. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
- (g) Invoice.
- (1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include—
 - (i) Name and address of the Contractor;
 - (ii) Invoice date and number;
 - (iii) Contract number, contract line item number and, if applicable, the order number;
 - (iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;

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- (v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (vi) Terms of any discount for prompt payment offered;
- (vii) Name and address of official to whom payment is to be sent;
- (viii) Name, title, and phone number of person to notify in event of defective invoice; and
- (ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.
- (x) Electronic funds transfer (EFT) banking information.
- (A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.
- (B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (e.g., [52.232-33](#), Payment by Electronic Funds Transfer—Central Contractor Registration, or [52.232-34](#), Payment by Electronic Funds Transfer—Other Than Central Contractor Registration), or applicable agency procedures.
- (C) EFT banking information is not required if the Government waived the requirement to pay by EFT.
- (2) Invoices will be handled in accordance with the Prompt Payment Act ([31 U.S.C. 3903](#)) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR Part 1315.
- (h) Patent indemnity. The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.
- (i) Payment.—
- (1) Items accepted. Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.
- (2) Prompt payment. The Government will make payment in accordance with the Prompt Payment Act ([31 U.S.C. 3903](#)) and prompt payment regulations at 5 CFR Part 1315.
- (3) Electronic Funds Transfer (EFT). If the Government makes payment by EFT, see [52.212-5\(b\)](#) for the appropriate EFT clause.
- (4) Discount. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.
- (5) Overpayments. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall—
- (i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—
- (A) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);
- (B) Affected contract number and delivery order number, if applicable;
- (C) Affected contract line item or subline item, if applicable; and
- (D) Contractor point of contact.
- (ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.
- (6) Interest.
- (i) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 611 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.
- (ii) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.
- (iii) Final decisions. The Contracting Officer will issue a final decision as required by [33.211](#) if—
- (A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt within 30 days;
- (B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or
- (C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see [32.607-2](#)).
- (iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.
- (v) Amounts shall be due at the earliest of the following dates:
- (A) The date fixed under this contract.
- (B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.
- (vi) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on—
- (A) The date on which the designated office receives payment from the Contractor;
- (B) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or
- (C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.
- (vii) The interest charge made under this clause may be reduced under the procedures prescribed in [32.608-2](#) of the Federal Acquisition Regulation in effect on the date of this contract.

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(j) Risk of loss. Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

(k) Taxes. The contract price includes all applicable Federal, State, and local taxes and duties.

(l) Termination for the Government's convenience. The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) Termination for cause. The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) Title. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) Warranty. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) Limitation of liability. Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) Other compliances. The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) Compliance with laws unique to Government contracts. The Contractor agrees to comply with [31 U.S.C. 1352](#) relating to limitations on the use of appropriated funds to influence certain Federal contracts; [18 U.S.C. 431](#) relating to officials not to benefit; [40 U.S.C. 3701](#), et seq., Contract Work Hours and Safety Standards Act; [41 U.S.C. 51-58](#), Anti-Kickback Act of 1986; [41 U.S.C. 265](#) and [10 U.S.C. 2409](#) relating to whistleblower protections; [49 U.S.C. 40118](#), Fly American; and [41 U.S.C. 423](#) relating to procurement integrity.

(s) Order of precedence. Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

(1) The schedule of supplies/services.

(2) The Assignments, Disputes, Payments, Invoice, Other Compliances, and Compliance with Laws Unique to Government Contracts paragraphs of this clause.

(3) The clause at [52.212-5](#).

(4) Addenda to this solicitation or contract, including any license agreements for computer software.

(5) Solicitation provisions if this is a solicitation.

(6) Other paragraphs of this clause.

(7) The [Standard Form 1449](#).

(8) Other documents, exhibits, and attachments.

(9) The specification.

(t) Central Contractor Registration (CCR).

(1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(2)(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in FAR [Subpart 42.12](#), the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of [Subpart 42.12](#); and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see [Subpart 32.8](#), Assignment of Claims). Assignees shall be separately

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registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via CCR accessed through <https://www.acquisition.gov> or by calling 1-888-227-2423 or 269-961-5757.

ADDENDUM TO 52.212-04 CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS

(Insert desired/appropriate text here)

addendum to 52.12-04

The following paragraph(s) of 52.212-4 are amended as indicated below:

1. Paragraph (a), Inspection/Acceptance, is revised to add the following:

Inspection and acceptance of products will be performed at destination. The authorized Government receiving official for each customer is responsible for signing for and accepting products when they are delivered. The final disposition decision rests with the food service officer and/or the authorized Government receiving official.

2. Paragraph (c), Changes, is deleted in its entirety and replaced with the following:

(c) Changes.

(1) In addition to bilateral changes, The Contracting Officer, at his/her discretion, may unilaterally invoke any of the contingency options set forth in this contract.

(2) The Contracting Officer may at anytime, by unilateral written order, make changes within the general scope of this contract in any one or more of the following:

- (i) Method of shipment or packing;
- (ii) Place, manner, or time of delivery.

If such change causes an increase or decrease in the cost of, or time required for, performance for any part of the work under this contract, the Contracting Officer shall make equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.

The Contractor must assert its right to an adjustment under this clause within thirty (30) days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.

Failure to agree to any adjustment shall be a dispute under the Disputes Clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract.

3. Paragraph (m), Termination for Cause.

Delete paragraph (m) in its entirety and substitute the following:

(m) *Termination for Cause.* The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the

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Contractor shall be liable to the Government for any and all rights and remedies provided by law. If this contract is terminated in whole or in part for cause, and the supplies or services covered by the contract so terminated are repurchased by the Government, the Government will incur administrative costs in such repurchases. The Contractor and the Government expressly agree that, in addition to any excess costs of repurchase, or any other damages resulting from such default, the Contractor shall pay, and the Government shall accept, the sum of \$1350.00 as payment in full for the administrative costs of such repurchase. This assessment of damages for administrative costs shall apply for any termination for cause following which the Government repurchases the terminated supplies or services together with any incidental or consequential damages incurred because of the termination. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

4. Paragraph (t), Central Contractor Registration (CCR).

Add the following:

(5) Definitions.

“Central Contractor Registration (CCR) Database” means the primary Government repository for Contractor information required for the conduct of business with the Government.

“Commercial and Government Entity (CAGE) Code” means—

(a) A code assigned by the Defense Logistics Information Service (DLIS) to identify a commercial or Government entity; or

(b) A code assigned by a member of the North Atlantic Treaty Organization that DLIS records and maintains in the CAGE master file. This type of code is known as an “NCAGE code”.

“Data Universal Number System (DUNS) Number” means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

“Data Universal Numbering System+4 (DUNS+4) Number” means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see Subpart 32.11 of the Federal Acquisition Regulation) for the same parent concern.

“Registered in the CCR Database” means that—

(a) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 numbers, into the CCR database;

(b) The Contractor’s CAGE code is in the CCR database; and

(c) The Government has validated all mandatory data fields and has marked the records “Active”.

CONTINUATION SHEET	REFERENCE NO. OF DOCUMENT BEING CONTINUED: SPE303-13-D-C002	PAGE 38 OF 45 PAGES
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(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

- (1) 52.222-50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)).
- Alternate I (AUG 2007) of 52.222-50 (22 U.S.C. 7104(g)).
- (2) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).
- (3) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L.108-77, 108-78).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

- [Contracting Officer check as appropriate.]
- (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (SEPT 2006), with Alternate I (OCT 1995) (41 U.S.C., 253g and 10 U.S.C. 2402).
 - (2) 52.203-13, Contractor Code of Business Ethics and Conduct (APR 2010) (Pub. L.110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).
 - (3) 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub. L. 111-5).
 - (4) 52.204-10, Reporting Executive Compensation and First - Tier Subcontract Awards (AUG 2012) (Pub. L.109-282) (31 U.S.C. 6101 note).
 - (5) 52.204-11, American Recovery and Reinvestment Act – Reporting Requirements (JUL 2010) (Pub. L. 111-5).
 - (6) 52.209-6, Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (DEC 2010) (31 U.S.C. 610 note). (Applies to contracts over \$30,000). (Not applicable to subcontracts for the acquisition of commercially available off-the shelf items).
 - (7) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (FEB 2012) (41 U.S.C. 2313).
 - (8) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (MAY 2012) (section 738 of Division C of Pub. L. 112-74, section 740 of Division C of Pub. L. 111-117, section 743 of Division D of Pub. L. 111-8, and section 745 of Division D of Pub. L. 110-161).
 - (9) 52.219-3, Notice of Total HUBZone Set-Aside or Sole Source Award (NOV 2011) (15 U.S.C. 657a).
 - (10) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (JAN 2011) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).
 - (11) [Reserved]
 - (12)(i) 52.219-6, Notice of Total Small Business Set-Aside (NOV 2011) (15 U.S.C. 644).
 - (ii) Alternate I (NOV 2011)
 - (iii) Alternate II (NOV 2011)
 - (13)(i) 52.219-7, Notice of Partial Small Business Set-Aside (JUNE 2003) (15 U.S.C. 644).
 - (ii) Alternate I (OCT 1995) of 52.219-7.
 - (iii) Alternate II (MAR 2004) of 52.219-7.
 - (14) 52.219-8, Utilization of Small Business Concerns (JAN 2011) (15 U.S.C. 637(d)(2) and (3)).
 - (15)(i) 52.219-9, Small Business Subcontracting Plan (JAN 2011) (15 U.S.C. 637(d)(4)).
 - (ii) Alternate I (OCT 2001) of 52.219-9.
 - (iii) Alternate II (OCT 2001) of 52.219-9.
 - (iv) Alternate III (JUL 2010) of 52.219-9.
 - (16) 52.219-13, Notice of Set-Aside of Orders (Nov 2011) (15 U.S.C. 644(r)).
 - (17) 52.219-14, Limitations on Subcontracting (Nov 2011) (15 U.S.C. 637(a)(14)).
 - (18) 52.219-16, Liquidated Damages - Subcontracting Plan (JAN 1999) (15 U.S.C. 637(d)(4)(F)(i)).
 - (19) (i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (OCT 2008) (10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).
 - (ii) Alternate I (JUNE 2003) of 52.219-23.
 - (20) 52.219-25, Small Disadvantaged Business Participation Program - Disadvantaged Status and Reporting (DEC 2010) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
 - (21) 52.219-26, Small Disadvantaged Business Participation Program - Incentive Subcontracting (OCT 2000) (Pub. L. 03-355, section 7102, and 10 U.S.C. 2323).
 - (22) 52.219- 27, Notice of Total Service-Disabled Veteran-Owned Small Business Set -Aside (NOV 2011) (15 U.S.C. 657f).
 - (23) 52.219-28, Post Award Small Business Program Representation (APR 2009) (15 U.S.C. 632(a)(2)).
 - (24) 52.219-29, Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (APR 2012).
 - (25) 52.219-30, Notice of Set-Aside for Women-Owned Small Business (WOSB) Concerns Eligible Under the WOSB Program (APR 2012).
 - (26) 52.222-3, Convict Labor (JUNE 2003) (E.O.11755).
 - (27) 52.222-19, Child Labor - Cooperation with Authorities and Remedies (MAR 2012) (E.O. 13126).
 - (28) 52.222-21, Prohibition of Segregated Facilities (FEB 1999).
 - (29) 52.222-26, Equal Opportunity (MAR 2007) (E.O.11246).
 - (30) 52.222-35, Equal Opportunity for Veterans (SEP 2010) (38 U.S.C. 4212).

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- [] (31) 52.222-36, Affirmative Action for Workers with Disabilities (OCT 2010) (29 U.S.C. 793).
- [] (32) 52.222-37, Employment Reports on Veterans (SEP 2010) (38 U.S.C. 4212).
- [] (33) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496) .
- [] (34) 52.222-54, Employment Eligibility Verification (JUL 2012). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)
- [] (35) (i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA–Designated Items (MAY 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- [] (ii) Alternate I (MAY 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items).
- [] (36) 52.223-15, Energy Efficiency in Energy-Consuming Products (DEC 2007) (42 U.S.C. 8259b).
- [] (37)(i) 52.223-16, EEE 1680 Standard for the Environmental Assessment of Personal Computer Products (DEC 2007) (E.O. 13423).
- [] (ii) Alternate I (DEC 2007) of 52.223-16.
- [] (38) 52.223-18, Encouraging Contractor Policy to Ban Text Messaging While Driving (AUG 2011) (E.O. 13513).
- [] (39) 52.225-1, Buy American Act - Supplies (FEB 2009) (41 U.S.C. 10a-10d).
- [] (40)(i) 52.225-3, Buy American Act - Free Trade Agreements - Israeli Trade Act (NOV 2012) (41 U.S.C. chapter 83, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, Pub. L. 103-182, 108-77, 108-78,108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43).
- [] (ii) Alternate I (MAR 2012) of 52.225-3.
- [] (iii) Alternate II (MAR 2012) of 52.225-3.
- [] (iv) Alternate III (MAR 2012) of 52.225-3.
- [] (41) 52.225-5, Trade Agreements (NOV 2012) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note) .
- [] (42) 52.225-13, Restrictions on Certain Foreign Purchases (JUNE 2008) (E.O.'s , proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).
- [] (43) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (NOV 2007) (42 U.S.C. 5150).
- [] (44) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (NOV 2007) (42 U.S.C. 5150).
- [] (45) 52.232-29, Terms for Financing of Purchases of Commercial Items (FEB 2002) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).
- [] (46) 52.232-30, Installment Payments for Commercial Items (OCT 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).
- [] (47) 52.232-33, Payment by Electronic Funds Transfer - Central Contractor Registration (OCT 2003) (31 U.S.C. 3332).
- [] (48) 52.232-34, Payment by Electronic Funds Transfer—Other than Central Contractor Registration (MAY 1999) (31 U.S.C. 3332).
- [] (49) 52.232-36, Payment by Third Party (FEB 2010) (31 U.S.C. 3332).
- [] (50) 52.239-1, Privacy or Security Safeguards (AUG 1996) (5 U.S.C. 552a).
- [] (51)(i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631).

[] (ii) Alternate I (APR 2003) of 52.247-64.
(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items: [Contracting Officer check as appropriate.]

- [] (1) 52.222-41, Service Contract Act of 1965 (NOV 2007) (41 U.S.C. 351, et seq.).
- [] (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (MAY 1989) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
- [] (3) 52.222-43, Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts) (SEP 2009) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
- [] (4) 52.222-44, Fair Labor Standards Act and Service Contract Act—Price Adjustment (SEP 2009) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
- [] (5) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance Calibration, or Repair of Certain Equipment—Requirements (NOV 2007) (41 351, et s eq.).
- [] (6) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services—Requirements (FEB 2009) (41 U.S.C. 351, et seq.).
- [] (7) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (MAR 2009) (Pub. L.110-247).
- [] (8) 52.237-11, Accepting and Dispensing of \$1 Coin (SEPT 2008) (31 U.S.C. 5112(p)(1)).

(d) Comptroller General Examination of Record. The Contract or shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records - Negotiation.

- (1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.
- (2) The Contract or shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

- (3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.
- (e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (e)(1) in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—
- (i) 52.203-13, Contractor Code of Business Ethics and Conduct (APR 2010) (Pub. L.110- 252, Title VI, Chapter 1 (41 U.S.C. 251 note)).
- (ii) 52.219-8, Utilization of Small Business Concerns (DEC 2010) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$650,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities unities.
- (iii) [Reserved]
- (iv) 52.222-26, Equal Opportunity (MAR 2007) (E.O. 11246).
- (v) 52.222-35, Equal Opportunity for Veterans (SEP 2010) (38 U.S.C. 4212).
- (vi) 52.222-36, Affirmative Action for Workers with Disabilities (OCT 2010) (29 U.S.C. 793).
- (vii) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496) .
Flow down required in accordance with paragraph (f) of FAR clause 52.222-40.
- (viii) 52.222-41, Service Contract Act of 965 (NOV 2007) (41 U.S.C. 351, et seq.).
- (ix) 52.222-50, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)).
[] Alternate I (AUG 2007) of 52.222-50 (22 U.S.C. 7104(g)).
- (x) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (NOV 2007) (41 U.S.C. 351, et seq.).
- (xi) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services -Requirements (FEB 2009) (41 U.S.C. 351, et seq.).
- (xii) 52.222-54, Employment Eligibility Verification (JUL 2012).
- (xiii) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (MAR 2009) (Pub. L.110-247). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.
- (xiv) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006) (46 U.S.C. Appx. 241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.
- (2) While not required, the contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations .
(End of Clause)

252.212-7001 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (FEB 2013) DFARS

- (a) The Contractor agrees to comply with the following Federal Acquisition Regulation (FAR) clause which, if checked, is included in this contract by reference to implement a provision of law applicable to acquisitions of commercial items or components.
[] 52.203-3, Gratuities (APR 1984) (10 U.S.C. 2207).
- (b) The Contractor agrees to comply with any clause that is checked on the following list of Defense FAR Supplement clauses which, if checked, is included in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items or components.
- (1) [] 252.203-7000, Requirements Relating to Compensation of Former DoD Officials (SEP 2011) (Section 847 of Pub. L. 110-181).
- (2) [] 252.203-7003, Agency Office of the Inspector General (DEC 2012) (section 6101 of Pub. L. 110-252, 41 U.S.C. 3509 note).
- (3) [] 252.205-7000, Provision of Information to Cooperative Agreement Holders (DEC 1991) (10 U.S.C. 2416).
- (4) [] 252.219-7003, Small Business Subcontracting Plan (DoD Contracts) (AUG 2012) (15 U.S.C. 637).
- (5) [] 252.219-7004, Small Business Subcontracting Plan (Test Program) (JAN 2011) (15 U.S.C. 637 note).
- (6)(i) [] 252.225-7001, Buy American and Balance of Payments Program (JUN 2012) (41 U.S.C., Chapter 83, E.O. 10582).
- (ii) [] Alternate I (OCT 2011) of 252.225-7001.
- (7) [] 252.225-7008, Restriction on Acquisition of Specialty Metals (JUL 2009) (10 U.S.C. 2533b).
- (8) [] 252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals (JUN 2012) (10 U.S.C. 2533b).
- (9) [] 252.225-7012, Preference for Certain Domestic Commodities (JUN 2010) (10 U.S.C. 2533a).
- (10) [] 252.225-7015, Restriction on Acquisition of Hand or Measuring Tools (JUN 2005) (10 U.S.C. 2533a).
- (11) [] 252.225-7016, Restriction on Acquisition of Ball and Roller Bearings (JUN 2011) (Section 8065 of Public Law 107-117 and the same restriction in subsequent DoD appropriations acts).
- (12) [] 252.225-7017, Photovoltaic Devices (NOV 2012) (Section 846 of Pub. L. 111-383).
- (13) [] 252.225-7021, Trade Agreements (NOV 2012) (19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note).
- (ii) [] Alternate I (JUN 2012) of 252.225-7021.
- (iii) [] Alternate II (OCT 2011) of 252.225-7021.
- (14) [] 252.225-7027, Restriction on Contingent Fees for Foreign Military Sales (APR 2003) (22 U.S.C. 2779).
- (15) [] 252.225-7028, Exclusionary Policies and Practices of Foreign Governments (APR 2003) (22 U.S.C. 2755).

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- (16)(i) [] 252.225-7036, Buy American Act--Free Trade Agreements--Balance of Payments Program (NOV 2012) (41 U.S.C. chapter 83 and 19 U.S.C. 3301 note).
- (ii) [] Alternate I (JUN 2012) of 252.225-7036
- (iii) [] Alternate II (NOV 2012) of 252.225-7036.
- (iv) [] Alternate III (JUN 2012) of 252.225-7036.
- (v) [] Alternate IV (NOV 2012) of 252.225-7036.
- (vi) [] Alternate V (NOV 2012) of 252.225-7036.
- (17) [] 252.225-7038, Restriction on Acquisition of Air Circuit Breakers (JUN 2005) (10 U.S.C. 2534(a)(3)).
- (18) [] 252.225-7039, Contractors Performing Private Security Functions (JUN 2012) (Section 862 of Pub. L. 110-181, as amended by section 853 of Pub. L. 110-417 and sections 831 and 832 of Pub. L. 111-383).
- (19) [] 252.226-7001, Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (SEP 2004) (Section 8021 of Public Law 107-248 and similar sections in subsequent DoD appropriations acts).
- (20) [] 252.227-7013 252.227-7013, Rights in Technical Data – Noncommercial Items (FEB 2012), if applicable (see 227.7103-6(a)).
- (21) [] 252.227-7015, Technical Data--Commercial Items (DEC 2011) (10 U.S.C. 2320).
- (22) [] 252.227-7037, Validation of Restrictive Markings on Technical Data (JUN 2012), if applicable (see 227.71023-4(c))
- (23) [] 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports (JUN 2012) (10 U.S.C. 2227).
- (24) [] 252.237-7010, Prohibition on Interrogation of Detainees by Contractor Personnel (NOV 2010) (Section 1083 of Pub. L. 111-84)
- (25) [] 252.237-7019, Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Public Law 108-375).
- (26) [] 252.243-7002, Requests for Equitable Adjustment (DEC 2012) (10 U.S.C. 2410).
- (27) [] 252.246-7004, Safety of Facilities, Infrastructure, and Equipment For Military Operations (OCT 2010) (Section 807 of Public Law 111-84).
- (28) [] 252.247-7003, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (SEP 2010) (Section 884 of Public Law 110-417).
- (29)(i) [] 252.247-7023, Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).
- (ii) [] Alternate I (MAR 2000) of 252.247-7023.
- (iii) [] Alternate II (MAR 2000) of 252.247-7023.
- (iv) [] Alternate III (MAY 2002) of 252.247-7023.
- (30) [] 252.247-7024, Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).
- (31) [] 252.247-7027, Riding Gang Member Requirements (OCT 2011) (Section 3504 of Pub. L. 110-417).

(c) In addition to the clauses listed in paragraph (e) of the Contract Terms and Conditions Required to Implement Statutes or Executive Orders-- Commercial Items clause of this contract (FAR 52.212-5), the Contractor shall include the terms of the following clauses, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

- (1) 252.225-7039, Contractors Performing Private Security Functions (JUN 2012) (Section 862 of Pub. L. 110-181, as amended by section 853 of Pub L. 110-417 and sections 831 and 832 of Pub. L. 111-383).
 - (2) 252.227-7013, Rights in Technical Data – Noncommercial Items (FEB 2012), if applicable (see 227.7103-6(a)).
 - (3) 252.227-7015, Technical Data – Commercial Items (DEC 2011), if applicable (see 227.7102-4(a)).
 - (4) 252.227-7037, Validation of Restrictive Markings on Technical Data (JUN 2012), if applicable (see 227.7102-4(c)).
 - (5) 252.237-7010, Prohibition on Interrogation of Detainees by Contractor Personnel (NOV 2010) (Section 1038 of Pub. L. 111-84).
 - (6) 252.237-7019, Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Public Law 108-375).
 - (7) 252.247-7003, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (SEP 2010) (Section 884 of Public Law 110-417).
 - (8) 252.247-7023, Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).
 - (9) 252.247-7024, Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).
- (End of clause)

52.212-9000 CHANGES – MILITARY READINESS (NOV 2011) DLAD

52.211-10 COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK (APR 1984) FAR

The Contractor shall be required to (a) commence work under this contract within 45 [Contracting Officer insert number] calendar days after the date the Contractor receives the notice to proceed, (b) prosecute the work diligently, and (c) complete the entire work ready for use not later than . The time stated for completion shall include final cleanup of the premises.

52.211-10 COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK (APR 1984), ALT I (APR 1984) FAR

The completion date is based on the assumption that the successful offeror will receive the notice to proceed by [Contracting Officer insert date]. The completion date will be extended by the number of calendar days after the above date that the Contractor receives the notice to proceed, except to the extent that the delay in issuance of the notice to proceed results from the failure of the Contractor to execute the contract and give the required performance and payment bonds within the time specified in the offer.

52.211-15 DEFENSE PRIORITY AND ALLOCATION REQUIREMENTS (APR 2008) FAR**52.211-16 VARIATION IN QUANTITY (APR 1984) FAR**

(b) The permissible variation shall be limited to:

Percent increase

Percent decrease

This increase or decrease shall apply to .

52.211-9005 CONDITIONS FOR EVALUATION AND ACCEPTANCE OF OFFERS FOR CRITICAL SAFETY ITEMS (NOV 2011) DLAD**52.211-9006 CHANGES IN CONTRACTOR STATUS, ITEM ACQUIRED, AND/OR MANUFACTURING PROCESS/FACILITY -- CRITICAL SAFETY ITEMS (JUL 2002) DLAD****52.211-9007 WITHHOLDING OF MATERIEL REVIEW BOARD (MRB) AUTHORITY - CRITICAL SAFETY ITEMS (NOV 2011) DLAD****52.211-9021 VARIATION IN QUANTITY (NOV 2011) DLAD****52.211-9046 FDA COMPLIANCE - DLA TROOP SUPPORT - MEDICAL AND SUBSISTENCE (NOV 2011) DLAD****52.216-19 ORDER LIMITATIONS (OCT 1995) FAR**

(a) Minimum order. When the Government requires supplies or services covered by this contract in an amount of less than \$250.00, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

(b) Maximum order. The Contractor is not obligated to honor—

(1) Any order for a single item in excess of \$25,000.00 ;

(2) Any order for a combination of items in excess of \$100,000.00 ; or

(3) A series of orders from the same ordering office within 10 days that together call for quantities exceeding the limitation in paragraph (b)(1) or (2) of this section.

(c) If this is a requirements contract (i.e., includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR)), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) of this section.

(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 1 days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

(End of clause)

52.216-22 INDEFINITE QUANTITY (OCT 1995) FAR

(a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum." The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum."

(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period ; provided, that the Contractor shall not be required to make any deliveries under this contract after 4 years from order commencement plus 90 days to complete deliveries and payment

(End of clause)

52.216-7006 ORDERING (MAY 2011) DFARS

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(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the contract schedule. Such orders may be issued from begin date through end date (48 months) [insert dates].

52.216-9064 ECONOMIC PRICE ADJUSTMENT (EPA) – ACTUAL MATERIAL COSTS FOR SUBSISTENCE DELIVERED PRICE BUSINESS MODEL – DLA TROOP SUPPORT SUBSISTENCE PRIME VENDOR (SPV) CONTIGUOUS UNITED STATES (CONUS) (FEB 2013) DLAD

(c) PRICE ADJUSTMENTS.

(iii) Updates to the Delivered Price: All notices and requests for new item Delivered Prices and price changes shall be submitted weekly, no later than 9:00 am Eastern Time on Tuesday, to be effective in the following Ordering Week's Ordering Catalog prices.

(v) Price change requests that the Contracting Officer questions or finds to be inconsistent with the requirements of this clause shall not be posted until the Contracting Officer specifically authorizes the posting. If the Contracting Officer does not notify the Contractor by close of business Eastern Time each Friday that a price or a price change request is being questioned or has been found to be erroneous, the price change(s) will post to the ordering catalog effective the beginning of the following Ordering Week. The posting of updated prices in the Ordering Catalog, calculated in accordance with this clause, constitutes a modification to this contract. No further contract modification is required to effect this change.

(vi) Should the Contracting Officer determine that, or question whether a price change request contained an erroneous unit price or price change, or cannot otherwise determine the changed price(s) to be fair and reasonable, such as when the changed price(s) is(are) higher than lower Delivered Prices for items of comparable quality which are reasonably available to the Government or Contractor from other sources, the Contracting Officer will so advise the Contractor, prior to close of business Eastern Time on Friday . If the Contracting Officer cannot determine or negotiate a fair and reasonable price, the Contracting Officer may reject any price change and direct in writing that the item in question be removed from the Contractor's Ordering Catalog, without Government liability. The Contracting Officer may subsequently remove any such item from the Ordering Catalog if the Contractor does not take the appropriate corrective action. The Government has the right to procure such removed items from any alternate source of supply, and the failure of the Contractor to supply such item will be considered a negative instance of performance.

(d) UPWARD CEILING ON ECONOMIC PRICE ADJUSTMENT.

The aggregate of contract Delivered Price increases for each item under this clause during the contract period inclusive of any option period(s) shall not exceed NA for all items except Fresh Fruits and Vegetables (FF&V) and 110% for Fresh Fruits and Vegetables (FF&V) of the initial Contract Delivered Price, except as provided below:

52.217-09 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000) FAR

(a) The Government may extend the term of this contract by written notice to the Contractor within 2 days of expiration of the ordering period; [insert the period of time within which the Contracting Officer may exercise the option]; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 60 days [60 days unless a different number of days is inserted] before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 48 months (months) (years).

(End of clause)

52.223-03 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997) FAR

(b) The offeror must list any hazardous material, as defined in paragraph (a) of this clause, to be delivered under this contract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Material Safety Data Sheet submitted under this contract.

Material (If none, insert "None")	Identification No.

252.223-7001 HAZARD WARNING LABELS (DEC 1991) DFARS

*** *
(c) The Offeror shall list which hazardous material listed in the Hazardous Material Identification and Material Safety Data clause of this contract will be labelled in accordance with one of the Acts in paragraphs (b)(1) through (5) of this clause instead of the Hazard Communication Standard. Any hazardous material not listed will be interpreted to mean that a label is required in accordance with the Hazard Communication Standard.

MATERIAL (If None, Insert "None")	ACT

- ****
- 52.223-9000 MATERIAL SAFETY DATA SHEETS AND HAZARD WARNING LABELS (NOV2011) DLAD
 - 252.225-7041 CORRESPONDENCE IN ENGLISH (JUN 1997) DFARS
 - 52.225-9002 FOREIGN MILITARY SALES (FMS) SHIPPING INSTRUCTIONS (NOV 2011) DLAD
 - 52.225-9003 CUSTOMS CLEARANCE PROCEDURES FOR UNITED STATES (U.S.) SUBSISTENCE IN THE EUROPEAN UNION (NOV 2011) DLAD
 - 252.229-7000 INVOICES EXCLUSIVE OF TAXES OR DUTIES (JUN 1997) DFARS
 - 252.229-7001 TAX RELIEF (JUN 1997) DFARS

(a) Prices set forth in this contract are exclusive of all taxes and duties from which the United States Government is exempt by virtue of tax agreements between the United States Government and the Contractor's government. The following taxes or duties have been excluded from the contract price:

NAME OF TAX: _____
RATE (PERCENTAGE): _____

- ****
- 252.229-7003 TAX EXEMPTIONS (ITALY) (MAR 2012) DFARS
 - 252.229-7005 TAX EXEMPTIONS (SPAIN) (MAR 2012) DFARS
 - 52.232-25 PROMPT PAYMENT (OCT 2008), ALT I (FEB 2002) FAR
 - 252.232-7003 ELECTRONIC SUBMISSION OF PAYMENT REQUESTS AND RECEIVING REPORTS (JUN 2012) DFARS
 - 252.232-7010 LEVIES ON CONTRACT PAYMENTS (DEC 2006) DFARS
 - 52.233-01 DISPUTES (JUL 2002) FAR
 - 252.233-7001 CHOICE OF LAW (OVERSEAS) (JUN 1997) DFARS
 - 52.243-01 CHANGES - FIXED PRICE (AUG 1987) FAR
 - 252.243-7001 PRICING OF CONTRACT MODIFICATIONS (DEC 1991) DFARS
 - 52.246-9039 REMOVAL OF GOVERNMENT IDENTIFICATION FROM NON-ACCEPTED SUPPLIES (NOV 2011) DLAD
 - 52.247-34 F.O.B. DESTINATION (NOV 1991) FAR
 - 52.247-60 GUARANTEED SHIPPING CHARACTERISTICS (DEC 1989) FAR

(a) The offeror is requested to complete paragraph (a)(1) of this clause, for each part or component which is packed or packaged separately. This information will be used to determine transportation costs for evaluation purposes. If the offeror does not furnish

sufficient data in paragraph (a)(1) of this clause, to permit determination by the Government of the item shipping costs, evaluation will be based on the shipping characteristics submitted by the offeror whose offer produces the highest transportation costs or in the absence thereof, by the Contracting Officer's best estimate of the actual transportation costs. If the item shipping costs, based on the actual shipping characteristics, exceed the item shipping costs used for evaluation purposes, the Contractor agrees that the contract price shall be reduced by an amount equal to the difference between the transportation costs actually incurred, and the costs which would have been incurred if the evaluated shipping characteristics had been accurate.

(1) To be completed by the offeror:

(i) Type of container:

Wood Box [], Fiber Box [], Barrel [], Reel [],
 Drum [],
 Other (specify) _____;

(ii) Shipping configuration: Knocked-down [], Set-up [],
 Nested [],
 Other (specify) _____;

(iii) Size of container:
 _____" (Length), _____" (Width), _____" (Height) =
 _____ Cubic Ft;

(iv) Number of items per container _____ each;

(v) Gross weight of container and contents _____ Lbs;

(vi) Palletized/skidded [] Yes [] No;

(vii) Number of containers per pallet/skid _____;

(viii) Weight of empty pallet bottom/skid and sides _____ Lbs;

(ix) Size of pallet/skid and contents _____

Lbs Cube _____;

(x) Number of containers or pallets/skids per railcar _____ *

(A) Size of railcar _____

(B) Type of railcar _____

(xi) Number of containers or pallets/skids per trailer _____ *

(A) Size of trailer _____ Ft

(B) Type of trailer _____

* Number of complete units (contract line item) to be shipped in carrier's equipment.

(2) To be completed by the Government after evaluation but before contract award:

(i) Rate used in evaluation: ;

(ii) Tender/Tariff: ;

(iii) Item: .

(b) The guaranteed shipping characteristics requested in paragraph (a)(1) of this clause do not establish actual transportation requirements, which are specified elsewhere in this solicitation. The guaranteed shipping characteristics will be used only for the purpose of evaluating offers and establishing any liability of the successful offeror for increased transportation costs resulting from actual shipping characteristics which differ from those used for evaluation in accordance with paragraph (a) of this clause.

(End of clause)

52.249-01 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (SHORT FORM) (APR 1984) FAR

52.246-9044 SANITARY CONDITIONS (NOV 2011) DLAD