

**SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS**  
**OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30**

1. REQUISITION NUMBER  
PAGE 1 OF 95

2. CONTRACT NO. SPE300-20-D-4065  
 3. AWARD/EFFECTIVE DATE See Block 31C  
 4. ORDER NUMBER  
 5. SOLICITATION NUMBER SPE300-17-R-0016  
 6. SOLICITATION ISSUE DATE 12/1/2016

7. FOR SOLICITATION INFORMATION CALL:   
 a. NAME  
 b. TELEPHONE NUMBER (No collect calls)  
 8. OFFER DUE DATE/ LOCAL TIME

9. ISSUED BY CODE **SPE300**  
 DLA Troop Support  
 Directorate of Subsistence, FTAD  
 700 Robbins Avenue  
 Philadelphia, PA 19111-5092  
 10. THIS ACQUISITION IS  UNRESTRICTED OR  SET ASIDE: \_\_\_\_\_ % FOR:  
 SMALL BUSINESS  WOMEN-OWNED SMALL BUSINESS (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM NAICS: 311999  
 HUBZONE SMALL BUSINESS  EDWOSB SIZE STANDARD: 500  
 SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS  8 (A)

11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED  
 SEE SCHEDULE  
 12. DISCOUNT TERMS  
 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)  
 13b. RATING N/A  
 14. METHOD OF SOLICITATION  RFQ  IFB  RFP

15. DELIVER TO CODE  
 See Schedule  
 16. ADMINISTERED BY CODE **SPE300**  
 Same as Block #9

17a. CONTRACTOR/ OFFEROR CODE **SU371** FACILITY CODE  
 Theodor Wille Intertrade GmbH (TWI)  
 Alpenstrasse 15, Postach 7753  
 Zug, 6302 Switzerland DUNS # [REDACTED]  
 TELEPHONE NO. 1 (703) 904-4334  
 18a. PAYMENT WILL BE MADE BY CODE **SL4701**  
 Defense Finance Accounting Service (DFAS)  
 BSM  
 P.O. Box 182317  
 Columbus, OH 43236-9031

17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER  
 18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED  SEE ADDENDUM

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
	Acquisition For Full Line Food and Non-Food Distribution For Authorized Land Based Customers in Zone 1-Northern Europe Base Period (24 Months) (9-11-20 to 9-10-22) \$44,000,000.00 Tier 1 (18 Months) (9-11-22 to 3-10-24) \$33,000,000.00 Tier 2 (18 Months) (3-11-24 to 9-10-25) \$33,000,000.00  Guaranteed Min \$11,000,000.00 (10%) / Contract Max \$220,000,000.00 (200%)  (Use Reverse and/or Attach Additional Sheets as Necessary)				

25. ACCOUNTING AND APPROPRIATION DATA 97X4930 5CBX 001 2620 S33189  
 26. TOTAL AWARD AMOUNT (For Govt. Use Only) \$110,000,000.00

27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52 212-1, 52 212-4. FAR 52.212-3 AND 52 212-5 ARE ATTACHED. ADDENDA  ARE  ARE NOT ATTACHED  
 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52 212-4. FAR 52.212-5 IS ATTACHED. ADDENDA  ARE  ARE NOT ATTACHED

28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN 1 COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED  
 29. AWARD OF CONTRACT: REF. **TWI** OFFER DATED [REDACTED] YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:

30a. SIGNATURE OF OFFEROR/CONTRACTOR [REDACTED]  
 31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER) [REDACTED]

30b. NAME AND TITLE OF SIGNER (Type or print) R. Damian del Toro Chief Operating Officer  
 30c. DATE SIGNED 11 SEP 20  
 31b. NAME OF CONTRACTING OFFICER (Type or print) TINA M. FREDERICO  
 31c. DATE SIGNED 9-11-20

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<b>List of Attachments</b>		
Attachment 1 – Subsistence Total Ordering and Receipt Electronic System (STORES) EDI Implementation Guidelines including 864 Inventory Reporting		
Attachment 2 - Pricing Spreadsheets		

**CONTINUATION OF (SF 1449)**

The following documents are incorporated into this contract:

- [REDACTED]

**BLOCK 17A** (Continued):

CAGE CODE: SU371  
DUNS Number: [REDACTED]  
Type of Offeror: Individual doing business as a firm, Partnership, Corporation, Joint Venture, or Other  
Foreign Business: YES – OR – NO)  
Primary Company POC/Negotiator: R. Damian del Toro  
Phone Number: 1-703-303-3922  
Fax Number(s): \_\_\_\_\_  
E-Mail Address: damian.deltoro@twipv.com

**BLOCK 17B** (Continued):

REMITTANCE WILL BE MADE TO THE ADDRESS THAT THE CONTRACTOR HAS LISTED IN THE SYSTEM FOR AWARD MANAGEMENT (SAM).

**AUTHORIZED NEGOTIATORS:**

The following persons are authorized to negotiate on its behalf with the Government in connection with this contract. Please list names, titles, e-mail addresses, and telephone numbers for each authorized negotiator.

Damian del Toro, Managing Director / Chief Operating Officer  
E-mail Address: damian.deltoro@twipv.com  
Phone Number: 1-703-303-3922

Kevin Lee, Vice President, Finance & Administration  
E-mail Address: kevin.lee@twipv.com  
Phone Number: 1-240-751-7779

Venkatesh Ramakrishnan, Director, SPV Supply Chain  
E-mail Address: venkatesh.ramakrishnan@twipv.com  
Phone Number: +971-52-672-0091

**BLOCKS 19-24** (CONTINUED): SEE ATTACHMENTS 1 and 2

**CONTRACT CLAUSES****FAR 52.212-4 CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS (OCT 2018)**

*Note:* 52.212-4, Contract Terms and Conditions—Commercial Items (OCT 2018) is incorporated in this contract by reference. Its full text may be accessed electronically at [https://www.ecfr.gov/cgi-bin/text-idx?SID=6e083ab9ee87d166a4f34decfe809944&mc=true&node=se48.2.52\\_1212\\_64&rgn=div8r](https://www.ecfr.gov/cgi-bin/text-idx?SID=6e083ab9ee87d166a4f34decfe809944&mc=true&node=se48.2.52_1212_64&rgn=div8r); Part 52 - Solicitation Provisions and Contract Clauses.

**ADDENDUM TO FAR 52.212-4 – Contract Terms and Conditions – Commercial Items**

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 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. See Statement of Work, Military Inspection at Destination.

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

(c) *Changes*.

- (1) 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 any time, 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.
- (3) 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.
- (4) The Contractor must assert its right to an adjustment under this clause within 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.

3. Paragraph (m), *Termination for cause*, is deleted in its entirety and replaced with 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 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 \$1,350.00 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. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

4. Paragraph (o), *Warranty*, is revised to add the following:

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

- (1) Immediately notify the following personnel:
  - (i) Customers that have received the recalled product
  - (ii) DLA Troop Support Contracting Officer – Jasmine Brown at jasmine.brown@dla.mil
  - (iii) DLA Troop Support Integrated Supply Team (IST) Chief, Sean Gemmell at sean.gemmell@dla.mil
  - (iv) DLA Troop Support Contract Specialist, Megan Hawk, at megan.hawk@dla.mil
  - (v) DLA Troop Support Tailored Vendor Logistic Specialist, Bill Blake at bill.blake@dla.mil
  - (vi) DLA Troop Support Consumer Safety Officer at 215-737-2678

- (1) Provide the following information to the DLA Troop Support Consumer Safety Officer:
  - (i) Reason for recall
  - (ii) Level of recall, i.e. Type I, II or III
  - (iii) Description of product, including specific manufacturer's lot numbers
  - (iv) Amount of product
  - (v) List of customers that have received product
  - (vi) Name and phone number of responsible person (Recall Coordinator)

(2) The Prime Vendor should provide a Final Status Report of Recall, when completed, to the DLA Troop Support Consumer Safety Officer."

(3) The supplies furnished under the resultant contract(s) shall be covered by the most favorable commercial warranties that the contractor gives to any customer. The supplies and the rights and remedies provided therein are in addition to, and do not limit, any rights afforded to the Government by Clause 52.212-4 (o) "Warranty", Contract Terms and Conditions—Commercial Items (OCT 2018)" and an addendum.

5. Paragraph (s), *Order of precedence* is revised to add the following:

(a) Performance of this contract by the Contractor shall be conducted and performed in accordance with detailed obligations to which the Contractor committed itself in its Technical Proposal in response to solicitation SPE300-17-R-0016.

(b) The technical volume(s) of the Contractor's proposal is incorporated by reference and hereby made subject to the provisions of the "ORDER OF PRECEDENCE" (52.215-8 Order of Precedence – Uniform Contract Format (Oct 1997)(FAR) clause of this contract. Under the "ORDER OF PRECEDENCE" clause, the technical volume of the Contractor's proposal referenced herein is hereby designated as (e) The specifications in the order of precedence.

6. Paragraph (t), System for Award Management.

Add the following paragraph:

(a) Definitions.

"System for Award Management (SAM) 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—

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

(2) 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 SAM 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 System for Award Management database" means that—

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, and Contractor and Government Entity (CAGE) code into the SAM database;

(2) The contractor has completed the Core Data, Assertions, Representations and Certifications, and Points of Contact sections of the registration in the SAM database;

(3) The Government has validated all mandatory data fields to include validation of the

Taxpayer Identification Number (TIN) with the Internal Revenue Service. The Contractor will be required to provide consent for TIN validation to the Government as part of the SAM registration process; and  
(4) The Government has marked the record "Active".

**52.212-5 -- Contract Terms and Conditions Required to Implement Statutes or Executive Orders  
-- Commercial Items (JUL 2020)**

(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) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(2) 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (JUL 2018) (Section 1634 of Pub. L. 115-91).

(3) 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (AUG 2019) (Section 889(a)(1)(A) of Pub. L. 115-232).

(4) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (NOV 2015).

(5) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).

(6) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Public Laws 108-77 and 108-78 (19 U.S.C. 3805 note)).

(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 (JUN 2020), with *Alternate I* (OCT 1995) (41 U.S.C. 4704 and 10 U.S.C. 2402).

(2) 52.203-13, Contractor Code of Business Ethics and Conduct (JUN 2020) (41 U.S.C. 3509).

(3) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

(4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (JUN 2020) (Pub. L. 109-282) (31 U.S.C. 6101 note).

(5) [Reserved]

(6) 52.204-14, Service Contract Reporting Requirements (OCT 2016) (Pub. L. 111-117, section 743 of Div. C).

(7) 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts (OCT 2016) (Pub. L. 111-117, section 743 of Div. C).

(8) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (JUN 2020) (31 U.S.C. 6101 note).

(9) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (OCT 2018) (41 U.S.C. 2313).

(10) [Reserved]

(11)(i) 52.219-3, Notice of HUBZone Set-Aside or Sole Source Award (MAR 2020) (15 U.S.C. 657a).

(ii) Alternate I (MAR 2020) of 52.219-3.

(12)(i) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (MAR 2020) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).

(ii) Alternate I (MAR 2020) of 52.219-4.

(13) [Reserved]

(14)(i) 52.219-6, Notice of Total Small Business Set-Aside (MAR 2020) (15 U.S.C. 644).

(ii) Alternate I (MAR 2020) of 52.219-6.

(15)(i) 52.219-7, Notice of Partial Small Business Set-Aside (MAR 2020) (15 U.S.C. 644).

(ii) Alternate I (MAR 2020) of 52.219-7.

(16) 52.219-8, Utilization of Small Business Concerns (OCT 2018) (15 U.S.C. 637(d)(2) and (3)).

(17)(i) 52.219-9, Small Business Subcontracting Plan (JUN 2020) (15 U.S.C. 637(d)(4)).

(ii) Alternate I (NOV 2016) of 52.219-9.

(iii) Alternate II (NOV 2016) of 52.219-9.

(iv) Alternate III (JUN 2020) of 52.219-9.

(v) Alternate IV (JUN 2020) of 52.219-9.

(18)(i) 52.219-13, Notice of Set-Aside of Orders (MAR 2020) (15 U.S.C. 644(r)).

- (ii) Alternate I (MAR 2020) of 52.219-13.
- (19) 52.219-14, Limitations on Subcontracting (MAR 2020) (15 U.S.C. 637(a)(14)).
- (20) 52.219-16, Liquidated Damages—Subcontracting Plan (JAN 1999) (15 U.S.C. 637(d)(4)(F)(i)).
- (21) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (MAR 2020) (15 U.S.C. 657f).
- (22)(i) 52.219-28, Post-Award Small Business Program Rerepresentation (MAY 2020) (15 U.S.C. 632(a)(2)).
  - (ii) Alternate I (MAR 2020) of 52.219-28.
- (23) 52.219-29, Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (MAR 2020) (15 U.S.C. 637(m)).
- (24) 52.219-30, Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (MAR 2020) (15 U.S.C. 637(m)).
- (25) 52.219-32, Orders Issued Directly Under Small Business Reserves (MAR 2020) (15 U.S.C. 644(r)).
- (26) 52.219-33, Nonmanufacturer Rule (MAR 2020) (15 U.S.C. 637(a)(17)).
- (27) 52.222-3, Convict Labor (JUN 2003) (E.O. 11755).
- (28) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (JAN 2020) (E.O. 13126).
- (29) 52.222-21, Prohibition of Segregated Facilities (APR 2015).
- (30)(i) 52.222-26, Equal Opportunity (SEPT 2016) (E.O. 11246).
- (ii) Alternate I (Feb 1999) of 52.222-26.
- (31)(i) 52.222-35, Equal Opportunity for Veterans (JUN 2020) (38 U.S.C. 4212).
- (ii) Alternate I (July 2014) of 52.222-35.
- (32)(i) 52.222-36, Equal Opportunity for Workers with Disabilities (JUN 2020) (29 U.S.C. 793).
- (ii) Alternate I (July 2014) of 52.222-36.
- (33) 52.222-37, Employment Reports on Veterans (JUN 2020) (38 U.S.C. 4212).
- (34) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496).
- (35)(i) 52.222-50, Combating Trafficking in Persons (JAN 2019) (22 U.S.C. chapter 78 and E.O. 13627).
- (ii) *Alternate I* (Mar 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).
- (36) 52.222-54, Employment Eligibility Verification (Oct 2015). (E. O. 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.)
- (37)(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.)
- (38) 52.223-11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (JUN 2016) (E.O. 13693).
- (39) 52.223-12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (JUN 2016) (E.O. 13693).
- (40)(i) 52.223-13, Acquisition of EPEAT®-Registered Imaging Equipment (JUN 2014) (E.O.s 13423 and 13514).
- (ii) Alternate I (OCT 2015) of 52.223-13.
- (41)(i) 52.223-14, Acquisition of EPEAT®-Registered Televisions (Jun 2014) (E.O.s 13423 and 13514).
- (ii) Alternate I (Jun 2014) of 52.223-14.
- (42) 52.223-15, Energy Efficiency in Energy-Consuming Products (MAY 2020) (42 U.S.C. 8259b).
- (43)(i) 52.223-16, Acquisition of EPEAT®-Registered Personal Computer Products (OCT 2015) (E.O.s 13423 and 13514).
- (ii) Alternate I (Jun 2014) of 52.223-16.
- (44) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (JUN 2020) (E.O. 13513).
- (45) 52.223-20, Aerosols (JUN 2016) (E.O. 13693).
- (46) 52.223-21, Foams (JUN 2016) (E.O. 13693).
- (47)(i) 52.224-3, Privacy Training (JAN 2017) (5 U.S.C. 552a).
- (ii) Alternate I (JAN 2017) of 52.224-3.
- (48) 52.225-1, Buy American—Supplies (MAY 2014) (41 U.S.C. chapter 83).
- (49)(i) 52.225-3, Buy American—Free Trade Agreements—Israeli Trade Act (MAY 2014) (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 (MAY 2014) of 52.225-3.

\_\_\_ (iii) Alternate II (MAY 2014) of 52.225-3.

\_\_\_ (iv) Alternate III (MAY 2014) of 52.225-3.

(50) 52.225-5, Trade Agreements (OCT 2019) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).

X (51) 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).

(52) 52.225-26, Contractors Performing Private Security Functions Outside the United States (OCT 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

(53) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (NOV 2007) (42 U.S.C. 5150).

(54) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (NOV 2007) (42 U.S.C. 5150).

\_\_\_ (55) 52.229-12, Tax on Certain Foreign Procurements (JUN 2020).

\_\_\_ (56) 52.232-29, Terms for Financing of Purchases of Commercial Items (FEB 2002) (41 U.S.C.4505, 10 U.S.C. 2307(f)).

\_\_\_ (57) 52.232-30, Installment Payments for Commercial Items (JAN 2017) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).

X (58) 52.232-33, Payment by Electronic Funds Transfer—System for Award Management (OCT 2018) (31 U.S.C. 3332).

(59) 52.232-34, Payment by Electronic Funds Transfer—Other than System for Award Management (JUL 2013) (31 U.S.C. 3332).

(60) 52.232-36, Payment by Third Party (MAY 2014) (31 U.S.C. 3332).

(61) 52.239-1, Privacy or Security Safeguards (AUG 1996) (5 U.S.C. 552a).

(62) 52.242-5, Payments to Small Business Subcontractors (JAN 2017)(15 U.S.C. 637(d)(13)).

(63)(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.

(iii) Alternate II (Feb 2006) 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 Labor Standards (AUG 2018) (41 U.S.C. chapter 67).

\_\_\_ (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (MAY 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

(3) 52.222-43, Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts) (AUG 2018) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

(4) 52.222-44, Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (MAY 2014) (29 U.S.C 206 and 41 U.S.C. chapter 67).

(5) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (MAY 2014) (41 U.S.C. chapter 67).

(6) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (MAY 2014) (41 U.S.C. chapter 67).

(7) 52.222-55, Minimum Wages Under Executive Order 13658 (DEC 2015).

\_\_\_ (8) 52.222-62, Paid Sick Leave Under Executive Order 13706 (JAN 2017) (E.O. 13706).

\_\_\_ (9) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (JUN 2020) (42 U.S.C. 1792).

(d) *Comptroller General Examination of Record*. The Contractor 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, as defined in FAR 2.101, on the date of award of this contract, 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 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, 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) of this paragraph 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 (JUN 2020) (41 U.S.C. 3509).

(ii) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(iii) 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (JUL 2018) (Section 1634 of Pub. L. 115-91).

(iv) 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (AUG 2019) (Section 889(a)(1)(A) of Pub. L. 115-232).

(v) 52.219-8, Utilization of Small Business Concerns (OCT 2018) (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 the applicable threshold specified in FAR 19.702(a) on the date of subcontract award, the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(vi) 52.222-21, Prohibition of Segregated Facilities (APR 2015).

(vii) 52.222-26, Equal Opportunity (SEP 2016) (E.O. 11246).

(viii) 52.222-35, Equal Opportunity for Veterans (JUN 2020) (38 U.S.C. 4212).

(ix) 52.222-36, Equal Opportunity for Workers with Disabilities (JUN 2020) (29 U.S.C. 793).

(x) 52.222-37, Employment Reports on Veterans (JUN 2020) (38 U.S.C. 4212).

(xi) 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.

(xii) 52.222-41, Service Contract Labor Standards (AUG 2018)(41 U.S.C. chapter 67).

(xiii) \_\_\_ (A) 52.222-50, Combating Trafficking in Persons (JAN 2019) (22 U.S.C. chapter 78 and E.O. 13627).

\_\_\_ (B) Alternate I (Mar 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).

(xiv) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (MAY 2014) (41 U.S.C. chapter 67).

(xv) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (MAY 2014) (41 U.S.C. chapter 67).

(xvi) 52.222-54, Employment Eligibility Verification (Oct 2015) (E. O. 12989).

(xvii) 52.222-55, Minimum Wages Under Executive Order 13658 (DEC 2015).

(xviii) 52.222-62 Paid Sick Leave Under Executive Order 13706 (JAN 2017) (E.O. 13706).

(xix)(A) 52.224-3, Privacy Training (JAN 2017) (5 U.S.C. 552a).

(B) Alternate I (JAN 2017) of 52.224-3.

(xx) 52.225-26, Contractors Performing Private Security Functions Outside the United States (OCT 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

(xxi) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (JUN 2020) (42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(xxii) 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). 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.

Addendum Containing Supplementary Clauses in Full Text and by Reference

The following additional clauses are set forth in full text:

**52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (AUG 2020)**

The Offeror shall not complete the representation at paragraph (d)(1) of this provision if the Offeror has represented that it “does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument” in the provision at 52.204-26, Covered Telecommunications Equipment or Services—Representation, or in paragraph (v) of the provision at 52.212-3, Offeror Representations and Certifications-Commercial Items.

(a) *Definitions.* As used in this provision—

*Backhaul, covered telecommunications equipment or services, critical technology, interconnection arrangements, reasonable inquiry, roaming, and substantial or essential component* have the meanings provided in the clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) *Prohibition.* (1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(c) *Procedures.* The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for “covered telecommunications equipment or services.”

(d) *Representations.* The Offeror represents that—

(1) It  will,  will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation. The Offeror shall provide the additional disclosure information required at paragraph (e)(1) of this section if the Offeror responds “will” in paragraph (d)(1) of this section; and

(2) After conducting a reasonable inquiry, for purposes of this representation, the Offeror represents that—

It  does,  does not use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The Offeror shall provide the additional disclosure information required at paragraph (e)(2) of this section if the Offeror responds “does” in paragraph (d)(2) of this section.

(e) *Disclosures.* (1) Disclosure for the representation in paragraph (d)(1) of this provision. If the Offeror has responded “will” in the representation in paragraph (d)(1) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(2) Disclosure for the representation in paragraph (d)(2) of this provision. If the Offeror has responded "does" in the representation in paragraph (d)(2) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the PSC of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

<p><b>52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (AUG 2020)</b></p>
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(a)

*Backhaul* means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).

*Interconnection arrangements* means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

*Reasonable inquiry* means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

*Roaming* means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

(b) *Prohibition.* (1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Contractor is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as

part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract.

**252.204-7008 Compliance with Safeguarding Covered Defense Information Controls (Oct 2016) DFARS**

(a) *Definitions.* As used in this provision—

“Controlled technical information,” “covered contractor information system,” “covered defense information,” “cyber incident,” “information system,” and “technical information” are defined in clause 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting.

(b) The security requirements required by contract clause 252.204-7012, shall be implemented for all covered defense information on all covered contractor information systems that support the performance of this contract.

(c) For covered contractor information systems that are not part of an information technology service or system operated on behalf of the Government (see 252.204-7012(b)(2)—

(1) By submission of this offer, the Offeror represents that it will implement the security requirements specified by National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171 “Protecting Controlled Unclassified Information in Nonfederal Information Systems and Organizations” (see <http://dx.doi.org/10.6028/NIST.SP.800-171>) that are in effect at the time the solicitation is issued or as authorized by the contracting officer not later than December 31, 2017.

(2)(i) If the Offeror proposes to vary from any of the security requirements specified by NIST SP 800-171 that are in effect at the time the solicitation is issued or as authorized by the Contracting Officer, the Offeror shall submit to the Contracting Officer, for consideration by the DoD Chief Information Officer (CIO), a written explanation of—

(A) Why a particular security requirement is not applicable; or

(B) How an alternative but equally effective, security measure is used to compensate for the inability to satisfy a particular requirement and achieve equivalent protection.

(ii) An authorized representative of the DoD CIO will adjudicate offeror requests to vary from NIST SP 800-171 requirements in writing prior to contract award. Any accepted variance from NIST SP 800-171 shall be incorporated into the resulting contract.

**252.204-7009 Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information (Oct 2016) DFARS**

(a) *Definitions.* As used in this clause—

“Compromise” means disclosure of information to unauthorized persons, or a violation of the security policy of a system, in which unauthorized intentional or unintentional disclosure, modification, destruction, or loss of an object, or the copying of information to unauthorized media may have occurred.

“Controlled technical information” means technical information with military or space application that is subject to controls on the access, use, reproduction, modification, performance, display, release, disclosure, or dissemination. Controlled technical information would meet the criteria, if disseminated, for distribution statements B through F using the criteria set forth in DoD Instruction 5230.24, Distribution Statements on Technical Documents. The term does not include information that is lawfully publicly available without restrictions.

“Covered defense information” means unclassified information that—

(1) Is—

(i) Provided to the contractor by or on behalf of DoD in connection with the performance of the contract; or

(ii) Collected, developed, received, transmitted, used, or stored by or on behalf of the contractor in support of the performance of the contract; and

(2) Falls in any of the following categories:

(i) Controlled technical information.

(ii) *Critical information (operations security)*. Specific facts identified through the Operations Security process about friendly intentions, capabilities, and activities vitally needed by adversaries for them to plan and act effectively so as to guarantee failure or unacceptable consequences for friendly mission accomplishment (part of Operations Security process).

(iii) *Export control*. Unclassified information concerning certain items, commodities, technology, software, or other information whose export could reasonably be expected to adversely affect the United States national security and nonproliferation objectives. To include dual use items; items identified in export administration regulations, international traffic in arms regulations and munitions list; license applications; and sensitive nuclear technology information.

(iv) Any other information, marked or otherwise identified in the contract, that requires safeguarding or dissemination controls pursuant to and consistent with law, regulations, and Government wide policies (e.g., privacy, proprietary business information).

"Cyber incident" means actions taken through the use of computer networks that result in a compromise or an actual or potentially adverse effect on an information system and/or the information residing therein.

(b) *Restrictions*. The Contractor agrees that the following conditions apply to any information it receives or creates in the performance of this contract that is information obtained from a third-party's reporting of a cyber incident pursuant to DFARS clause 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting (or derived from such information obtained under that clause):

(1) The Contractor shall access and use the information only for the purpose of furnishing advice or technical assistance directly to the Government in support of the Government's activities related to clause 252.204-7012, and shall not be used for any other purpose.

(2) The Contractor shall protect the information against unauthorized release or disclosure.

(3) The Contractor shall ensure that its employees are subject to use and non-disclosure obligations consistent with this clause prior to the employees being provided access to or use of the information.

(4) The third-party contractor that reported the cyber incident is a third-party beneficiary of the non-disclosure agreement between the Government and Contractor, as required by paragraph (b)(3) of this clause.

(5) A breach of these obligations or restrictions may subject the Contractor to—

(i) Criminal, civil, administrative, and contractual actions in law and equity for penalties, damages, and other appropriate remedies by the United States; and

(ii) Civil actions for damages and other appropriate remedies by the third party that reported the cyber incident, as a third party beneficiary of this clause.

(c) *Subcontracts*. The Contractor shall include this clause, including this paragraph (c), in subcontracts, or similar contractual instruments, for services that include support for the Government's activities related to safeguarding covered defense information and cyber incident reporting, including subcontracts for commercial items, without alteration, except to identify the parties.

<p><b>52.209-11 Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law (Feb 2016) FAR</b></p>
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(a) *Definitions*. As used in this clause—

"Compromise" means disclosure of information to unauthorized persons, or a violation of the security policy of a system, in which unauthorized intentional or unintentional disclosure, modification, destruction, or loss of an object, or the copying of information to unauthorized media may have occurred.

"Controlled technical information" means technical information with military or space application that is subject to controls on the access, use, reproduction, modification, performance, display, release, disclosure, or dissemination. Controlled technical information would meet the criteria, if disseminated, for distribution statements B through F using the criteria set forth in DoD Instruction 5230.24, Distribution Statements on Technical Documents. The term does not include information that is lawfully publicly available without restrictions.

"Covered defense information" means unclassified controlled technical information or other information (as described in the Controlled Unclassified Information (CUI) Registry at <http://www.archives.gov/cui/registry/category-list.html>) that requires safeguarding or dissemination controls pursuant to and consistent with law, regulations, and Governmentwide policies, and is—

(1) Marked or otherwise identified in the contract, task order, or delivery order and provided to the contractor by or on behalf of DoD in support of the performance of the contract; or

(2) Collected, developed, received, transmitted, used, or stored by or on behalf of the contractor in support of the performance of the contract.

“Cyber incident” means actions taken through the use of computer networks that result in a compromise or an actual or potentially adverse effect on an information system and/or the information residing therein.

“Information system” means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

“Media” means physical devices or writing surfaces including, but is not limited to, magnetic tapes, optical disks, magnetic disks, large-scale integration memory chips, and printouts onto which covered defense information is recorded, stored, or printed within a covered contractor information system.

“Technical information” means technical data or computer software, as those terms are defined in the clause at DFARS 252.227-7013, Rights in Technical Data-Noncommercial Items, regardless of whether or not the clause is incorporated in this solicitation or contract. Examples of technical information include research and engineering data, engineering drawings, and associated lists, specifications, standards, process sheets, manuals, technical reports, technical orders, catalog-item identifications, data sets, studies and analyses and related information, and computer software executable code and source code.

(b) *Restrictions.* The Contractor agrees that the following conditions apply to any information it receives or creates in the performance of this contract that is information obtained from a third-party’s reporting of a cyber incident pursuant to DFARS clause 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting (or derived from such information obtained under that clause):

(1) The Contractor shall access and use the information only for the purpose of furnishing advice or technical assistance directly to the Government in support of the Government’s activities related to clause 252.204-7012, and shall not be used for any other purpose.

(2) The Contractor shall protect the information against unauthorized release or disclosure.

(3) The Contractor shall ensure that its employees are subject to use and non-disclosure obligations consistent with this clause prior to the employees being provided access to or use of the information.

(4) The third-party contractor that reported the cyber incident is a third-party beneficiary of the non-disclosure agreement between the Government and Contractor, as required by paragraph (b)(3) of this clause.

(5) A breach of these obligations or restrictions may subject the Contractor to—

(i) Criminal, civil, administrative, and contractual actions in law and equity for penalties, damages, and other appropriate remedies by the United States; and

(ii) Civil actions for damages and other appropriate remedies by the third party that reported the cyber incident, as a third party beneficiary of this clause.

(c) *Subcontracts.* The Contractor shall include this clause, including this paragraph (c), in subcontracts, or similar contractual instruments, for services that include support for the Government’s activities related to safeguarding covered defense information and cyber incident reporting, including subcontracts for commercial items, without alteration, except to identify the parties.

<p><b>252.209-7994 Representation by Corporations Regarding an Unpaid Delinquent Tax Liability or a Felony Conviction under any Federal Law—Fiscal Year 2014 Appropriations (Deviation 2014-00004) (Oct 2013)</b></p>
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(a) In accordance with section 101(a) of Division A of the Continuing Appropriations Act, 2014 (Pub. L. 113-46), none of the funds made available by that Act for DoD (including Military Construction funds) may be used to enter into a contract with any corporation that—

(1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless the agency has considered suspension or debarment of the corporation and made a determination that this further action is not necessary to protect the interests of the Government; or

(2) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless the agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

(b) The Offeror represents that—

(1) It is  is not  a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability,

(2) It is  is not  a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

**252.209-7995 Representation by Corporations Regarding an Unpaid Delinquent Tax Liability or a Felony Conviction under any Federal Law—Fiscal Year 2013 Appropriations (Deviation 2013-00010) (Apr 2013)**

(a) In accordance with sections 8112 and 8113 of Division C and sections 514 and 515 of Division E of the Consolidated and Further Continuing Appropriations Act, 2013, (Pub. L. 113-6), none of the funds made available by that Act for DoD (including Military Construction funds) may be used to enter into a contract with any corporation that—

(1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless the agency has considered suspension or debarment of the corporation and made a determination that this further action is not necessary to protect the interests of the Government; or

(2) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless the agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

(b) The Offeror represents that—

(1) It is  is not  a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability,

(2) It is  is not  a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

**252.209-7996 Representation by Corporations Regarding an Unpaid Delinquent Tax Liability or a Felony Conviction under any Federal Law—DoD Military Construction Appropriations (Deviation 2013-00006) (Jan 2013)**

(a) In accordance with section 101(a)(10) of the Continuing Appropriations Resolution, 2013,(Pub. L. 112-175) none of the funds made available by that Act for military construction may be used to enter into a contract with any corporation that was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless the agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

(b) The Offeror represents that it is  is not  a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

**252.209-7997 Representation by Corporations Regarding an Unpaid Delinquent Tax Liability or a Felony Conviction under any Federal Law—DoD Appropriations (Deviation 2013-00006) (Jan 2013)**

(a) In accordance with section 101(a)(3) of the Continuing Appropriations Resolution, 2013, (Pub. L. 112-175) none of the funds made available by that Act for general appropriations for DoD may be used to enter



into a contract with any corporation that—

(1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless the agency has considered suspension or debarment of the corporation and made a determination that this further action is not necessary to protect the interests of the Government.

(2) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless the agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

(b) The Offeror represents that—

(1) It is  is not  a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability,

(2) It is  is not  a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

**252.209-7998 Representation Regarding Conviction of a Felony Criminal Violation under any Federal or State Law (Deviation 2012-00007) (Mar 2012)**

(a) In accordance with section 514 of Division H of the Consolidated Appropriations Act, 2012, none of the funds made available by that Act may be used to enter into a contract with any corporation that was convicted of a felony criminal violation under any Federal or State law within the preceding 24 months, where the awarding agency is aware of the conviction, unless the agency has considered suspension or debarment of the corporation and made a determination that this further action is not necessary to protect the interests of the Government.

(b) The Offeror represents that it is  is not  a corporation that was convicted of a felony criminal violation under a Federal or State law within the preceding 24 months.

**252.209-7999 Representation by Corporations Regarding an Unpaid Delinquent Tax Liability or a Felony Conviction under any Federal Law (Deviation 2012-00004) (Jan 2012)**

(a) In accordance with sections 8124 and 8125 of Division A of the Consolidated Appropriations Act, 2012, (Pub. L. 112-74) none of the funds made available by that Act may be used to enter into a contract with any corporation that—

(1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless the agency has considered suspension or debarment of the corporation and made a determination that this further action is not necessary to protect the interests of the Government.

(2) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless the agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

(b) The Offeror represents that—

(1) It is  is not  a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability,

(2) It is  is not  a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

**52.215-6 Place of Performance (OCT 1997) FAR**

(a) The offeror or respondent, in the performance of any contract resulting from this solicitation, intends, does not intend to use one or more plants or facilities located at a different address from the address of the offeror or respondent as indicated in this proposal or response to request for information.

(b) If the offeror or respondent checks "intends" in paragraph (a) of this provision, it shall insert in the following spaces the required information:

**OCONUS Warehouse Distribution Facilities**

Place of Performance(Street Address, City, State, County, Zip Code)	Name and Address of Owner and Operator of the Plant or Facility if Other Than Offeror or Respondent
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

**CONUS Warehouse Distribution Facilities**

Place of Performance(Street Address, City, State, County, Zip Code)	Name and Address of Owner and Operator of the Plant or Facility if Other Than Offeror or Respondent
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]



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

(1) Any order for a single item in excess of       n/a      ;

(2) Any order for a combination of items in excess of       n/a      ; or

(3) A series of orders from the same ordering office within       n/a       days that together call for quantities exceeding the limitation in subparagraph (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   n/a   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.

<p><b>Economic Price Adjustment – Actual Material Costs for DLA Troop Support - Subsistence Product Price Business</b></p>
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(a) Warranties: For the portion of the schedule that is covered by this economic price adjustment (EPA) language, the Contractor warrants that --

(1) Contract unit prices covered by this contract do not include allowances for any portion of the contingency covered by this EPA language; and

(2) All price adjustments invoiced under this contract shall be computed in accordance with the provisions of this EPA language.

(b) Definitions: As used throughout this EPA language, the term

(1) "Contract unit price" means the total price per unit charged to DLA Troop Support for a product delivered to DLA Troop Support's customers. The Contract unit price consists of two components: Product price and distribution price as identified in the schedule of items. The sum of the two component prices shall be rounded to the nearest cent to determine the final Contract unit price.

(2) DLA Troop Support "Manufacturer's Price Agreement" (MPA) means an agreement between DLA Troop Support and manufacturers which identifies a fixed product price for specific items that will be cataloged by the prime vendor.

(3) "Product price" is the most recent DLA Troop Support MP price or the most recent manufacturer, grower or private label holder commercial price per unit to the Contractor, exclusive of standard freight.

(i) Exceptions:

(A) Fresh fruits and vegetables (FF&V):

(1) The product is listed in the distribution category for prime vendor fresh fruits and vegetables (FF&V)[10]; and

(2) It is necessary for the product to be transported into the local market of the importer, as otherwise approved under the contract, from a foreign country because local supply does not exist or it is insufficient to meet demand requirements; and

(3) The importer that establishes the product price is the firm that actually performs the FF&V import service, including, but not limited to: procurement, storage, consolidation, pallets, and palletizing as it applies to the importer's normal commercial sales, and the importer has comparable commercial sales in the market that is the point of import.

(B) A contiguous United States (CONUS) based manufacturer, grower or private label holder's product pricing which is a national price inclusive of transportation costs to a Distribution Point shall be supported by documentation and may be considered by the Government on a case by case basis, upon concurrence of the Contracting Officer.

(C) Mandatory source items: The product price shall be limited to the nonprofit agency's price for product as set in accordance with applicable law. The product price shall be based on f.o.b. origin/nonprofit agency. (Prices set in accordance with applicable law (f.o.b. origin/nonprofit agency.)

(D) Prime vendor table displays/decorations only: For products listed in category [N/A] prime vendor table displays/decorations only, the product price shall be based on f.o.b. origin/point of the manufacturer's distributor because the manufacturer will not sell directly to the prime vendor. This exception must be approved by the Contracting Officer on a case by case basis. Support documentation is required.

(E) A CONUS-based redistributor's price for a specific manufacturer's product (also known as a stock keeping unit (SKU)) may be considered by the Government as long as the redistributor's price for the

quantity ordered is equal to or lower than the manufacturer's published price inclusive of discounts/allowances. This exception must be approved by the Contracting officer on a case by case basis. Support documentation may be required.

(4) "Product allowance" is discounts, rebates, and allowances to be passed on to the Government. In accordance with other provisions of the contract, all discounts, rebates, or allowances on particular items which are reflected in the amounts shown on the face of the manufacturer's, grower's or private label holder's invoice (referred to as "off-invoice allowances") or otherwise given to the Contractor by the manufacturer, grower or private label holder, shall be passed by the Contractor to the Government, in the form of an up-front price reduction. The total of these discounts, rebates, and allowances (or product allowance), shall be reflected via a reduced subsistence total order and receipt electronic system (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 price reduction must be submitted via check made to the United States (U.S.) Treasury, attached with itemized listing of all customer purchases by line item to include contract number, call number, purchase order number and contract line-item number (CLIN).

(5) "Distribution price(s)" means the firm fixed price portion of the Contract unit price, offered as a dollar amount per unit of measure, rounded up or down to the nearest cent. The distribution price is the only method for the Contractor to bill the Government for all aspects of contract performance other than product price, including but not limited to, the performance requirements of this Statement of Work (SOW). Product price is distinct from and not to be included in the distribution price. The distribution price may be further segregated into pricing segments covering discrete, solicitation-specific performance requirements.

(6) "Ordering catalog" means the electronic listing of items and their corresponding contract unit prices available for ordering under this contract.

(7) "Ordering month" means from Sunday 12:01 AM of the first full week in a calendar month through the last Saturday 11:59 PM that precedes the Sunday of the first full week in the next calendar month (eastern time (ET), standard or daylight as applicable).

(8) "United States Defense Transportation System (DTS) Ocean Shipping Costs:" DTS ocean transportation costs (for shipping the product from the Prime Vendor's CONUS facility(s) to the prime vendor's OCONUS facility(s), aka "point to point" delivery via DTS), shall be excluded from the distribution price. The Defense Transportation System is responsible for point-to-point delivery.

(c) Price adjustments:

(1) General:

(i) All contract unit prices shall be fixed and remain unchanged until changed pursuant to this EPA language or other applicable provision of the contract. Only the product price component of the Contract unit price is subject to adjustment under this EPA language. After the first ordering month, if the Contractor's product price changes for any or all contract unit prices, the Contract unit price shall be changed in the next month's ordering catalog upon the Contractor's request, submitted in accordance with paragraph iii below, by the same dollar amount of the change in the Product price, subject to the limitations in paragraph (d). The price change shall be effective at the beginning of the next ordering month. All ordering catalog unit prices computed in accordance with this EPA language and in effect when an order is placed shall remain in effect for that order through delivery. DLA Troop Support will be charged the Contract unit price in effect at the time of each order regardless of any changes in the unit price occurring in any subsequent ordering month.

(ii) Catalog product prices must be reflective of the prime vendor's last receipt price (the price of the stock most recently received into the OCONUS inventory). For all distribution categories, when multiple sources are being utilized and more than one manufacturer's product is receipted prior to a catalog update, the Contractor shall establish the product price based on the mix of invoices received after the previous changes period. The product price would be derived as follows:

Supplier A -	40% x \$5.70 = \$2.28
Supplier B -	30% x \$5.90 = \$1.77
Supplier C -	30% x \$6.30 = \$1.89
Product price =	\$5.94

(iii) Updates to the product price: All notices and requests for new item product prices and price changes shall be submitted monthly, no later than 12:00 pm local Philadelphia, Pennsylvania, United States (U.S.) time one week prior to the first day of the next ordering month, to be effective in the next ordering month's catalog prices. The product price shall have any and all product allowance subtractions made prior to presenting the product price to DLA Troop Support. The Contractor shall notify the Contracting Officer of its notice/request in the form of an electronic data interchange (EDI) 832 transaction set. The change notice shall include the Contractor's adjustment in the product price component of the applicable Contract unit price. Upon the Contracting Officer's acceptance of such electronic data interchange (EDI) 832 price

changes in accordance with (v) below, the price change transaction sets will post in the next month's ordering catalog and each Contract unit price shall be changed by the same dollar amount of the change in the product price in the next month's ordering catalog.

(iv) All price changes, and catalog contract prices, are subject to review by the Government. The Contracting Officer may at any time require the submission of supporting data to substantiate any requested price change or the requested continuation of the pre-existing price for any item, including prices applicable to prior ordering months. Upon notice from the Contracting Officer that supporting data is required, the Contractor shall promptly furnish to the Government all supporting data, including but not limited to, invoices, quotes, price lists, supplier documentation regarding rebates/allowances, and any other substantiating information requested by the Contracting Officer.

(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 local Philadelphia, Pennsylvania, U.S. time on the Thursday immediately following the Monday 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 month. 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 product 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 local Philadelphia, Pennsylvania, U.S. time on the Friday immediately following the Monday. If the Contracting Officer cannot determine a price fair and reasonable, and the Contracting Officer and the Contractor cannot 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 fails to remove it. 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.

(vii) In the event of a price change not posting or an ordering catalog contract unit price not computed in accordance with this EPA language, resulting in an incorrectly increased or decreased Contract unit price, the prime vendor shall immediately notify the Contracting Officer in writing and promptly thereafter correct its ordering catalog and submit a refund for any amounts paid to the Contractor resulting from the erroneous price. In the event of an erroneous price decrease in the ordering catalog, if the Contractor can demonstrate to the satisfaction of the Contracting Officer that the error did not result from the fault or negligence of the Contractor, the Contractor may submit a request for equitable adjustment for consideration by the Contracting Officer.

(2) Limitations: All adjustments under this EPA language shall be limited to the effect on contract unit prices of actual increases or decreases in the product prices for material. There shall be no upward adjustment for --

- (i) Supplies for which the product price is not affected by such changes;
- (ii) Changes in the quantities of material; and
- (iii) Increases in unit prices that the Contracting Officer determines are computed incorrectly (i.e. not adhering to the Contract unit price definition in this EPA language) and/or increases in unit prices that the Contracting Officer determines are not fair and reasonable.

(d) Upward ceiling on economic price adjustment: The aggregate of contract product price increases for each item under this EPA language during the contract period inclusive of any option period(s) or tiered pricing period(s) shall not exceed 30%, 60% for fresh fruits and vegetables (FF&V) of the initial Contract product price, except as provided below:

(1) If at any time the Contractor has reason to believe that within the near future a price adjustment under the provisions of this EPA language will be required that will exceed the current contract ceiling price for any item, the Contractor shall promptly notify the Contracting Officer in writing of the expected increase. In the event the latest actual market price for an item would result in a Contract unit price that will exceed the allowable ceiling price under the contract, then the Contractor shall immediately notify the Contracting Officer in writing or via its EDI price change request and separate email no later than the time specified in paragraph (c)(1)(iii) above. With either such notification the Contractor shall include a revised ceiling the Contractor believes is sufficient to permit completion of remaining contract performance, along with

appropriate explanation and documentation as required by the Contracting Officer.

(2) If an actual increase in the reference price would raise a contract unit price for an item above the current ceiling, the Contractor shall have no obligation under this contract to fill future orders for such items, as of the effective date of the increase, unless the Contracting Officer issues a contract modification to raise the ceiling. If the contract ceiling will not be raised, the Contracting Officer shall so promptly notify the Contractor in writing. After evaluation of a requested actual price increase, if the Contracting Officer authorizes the change in the Contract unit price, the Contractor shall submit the EDI 832 price change. The price change shall be posted for the following month's ordering catalog.

(e) Downward limitation on economic price adjustments: There is no downward limitation on the aggregated percentage of decreases that may be made under this EPA language.

(f) Examination of record: The Contracting Officer or designated representative shall have the right to examine the Contractor's books, records, documents and other data, to include commercial sales data, the Contracting Officer deems necessary to verify Contractor adherence to the provisions of this EPA language. Such examination may occur during all reasonable times until the end of 3 years after the date of final payment under this contract or the time periods specified in Subpart 4.7 of the Federal Acquisition Regulation (FAR), whichever is earlier.

(g) Final invoice: The Contractor shall include a statement on the final invoice that the amounts invoiced hereunder have applied all decreases required or authorized by this EPA language.

(h) Disputes: Any dispute arising under this EPA language shall be determined in accordance with the "Disputes" clause of the contract.

#### **Tailored Logistics Support Purchasing Reviews (FEB 2017)**

(1) From the commencement of performance of this contract until 3 years after the final contract payment, the contractor must allow the contracting officer, ACO, Defense Contract Management Agency (DCMA), Defense Contract Audit Agency (DCAA), and any other duly authorized representative of the contracting officer access to all records and information pertaining to those items or services for which the Government is relying on the contractor's purchasing system to determine that competition was obtained or to justify that prices are fair and reasonable. The contractor must maintain records subject to this clause for not less than 3 years after the contract final payment.

(2) The contracting officer may conduct reviews of purchased items or services provided under this contract regardless of dollar value that meet the criteria in paragraph (1) to ascertain whether the contractor has obtained the best value. The contractor must obtain competition to the maximum extent practicable for all purchases. Prior to purchasing any supplies or services, the contractor must solicit a competitive quotation from at least two independently-competing firms. For other than sole source items, the request for quotations must, to the maximum extent practical, solicit offers from different manufacturers or producers. If the contractor is unable to obtain quotes for competing items from two or more independently-competing firms, the contractor must retain documentation supporting its rationale for selection of the suppliers solicited and selected and its determination that the price was fair and reasonable. The contractor is responsible for maintaining this documentation for all sole source/noncompetitive actions. The following price reasonableness and documentation requirements are applicable to all purchases, regardless of dollar value:

(i) A price is reasonable if it does not exceed a price incurred by a prudent person in the conduct of competitive business. The contracting officer will examine the prices with particular care in connection with buys that may not be subject to effective competition restraints. The contractor's price will not be presumed to be reasonable. If an initial review of the facts results in a challenge of a specific price by the contracting officer or the contracting officer's representative, the burden of proof must be upon the contractor to establish that the price is reasonable under the standards in FAR Subpart 15.4 and FAR 31.201-3.

(ii) The contractor must keep the documentation to a minimum, but must retain data supporting the purchases either by paper or electronically. At a minimum, price quotations and invoices must be retained. Should the contractor receive an oral price quotation, the contractor must document who the supplier or subcontractor is by complete name, address, telephone number, price, terms and other conditions quoted by each vendor. Price quotes for supplies must be broken down by individual items, shipping costs, and any other included expenses. Price quotes for incidental services which are not pre-priced in the contract must include labor hours and costs or prices, as applicable, including the total price of the job, individual pricing for the portions of the work if applicable, materials, and all other elements of cost, overhead, and

profit. This price breakdown documentation must be made for each subcontractor performing work on this contract.

(3) When applicable, if the contractor is purchasing from subcontractors or other sources and receives a discount or rebates, the contractor must immediately pass these savings to the Government in the contract price and invoice for payment. The contractor is required to use diligence in the selection of the most economical method of delivery of the product or services by selecting a best value method of delivery based on the urgency and nature of the work or product required. When labor hours are involved in the work to be accomplished and the contractor has not already pre-priced the effort to use its own labor force, the contractor must provide the labor at rates required by the contract (for example, Service Contract Act or Davis-Bacon Act rates) or at rates based on competition if mandatory rates are not required by the contract.

(4) If the contracting officer determines that the purchased product or service is unreasonably priced, the contractor must refund to the Government the amount the contracting officer determines is in excess of a reasonable price. The contracting officer must notify the contractor in writing in accordance with FAR 32.604 Demand for Payment, giving the basis for the determination and the amount to be refunded. The contractor must make the refund payment in accordance with directions from the contracting officer, and must provide proof of the refund payment to the contracting officer. The contracting officer may collect the amount due using all available means in accordance with FAR Subpart 32.6. FAR 52.232-17, Interest, is applicable to payments not made within 30 days of the demand for payment. Any disputes arising under this provision must be handled in accordance with the "Disputes" clause of this contract.

#### **52.229-7001 Tax Relief – Basic (APR 2020) 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): \_\_\_\_\_

(b) Invoices submitted in accordance with the terms and conditions of this contract shall be exclusive of all taxes or duties for which relief is available. The Contractor's invoice shall list separately the gross price, amount of tax deducted, and net price charged.

(c) When items manufactured to United States Government specifications are being acquired, the Contractor shall identify the materials or components intended to be imported in order to ensure that relief from import duties is obtained. If the Contractor intends to use imported products from inventories on hand, the price of which includes a factor for import duties, the Contractor shall ensure the United States Government's exemption from these taxes. The Contractor may obtain a refund of the import duties from its government or request the duty-free import of an amount of supplies or components corresponding to that used from inventory for this contract.

#### **Agency Protests (DEC 2016)**

Interested parties may file an agency level protest with the contracting officer or may request an independent review by the chief of the contracting office (CCO). Independent review by the CCO is an alternative to consideration by the contracting officer and is not available as an appellate review of a contracting officer decision on a protest previously filed with the contracting officer. Absent a clear indication of the intent to file an agency level protest with the CCO for independent review, protests will be presumed to be protests to the contracting officer.

#### **52.233-9001 Disputes Agreement to Use Alternative Dispute Resolution (JUN 2020) DLAD**

(a) The parties agree to negotiate with each other to try to resolve any disputes that may arise. If unassisted negotiations are unsuccessful, the parties will use alternative dispute resolution (ADR) techniques to try to resolve the dispute. Litigation will only be considered as a last resort when ADR is unsuccessful or has been documented by the party rejecting ADR to be inappropriate for resolving the dispute.

(b) Before either party determines ADR inappropriate, that party must discuss the use of ADR with the other party. The documentation rejecting ADR must be signed by an official authorized to bind the contractor (see FAR 52.233-1), or, for the Agency, by the contracting officer, and approved at a level above the contracting officer after consultation with the ADR Specialist and legal counsel. Contractor personnel



are also encouraged to include the ADR Specialist in their discussions with the contracting officer before determining ADR to be inappropriate.

(c) If you wish to opt out of this clause, check here [ ]. Alternate wording may be negotiated with the contracting officer.

#### **5252.243-7002 Requests for Equitable Adjustment (Dec 2012) DFARS**

- a) The amount of any request for equitable adjustment to contract terms shall accurately reflect the contract adjustment for which the Contractor believes the Government is liable. The request shall include only costs for performing the change, and shall not include any costs that already have been reimbursed or that have been separately claimed. All indirect costs included in the request shall be properly allocable to the change in accordance with applicable acquisition regulations.
- (b) In accordance with 10 U.S.C. 2410(a), any request for equitable adjustment to contract terms that exceeds the simplified acquisition threshold shall bear, at the time of submission, the following certificate executed by an individual authorized to certify the request on behalf of the Contractor:  
I certify that the request is made in good faith, and that the supporting data are accurate and complete to the best of my knowledge and belief.  
(Official's Name)  
(Title)
- (c) The certification in paragraph (b) of this clause requires full disclosure of all relevant facts, including:
- (1) Certified cost or pricing data, if required, in accordance with subsection 15.403-4 of the Federal Acquisition Regulation (FAR); and
  - (2) Data other than certified cost or pricing data, in accordance with subsection 15.403-3 of the FAR, including actual cost data and data to support any estimated costs, even if certified cost or pricing data are not required.
- (d) The certification requirement in paragraph (b) of this clause does not apply to:
- (1) Requests for routine contract payments; for example, requests for payment for accepted supplies and services, routine vouchers under a cost-reimbursement type contract, or progress payment invoices; or
  - (2) Final adjustments under an incentive provision of the contract.

#### **52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

- FAR: <https://www.ecfr.gov>
- DFARS: <http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html>
- DLAD: <https://www.dla.mil/HQ/Acquisition/Offers/DLAD.aspx>

The following additional clauses are incorporated by reference:

<b>CLAUSE NUMBER</b>	<b>TITLE/DATE</b>
252.201-7000	Contracting Officer's Representative (Dec 1991) DFARS
252.203-7002	Requirement to Inform Employees of Whistleblower Rights (Sep 2013) DFARS
52.204-4	Printed or Copied Double-Sided on Postconsumer Fiber Content Paper (May 2011) FAR
52.204-7	System for Award Management (Oct 2018) FAR
52.204-9	Personal Identity Verification of Contractor Personnel (Jan 2011) FAR
52.204-13	System for Award Management Maintenance (Oct 2018) FAR
52.204-16	Commercial and Government Entity Code Reporting (Jul 2016) FAR
52.204-18	Commercial and Government Entity Code Maintenance (Jul 2016) FAR
252.204-7003	Control of Government Personnel Work Product (Apr 1992) DFARS
52.204-9000	Contractor Personnel Security Requirements (Jul 2015) DLAD
52.208-9	Contractor Use of Mandatory Sources of Supply or Services (May 2014) FAR
52.209-7	Information Regarding Responsibility Matters (Oct 2018) FAR
252.209-7004	Subcontracting with Firms that are Owned or Controlled by the Government of a Country That is a State Sponsor of Terrorism (May 2019) DFARS
52.211-5	Material Requirements (Aug 2000) FAR
52.211-17	Delivery of Excess Quantities (Sep 1989) FAR

<b>CLAUSE NUMBER</b>	<b>TITLE/DATE</b>
252.211-7007	Reporting of Government Furnished Property (Aug 2012) DFARS
52.215-8	Order of Precedence – Uniform Contract Format (OCT 1997)
52.215-20	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data (Oct 2010) FAR
52.215-20	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data (Oct 2010), Alt IV (Oct 2010) FAR
52.216-22	Indefinite Quantity (Oct 1995) FAR
252.216-7006	Ordering (Sep 2019) DFARS
52-222-29	Notification of Visa Denial (Apr 2015) FAR
52.222-56	Certification Regarding Trafficking in Persons Compliance Plan (Mar 2015) FAR
252.222-7006	Restrictions on the Use of Mandatory Arbitration Agreements (Dec 2010) DFARS
252.222-7007	Representation Regarding Combating Trafficking in Persons (Jan 2015)
52.223-1	Biobased Product Certifications (May 2012)
52.225-14	Inconsistency Between English Version and Translation of Contract (Feb 2000) FAR
252.225-7002	Qualifying Country Sources as Subcontractors (Dec 2017) DFARS
252.225-7004	Report of Intended Performance Outside the United States and Canada—Submission after Award (May 2019) DFARS
252.225-7005	Identification of Expenditures in the United States (Jun 2005) DFARS
252.225-7041	Correspondence in English (Jun 1997) DFARS
252.225-7042	Authorization to Perform (Apr 2003) DFARS
252.225-7048	Export-Controlled Items (June 2013) DFARS
252.225-7993	Prohibition on Providing Funds to the Enemy (DEVIATION 2015-00016) (15 September 2015)
252.225-7994	Additional Access to Contractor and Subcontractor Records in the United States Central Command Theater of Operations (DEVIATION 2015-00013) (23 March 2015)
252.225-7995	Contractor Personnel Performing in the United States Central Command Area of Responsibility (DEVIATION 2017-00004) (SEP 2017)
252.225-7980	Contractor Personnel Performing in the United States Africa Command Area of Responsibility (Deviation 2016-00008) (Jun 2016)
252.225-7981	Additional Access to Contractor and Subcontractor Records (Other than USCENTCOM) (Deviation 2015-00016) (Sep 2015)
52.228-3	Workers' Compensation Insurance (Defense Base Act) (Jul 2014) FAR
52.228-5	Insurance -- Work on a Government Installation (Jan 1997) FAR
52.229-6	Taxes -- Foreign Fixed-Price Contracts (Feb 2013) FAR
252.229-7000	Invoices Exclusive of Taxes or Duties (Jun 1997) DFARS
52.232-17	Interest (MAY 2014) FAR
52.232-37	Multiple Payment Arrangements (May 1999) FAR
252.232-7008	Assignment of Claims (Overseas) (Jun 1997) DFARS
52.233-2	Service of Protest (Sep 2006) FAR
52.233-3	Protest after Award (Aug. 1996) FAR
252.233-7001	Choice of Law (Overseas) (Jun 1997) DFARS
52.242-13	Bankruptcy (Jul 1995) FAR
52.242-15	Stop-Work Order (Aug. 1989) FAR
252.243-7001	Pricing of Contract Modifications (Dec 1991) DFARS
52.245-1	Government Property (Jan 2017) FAR
52.245-9	Use and Charges (Apr 2012) FAR
252.245-7001	Tagging, Labeling, and Marking of Government-Furnished Property (Apr 2012) DFARS
252.245-7002	Reporting Loss of Government Property (Dec 2017) DFARS
252.245-7003	Contractor Property Management System Administration (Apr 2012) DFARS
252.245-7004	Reporting, Reutilization, and Disposal (Dec 2017) DFARS
52.247-29	F.o.b. Origin (Feb 2006) FAR
52.247-34	F.o.b. Destination (Jan 1991) FAR
52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) FAR
52.249-8	Default (Fixed-Price Supply & Service) (Apr 1984) FAR
52.251-1	Government Supply Sources (Apr 2012) FAR
252.251-7000	Ordering From Government Supply Sources (Aug 2012) DFARS
52.252-2	Clauses Incorporated by Reference (Feb 1998) FAR

CLAUSE NUMBER	TITLE/DATE
52.252-6	Authorized Deviation in Clauses (Apr 1984) FAR
52.253-1	Computer Generated Forms (Jan 1991) FAR

The following additional provisions are incorporated by reference:

Provision Number	Title/Date
252.204-7008	Compliance with Safeguarding Covered Defense Information Controls (OCT 2016)
52.225-25	Prohibition on Contracting With Entities Engaging in Certain Activities or Transactions Relating to Iran - Representation and Certification (JUN 2020)

The Contractor shall comply with any clause that is checked on the following list 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.  FAR 52.203-3, Gratuities (APR 1984)
2.  DFARS 252.203-7000, Requirements Relating to Compensation of Former DoD Officials (SEP 2011)
3.  DFARS 252.203-7003, Agency Office of the Inspector General (AUG 2019)
4.  DFARS 252.203-7005, Representation Relating to Compensation of Former DoD Officials (NOV 2011)
5.  DFARS 252.204-7011, Alternative Line Item Structure (SEP 2011)
6.  DFARS 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting (DEC 2019)
7.  DFARS 252.204-7013, Limitations on the Use or Disclosure of Information by Litigation Support Offerors (MAY 2016)
8.  DFARS 252.204-7014, Limitations on the Use or Disclosure of Information by Litigation Support Contractors (MAY 2016)
9.  DFARS 252.204-7015, Notice of Authorized Disclosure of Information for Litigation Support (MAY 2016)
10.  DFARS 252.205-7000, Provision of Information to Cooperative Agreement Holders (DEC 1991)
11.  DFARS 252.211-7003, Item Unique Identification and Valuation (MAR 2016)
12.  DFARS 252.211-7006, Passive Radio Frequency Identification (DEC 2019)
13.  DFARS 252.211-7007, Reporting of Government-Furnished Property (AUG 2012)
14.  DFARS 252.212-7002, Pilot Program for Acquisition of Military-Purpose Nondevelopmental Items (JUN 2016)
15.  DFARS 252.215-7003, Requirements for Submission of Data Other Than Certified Cost or Pricing Data—Canadian Commercial Corporation (JUL 2012)
16.  DFARS 252.215-7004, Requirement for Submission of Data other Than Certified Cost or Pricing Data—Modifications—Canadian Commercial Corporation (OCT 2013)
17.  DFARS 252.215-7007, Notice of Intent to Resolicit (JUN 2012)
18.  DFARS 252.215-7008, Only One Offer (OCT 2013)
19.  FAR 52.219-9 Small Business Subcontracting Plan (JUN 2020)
  - a.  Alternate I (NOV 2016)
  - b.  Alternate II (NOV 2016)
  - c.  Alternate III (JUN 2020)
20.  DFARS 252.219-7003, Small Business Subcontracting Plan (DoD Contracts) – Basic (Deviation 2016-O0009) (AUG 2016)
  - a.  Alternate I (AUG 2016) of 252.219-7003 (DEVIATION 2016-O0009)
21.  DFARS 252.219-7004, Small Business Subcontracting Plan (Test Program) (OCT 2014)
22.  DFARS 252.223-7008, Prohibition of Hexavalent Chromium (JUN 2013)
23.  DFARS 252.225-7000, Buy American—Balance of Payments Program Certificate (NOV 2014)
  - a.  Alternate I (NOV 2014) of 52.225-7000
24.  DFARS 252.225-7001, Buy American and Balance of Payments Program - Basic (DEC 2017)
  - a.  Alternate I (NDEC 2017) of 252.225-7001
25.  DFARS 252.225-7008, Restriction on Acquisition of Specialty Metals (MAR 2013)
26.  DFARS 252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals (OCT 2014)
27.  DFARS 252.225-7010, Commercial Derivative Military Article—Specialty Metals Compliance Certificate (JUL 2009)

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28.  DFARS 252.225-7012, Preference for Certain Domestic Commodities (DEC 2017)
29.  DFARS 252.225-7015, Restriction on Acquisition of Hand or Measuring Tools (JUN 2005)
30.  DFARS 252.225-7016, Restriction on Acquisition of Ball and Roller Bearings (JUN 2011)
31.  DFARS 252.225-7017, Photovoltaic Devices (SEP 2016)
32.  DFARS 252.225-7018, Photovoltaic Devices—Certificate (OCT 2015)
33.  DFARS 252.225-7020, Trade Agreements Certificate (NOV 2014)
  - a.  Alternate I (NOV 2014) of 252.225-7020
34.  DFARS 252.225-7021, Trade Agreements (SEP 2019)
  - a.  Alternate II (SEP 2019) of 252.225-7021
35.  DFARS 252.225-7023, Preference for Products or Services from Afghanistan (SEP 2013)
36.  DFARS 252.225-7024, Requirement for Products or Services from Afghanistan (SEP 2013)
37.  DFARS 252.225-7026, Acquisition Restricted to Products or Services from Afghanistan (SEP 2013)
38.  DFARS 252.225-7027, Restriction on Contingent Fees for Foreign Military Sales (APR 2003)
39.  DFARS 252.225-7028, Exclusionary Policies and Practices of Foreign Governments (APR 2003)
40.  DFARS 252.225-7029, Acquisition of Uniform Components for Afghan Military or Afghan National Police (SEP 2013)
41.  DFARS 252.225-7031, Secondary Arab Boycott of Israel (JUN 2005)
42.  DFARS 252.225-7035, Buy American—Free Trade Agreements—Balance of Payments Program Certificate (NOV 2014)
  - a.  Alternate I (NOV 2014) of 252.225-7035
  - b.  Alternate II (NOV 2014) of 252.225-7035
  - c.  Alternate III (NOV 2014) of 252.225-7035
  - d.  Alternate IV (NOV 2014) of 252.225-7035
  - e.  Alternate V (NOV 2014) of 252.225-7035
43.  DFARS 252.225-7036, Buy American --Free Trade Agreements--Balance of Payment Program - Basic (AUG 2016)
  - a.  Alternate I (AUG 2016) of 252.225-7036
  - b.  Alternate II (AUG 2016) of 252.225-7036
  - c.  Alternate III (AUG 2016) of 252.225-7036
  - d.  Alternate IV (AUG 2016) of 252.225-7036
  - e.  Alternate V (AUG 2016) of 252.225-7036
44.  DFARS 252.225-7040, Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States (AUG 2015)
45.  DFARS 252.225-7043, Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States (JUN 2015)
46.  DFARS 252.226-7001, Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (APR 2019)
47.  DFARS 252.227-7013, Rights in Technical Data - Noncommercial Items (FEB 2014)
48.  DFARS 252.227-7015, Technical Data -- Commercial Items (FEB 2014)
49.  DFARS 252.227-7037, Validation of Restrictive Markings on Technical Data (SEP 2016),
50.  DFARS 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports (DEC 2018)
51.  DFARS 252.232-7009, Mandatory Payment by Governmentwide Commercial Purchase Card (DEC 2006)
52.  DFARS 252.232-7010, Levies on Contract Payments (DEC 2006)
53.  DFARS 252.232-7011, Payments in Support of Emergencies and Contingency Operations (MAY 2013)
54.  DFARS 252.237-7010, Prohibition on Interrogation of Detainees by Contractor Personnel (JUN 2013)
55.  DFARS 252.237-7019, Training for Contractor Personnel Interacting with Detainees (JUN 2013)
56.  DFARS 252.239-7017, Notice of Supply Chain Risk (NOV 2013)
57.  DFARS 252.239-7018, Supply Chain Risk (OCT 2015)
58.  DFARS 252.243-7002, Requests for Equitable Adjustment (DEC 2012)
59.  DFARS 252.244-7000, Subcontracts for Commercial Items (JUN 2013)
60.  DFARS 252.246-7003, Notification of Potential Safety Issues (JUN 2013)
61.  DFARS 252.246-7004, Safety of Facilities, Infrastructure, and Equipment for Military Operations (OCT 2010)
62.  DFARS 252.247-7003, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (JUN 2013)

- 63.  DFARS 252.247-7022, Representation of Extent of Transportation by Sea (AUG 1992)
- 64.  DFARS 252.247-7023, Transportation of Supplies by Sea (FEB 2019)
  - a.  Alternate I (APR 2014) of 252.247-7023.
  - b.  Alternate II (APR 2014) of 252.247-7023
- 65.  DFARS 252.247-7024, Notification of Transportation of Supplies by Sea (MAR 2000)
- 66.  DFARS 252.247-7025, Reflagging or Repair Work (JUN 2005)
- 67.  DFARS 252.247-7026, Evaluation Preference for Use of Domestic Shipyards – Applicable to Acquisition of Carriage by Vessel for DoD Cargo in the Coastwise or Noncontiguous Trade (NOV 2008)
- 68.  DFARS 252.247-7027, Riding Gang Member Requirements (OCT 2011)
- 69.  DFARS 252.247-7028, Application for U.S Government Shipping Documentation/Instructions (JUN 2012)

<b>STATEMENT OF WORK</b>
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**I. INTRODUCTION**

The Defense Logistics Agency Troop Support ("DLA Troop Support") Philadelphia, PA shall enter into an Fixed Price Indefinite Delivery Indefinite Quantity ("IDIQ") Contract, with Economic Price Adjustment ("EPA") with a full line food distributor(s) who will act as a Prime Vendor (PV) responsible for the supply and delivery of semi-perishable and perishable food items as well as non-food Food Service Operating Supply ("FSOS") items. The Prime will be capable of supplying all chilled products, semi-perishable food products, frozen fish, meat and poultry, other frozen foods (i.e. fruits, vegetables, prepared foods, etc.), dairy and ice cream products, fresh and frozen bakery products, beverage base and juices (for dispensers), beverages and juices (non-dispenser), fresh fruits and vegetables, non-food items, and Government Furnished Material ("GFM"), including but not limited to Unitized Group Rations ("UGRs"), Meals Ready to Eat ("MREs"), Health and Comfort packs ("HCPs"), and other operational rations items either currently in existence or to be introduced during the term of this contract.

The purpose of this contract is for DLA Troop Support to establish an IQC commercial PV contract to provide subsistence products to military and other federally funded customers located throughout Zone 1, Northern Europe as defined in solicitation SPE300-17-R-0016 and outlined in Section XIII. CUSTOMERS. The Prime Vendor will be required to support all authorized DLA customers located in Northern Europe, (i.e. military shore and military training exercise locations, etc.) to include military or other federally funded customers; other customers, including military, Department of Defense ("DoD"), or non-DOD, may be added as necessary during the life of the contract no additional cost to the Government.

An IQC provides for an indefinite quantity, within the state limits, of specific supplies or services to be furnished during a fixed period with individual deliveries to be scheduled by customers placing order with the contract (FAR 16.504 (a)).

The contract will have a term of 60 months, with three separate pricing tiers. The first tier will be for a 24-month period (inclusive of up to 180 day ramp-up period). The second tier shall be an 18-month performance period immediately following the first tier. The third and final tier will be an additional 18-month performance period directly following the second tier. The price for all aspects of performance detailed in the Statement of Work ("SOW") are included in TWI's fixed Distribution Price(s). Distribution Price(s) will remain fixed for the life of the contract and TWI's failure to consider the full cost of performance and/or the risks of performing in this region will not serve as a basis to adjust Distribution Price(s). As detailed below, Product Price(s) are distinct from the aforementioned Distribution Price(s) and therefore should not be included in any way in the latter.

**Notes:**

- The term "Ordering Facilities" or "Ordering Activities," refers to all of the delivery points under this contract.
- The terms "contractor" and "Prime Vendor", as well as the terms "purchase order" and "delivery order" are used interchangeably throughout this Statement of Work.
- Prices will be submitted and payment will be made in U.S. dollars.

**II. ESTIMATED VALUE/GUARANTEED MINIMUM/MAXIMUM QUANTITY**

The estimated dollar value of this contract for Zone 1 is \$110,000,000.00 inclusive of all tiered pricing periods. The maximum dollar value will be \$220,000,000.00 inclusive of all tiered pricing periods and surge requirements. The guaranteed minimum will be ten percent (10%) of the estimated dollar value. The Government's legal obligation under this contract shall only be for that guaranteed minimum and shall be satisfied once purchases for that amount have been made.

Zone 1 Northern Europe includes multiple ordering facilities (i.e. customers), as listed in the Customer Deliveries section of this contract. Ordering facilities within the regions covered by this contract can be added and/or subtracted as conditions warrant. As previously described, said additions/subtractions will occur at no additional cost to the Government.

Total estimated annual sales for Zone 1 - Northern Europe:	\$22,000,000.00
Est. Sales for Tier 1 - 24 Month Period (Incl 180 day Implementation Period)	\$44,000,000.00

Est. Sale for Tier 2 – 18 Month Period	\$33,000,000.00
Est. Sales for Tier 3 – 18 Month Period	\$33,000,000.00
Guaranteed Minimum (10%) for 60 Month Period	\$11,000,000.00

### III. **CONTRACT IMPLEMENTATION PHASE**

The contract implementation phase is defined as the transition period which begins immediately after award and ends when each individual customer supported under the contract has placed its first order under the new contract.

The Prime Vendor contract implementation phase will be utilized to establish fully functional catalogs in accordance with the terms and conditions of the new contract. The following terms shall apply:

- i. Within 180 days after award, incumbent Prime Vendor shall be fully prepared to support all customers under the terms and conditions of the new contract. New and fully functional catalogs must be established during this time.
- ii. The Prime Vendor shall first use existing inventory that is stored at its facility or in the pipeline prior to using inventory purchased under the terms of the new contract, if those items are included on the new contract. Any such items shall be placed on the new catalog(s) at the product price as defined by the prior contract and the distribution price as defined by the new contract. The Prime Vendor shall use the existing product before new product is ordered.
- iii. New product that is ordered during the implementation phase shall only be ordered to replenish old product or to bring in new items requested and approved by the Contracting Officer. This product must be ordered and cataloged at the product price defined by the new contract.
- iv. Product prices shall be updated on the new catalog(s) in accordance with the terms and conditions of the contract.
- v. All GFM that meets minimum contractual requirements shall be delivered by the incumbent Prime Vendor to the new Prime Vendor's warehouse facility.  
  
GFM product shall be cataloged by the new Prime Vendor at a \$0 product price and the new Prime Vendor will only be entitled to 50% of its distribution price for GFM delivered by the incumbent Prime Vendor in accordance with this section and ultimately delivered to customers under the resulting contract.
- vi. It is the Government's intent to have all orders placed under the new contract 180 days after award, however, the Government reserves the right to phase in customer ordering points when it is in the best interest of the Government. The Prime Vendor shall be prepared to make first order deliveries no later than the last month of the implementation period.

NOTE: The implementation timeline begins on the contract award date and ends 180 days thereafter. If a stop work order is issued during the implementation, the Prime Vendor will be required to stop work and will not be able to perform unless the stop work order is rescinded. If the stop work order is rescinded, the Prime Vendor will resume the implementation schedule from the date that the stop work order was issued. The 180 day implementation period will not re-start from the beginning. For example:

Contract Award Date:	November 30, 2016
Stop Work Order Issued:	December 30, 2016
Stop Work Order Rescinded:	January 30, 2017
Implementation Timeline:	November 30, 2016 – December 30, 2016 and January 30, 2017 – June 30, 2017

### IV. **PRODUCT SOURCING AND PRICING**

#### **A. PRICE DEFINITIONS AND PROVISIONS**

1. Reference ECONOMIC PRICE ADJUSTMENT – ACTUAL MATERIAL COSTS FOR DLA TROOP SUPPORT – SUBSISTENCE PRODUCT PRICE BUSINESS MODEL for pricing details.
2. In reference to ECONOMIC PRICE ADJUSTMENT – ACTUAL MATERIAL COSTS FOR DLA TROOP SUPPORT - SUBSISTENCE PRODUCT PRICE BUSINESS, paragraph (b)(3):““Product price”

is the most recent DLA Troop Support MPA price or the most recent manufacturer, grower or private label holder commercial price per unit to the Contractor, exclusive of standard freight.

(i) Exceptions:

(A) Fresh fruits and vegetables (FF&V):

(1) The product is listed in the distribution category for Prime Vendor fresh fruits and vegetables (FF&V)}{10}; and

(2) It is necessary for the product to be transported into the local market of the importer, as otherwise approved under the contract, from a foreign country because local supply does not exist or it is insufficient to meet demand requirements; and

(3) The importer that establishes the product price is the firm that actually performs the FF&V import service, including, but not limited to: procurement, storage, consolidation, pallets, and palletizing as it applies to the importer's normal commercial sales, and the importer has comparable commercial sales in the market that is the point of import.

(B) A contiguous United States (CONUS) based manufacturer, grower or private label holder's product pricing which is a national price inclusive of transportation costs to a Distribution Point shall be supported by documentation and may be considered by the Government on a case by case basis, upon concurrence of the Contracting Officer.

(C) Mandatory source items: The product price shall be limited to the nonprofit agency's price for product as set in accordance with applicable law. The product price shall be based on f.o.b. origin/nonprofit agency. (Prices set in accordance with applicable law (f.o.b. origin/nonprofit agency).)

(D) Prime Vendor table displays/decorations only: For products listed in category [N/A] Prime Vendor table displays/decorations only, the product price shall be based on f.o.b. origin/point of the manufacturer's distributor because the manufacturer will not sell directly to the Prime Vendor. This exception must be approved by the Contracting Officer on a case by case basis. Support documentation is required.

(E) A CONUS-based redistributor's price for a specific manufacturer's product (also known as a stock keeping unit (SKU)) may be considered by the Government as long as the redistributor's price for the quantity ordered is equal to or lower than the manufacturer's published price inclusive of discounts/allowances. This exception must be approved by the Contracting officer on a case by case basis. Support documentation may be required.

(4) "Product allowance" is discounts, rebates, and allowances to be passed on to the Government. In accordance with other provisions of the contract, all discounts, rebates, or allowances on particular items which are reflected in the amounts shown on the face of the manufacturer's, grower's or private label holder's invoice (referred to as "off-invoice allowances") or otherwise given to the Contractor by the manufacturer, grower or private label holder, shall be passed by the Contractor to the Government, in the form of an up-front price reduction. The total of these discounts, rebates, and allowances (or product allowance), shall be reflected via a reduced subsistence total order and receipt electronic system (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 price reduction must be submitted via check made to the United States (U.S.) Treasury, attached with itemized listing of all customer purchases by line item to include contract number, call number, purchase order number and contract line-item number (CLIN)."

**NOTE:** National Price is further clarified as a contiguous United States (CONUS) based manufacturer, grower or private label holder's product price which is inclusive of transportation costs to a Distribution Point and for which is not available to any customer at FOB Point of Origin pricing which excludes transportation costs.

3. In reference to ECONOMIC PRICE ADJUSTMENT – ACTUAL MATERIAL COSTS FOR DLA TROOP SUPPORT - SUBSISTENCE PRODUCT PRICE BUSINESS, paragraph (b)(5): ""Distribution price(s)"" means the firm fixed price portion of the Contract unit price, offered as a dollar amount



per unit of measure, rounded up or down to the nearest cent. The distribution price is the only method for the Contractor to bill the Government for all aspects of contract performance other than product price, including but not limited to, the performance requirements of this statement of work (SOW). As detailed above in paragraph (3) of this clause, product price is distinct from and not to be included in the distribution price. Due to solicitation specific requirements, the distribution price may be further segregated to reflect discrete solicitation specific performance arrangements/requirements as outlined in the SOW; i.e., standard distribution price and non-standard distribution price or normal distribution price and premium distribution price or other. On account of their unique solicitation specific nature, these requirements, when applicable, are addressed in the SOW. As detailed above in paragraph (3) of this clause, product price is distinct from and not to be included in the distribution price.”

4. Each distribution price shall remain fixed for the duration of each tiered pricing period. Each distribution price shall exclude ocean shipping costs referenced in ECONOMIC PRICE ADJUSTMENT – ACTUAL MATERIAL COSTS FOR DLA TROOP SUPPORT - SUBSISTENCE PRODUCT PRICE BUSINESS, paragraph (b)(8).

NOTE: As detailed in ECONOMIC PRICE ADJUSTMENT – ACTUAL MATERIAL COSTS FOR DLA TROOP SUPPORT - SUBSISTENCE PRODUCT PRICE BUSINESS, paragraph (b)(3), product price is distinct from and not to be included in the distribution price.

**B. DISTRIBUTION CATEGORIES**

1. The supplies and services to be procured and/or performed under this contract have been broken down into the following 36 distribution categories (categories 1-31 and subcategories 1A-5A).
2. At no time during the life of this contract(s), will additional money be paid for transportation, customs, certificates, etc... The award Distribution Prices must cover costs for all deliveries to any customer in Zone 1 Northern Europe.

**Distribution Price Categories for Zone 1 - Northern Europe Including Local Market Ready (LMR) Items:**

Distribution Price Category #	Distribution Category Description	Unit of Measure (UOM)	Tier #1	Tier #2	Tier #3
1	CONUS DRY CS	CS	████	████	████
1A	CONUS DRY CS (For Product Price Exceptions B, C, D, or E)	CS	████	████	████
2	CONUS DRY CO (UOM for EA = 1 CO)	EA	████	████	████
2A	CONUS DRY CO (For Product Price Exceptions B, C, D, or E) (UOM for EA = 1 CO)	EA	████	████	████
3	CONUS FZN CS	CS	████	████	████
3A	CONUS FZN CS (For Product Price Exceptions B, C, D, or E)	CS	████	████	████
4	CONUS FZN LB	LB	████	████	████
4A	CONUS FZN LB (For Product Price Exceptions B, C, D, or E)	LB	████	████	████
5	CONUS CHILLED CS	CS	████	████	████
5A	CONUS CHILLED CS (For Product Price Exceptions B, C, D, or E)	CS	████	████	████
6	OCONUS DRY CS	CS	████	████	████
7	OCONUS FZN CS	CS	████	████	████
8	OCONUS CHILLED CS	CS	████	████	████
9	OCONUS CHILLED OR FZN LB	LB	████	████	████
10	OCONUS FF&V LB (For Product Price Exception A)	LB	████	████	████
11	OCONUS Water CS (Potable - Bottled)	CS	████	████	████
12	Disposal (Incl. Trans; Approved at the Contracting Officer's Discretion)	CS	████	████	████

Distribution Price Category #	Distribution Category Description	Unit of Measure (UOM)	Tier #1	Tier #2	Tier #3
13	Restocking Price for Orders Over \$10K (Approved at the Contracting Officer's Discretion)	CS	████	████	████
14	GFM Inspection, Storage, Rework, Relabel, Distribution, Dry (Single Case/Box) CS	CS	████	████	████
15	GFM Inspection, Storage, Rework, Relabel, Distribution, Dry (2 Cases per Module) EA = 2 cases	EA	████	████	████
16	GFM Inspection, Storage, Rework, Relabel, Distribution, Dry (3 Cases per Module) EA = 3 cases	EA	████	████	████
17	GFM Inspection, Storage, Rework, Relabel, Distribution, FZN CS	CS	████	████	████
18	Food Service Operating Supplies (FSOS) (Non-Food) CS	CS	████	████	████
19	Food Service Operating Supplies (FSOS) (Non-Food) EA	EA	████	████	████
20	Toiletries, Health/Comfort Items and Film CS	CS	████	████	████
21	OCONUS DRY LB	LB	████	████	████
22	Dry Pallet Tri-Wall for Airlift EA	EA	████	████	████
23	Chilled/Frozen Pallet Tri-Wall for Airlift EA	EA	████	████	████
24	Wet Ice (Potable) LB	LB	████	████	████
25	Dry Ice LB	LB	████	████	████
26	Emergency Orders > 5 per month (Approved at the Contracting Officer's Discretion) (UOM of EA = one (1) Emergency STORES Purchase Order)	EA	████	████	████
27	Perishable Airlift Cost per LB based on the Gross Case Weight of the product only. Includes all costs associated with Tri-Walls and Wet/Dry Ice. No additional Distribution Price will be applied to items in this category. Intended for regularly scheduled airlift of perishable items such as Local Market Ready (LMR). (Gross Case Weight is defined as product weight including tare.)	LB	████	████	████
28	Semi-Perishable Airlift Cost per LB based on the Gross Case Weight of the product only. No additional Distribution Price will be applied to items in this category. Intended for regularly scheduled airlift of semi-perishable items. (Gross Case Weight is defined as product weight including tare.)	LB	████	████	████
29	Handling of Prime Vendor (PV) Owned Product for Cross Leveling between Prime Vendor Platforms via Airlift - Approved at the Contracting Officer's Discretion)	CS	████	████	████
30	Perishable Airlift Cost per LB based on the Gross Case Weight of the product only. This Distribution Price includes all costs associated with Tri-Walls and Wet/Dry Ice. May be combined with Handling of PV Owned Product - Approved at the Contracting Officer's Discretion. Intended for unplanned or emergency airlift situations of various perishable items as authorized by the Contracting Officer. This category is an add-on to Categories 1 through 21, as applicable. (Gross Case Weight is defined as product weight including tare.)	LB	████	████	████
31	Semi-Perishable Airlift Cost per LB based on the Gross Case Weight of the product only. May be combined with Handling of PV Owned Product - Approved at the Contracting Officer's Discretion. Intended for unplanned or emergency airlift situations of various semi-perishable items as authorized by the Contracting Officer. This category is an add-on to Categories 1 through 21, as applicable. (Gross Case Weight is defined as product weight including tare.)	LB	████	████	████

Distribution Price Category 27 and 28 are intended for regularly scheduled airlifts of perishable and semi-perishable item respectively. The frequency of these airlifts will be determined by the customers' requirements and may occur weekly, bi-weekly or monthly based on their need. The Contracting Officer will make the determination of when the airlifts become regular for a prolonged

period after 60 Days or longer based on available information. The Contracting Officer will reassess the situation as needed, to determine if regular airlifts are still necessary.

Distribution Price Categories 27 and 28 MUST include the cost of ground transportation (non-DTS) from the PV Platform or airfield to the end use customer.

Distribution Price Categories 1 thru 11, 14 thru 21 and 24 will be used for deliveries made via ground transportation to the end use customer.

Distribution Price Category 29 may be combined with Distribution Price Categories 30 and/or 31 at the Contracting Officer's discretion.

3. For the duration of the five (5) year period, should there be a change in pack size for an item, the contractor must notify the Contracting Officer. As a change in pack size change is considered to be a "new Item", the Prime Vendor must follow the procedures for New items outlined in this contract. For reductions in overall case size a new Sub-Category will be established within that Category (e.g., Sub-Category 1B) and the distribution price will be adjusted downward proportionally based on the total overall case weight, with no further negotiation. There will be no upward adjustment for increased pack sizes. Two examples are provided below:

- An item in Category 1; CONUS Dry changes from 24/12 oz cans to 12/12 oz cans, the Distribution Price would change from \$6.00 per case for 288 total oz to \$3.00 per case for 144 total oz. Category 1B; CONUS Dry would be added for \$3.00 with a UOM of CS.

- An item in Category 1 changes from 24/12 oz cans to 12/16 oz cans, the Distribution Price would change from \$6.00 per case for 288 total oz to \$4.00 per case for 192 total oz. Category 1B; CONUS Dry would be added for \$4.00 with a UOM of CS.

### **C. DOMESTIC ITEM PREFERENCE**

1. In accordance with United States Government's policy to acquire domestic end products for use outside the United States (see DFARS 225.7501) the Government's preference under this contract remains for domestic product. The resulting Prime Vendor, must certify at the time of proposal or contract performance the offering of all non-domestic end products. The certification must be made in the Buy American Act – Balance of Payments Program Certificate – Basic (DFARS 252.225-7000) which is located herein.
2. The source restrictions of the Berry Amendment, 10 U.S.C. 2533a as implemented in DFARS 225.70 and 252.225-7012 and included in this contract, are applicable to the procurement of food items. In general, the Berry Amendment requires that food items procured and delivered under this contract be grown, manufactured, reprocessed, or produced in the United States. Several exceptions to that requirement may apply to performance under this contract. One such exception, the "perishable foods" exception, can be found at DFARS 225.7002-2(e). That exception permits the delivery of perishable foods (i.e. fresh fruits and vegetables ("FF&V"), fresh milk, fresh bread, etc.) that are not sourced from the United States. This exception applies to deliveries to customers throughout the region outlined in this contract. As such, this contract includes requirements for local market ready items, i.e. locally sourced FF&V, fresh milk, fresh bread, etc. The Prime Vendor will locally source, purchase and/or perform deliveries for highly perishable products. A second applicable exception, referred to as the "contingency operation" exception, may apply to certain customers outlined in this contract. With that designation, deliveries of all non-domestic food items, not just perishable items, are permitted. This exception is subject to change based on changes to contingency operation designations. At this time there are no contingency operation designations for the areas outlined in this contract, however, designations may change throughout the life of this contract. Please note that even with these exceptions, it is still the Government's preference to provide domestic items to the maximum extent possible.
3. The Prime Vendor shall request approval, in writing, from the Contracting Officer prior to adding any non-domestic items to the ordering catalogs. The Prime Vendor must submit pricing information for the foreign product and its domestic equivalent so that the government can perform an analysis in keeping with the Balance of Payments Program. Non-domestic items will not be added to the catalog without the prior approval of the Contracting Officer. Note: As

discussed above, local market ready items that are required to be purchased from local OCONUS approved sources are excluded from this domestic item preference.

#### **D. LOCAL MARKET READY ITEMS:**

1. The Prime Vendor will procure and perform delivery of the local market ready ("LMR") items (i.e. FF&V, fresh dairy, fresh juice, beverages, water, olive oil, and fresh baked product) from local approved sources within areas outlined in this contract.
2. Based on customer requirements reflected during cataloging, the Prime Vendor will select LMR vendors when required from the listing of Sanitarily Approved Establishments and/or the Worldwide Directory of Sanitarily Approved Establishments for Armed Forces Procurement listing. Europe, Africa and CENTCOM have separate listings and requirements, it is the Prime Vendors responsibility to ensure they are purchasing LMR items in accordance with U.S. Army Medical Department Army Public Health Center regulations. If no LMR vendor is identified for a particular requirement, the Prime Vendor shall identify and request Army Public Health Center ("APHC") inspection for its designated local source. Vendor inspections are conducted in coordination with APHC procedures. The Prime Vendor shall verify that its vendors are approved on the aforementioned listings. All LMR items will be inspected for quality upon receipt by the customer.

#### **E. BRAND NAME ITEMS**

1. Brand name items are based on the ordering habits of the customers supported by this contract. These are items which customers have expressed a preference for, and expect to be included in the catalog at the customer's request after review by the Contracting Officer. Changes or additions in brand name products must be approved and authorized by the customer as well as the Contracting Officer.

#### **F. NATIONAL CONTRACT TYPE CONTRACTS**

During the performance of this contract, DLA Troop Support may issue Indefinite Delivery Type Contracts ("IDTCs") for specific food items to be sourced, cataloged and delivered by the Prime Vendor as part of their normal inventory. The Prime Vendor will be required to obtain the specific products identified in the IDTCs from the sources identified by the Government. The price charged by the Prime Vendor to the ordering activity will not exceed that cited in the IDTC, plus the Prime Vendor's applicable distribution price. At the time of award and at other times when applicable, DLA Troop Support will provide the Prime Vendor with a list of all IDTCs awarded and their respective terms and conditions. The Prime Vendor shall have 30 days within which to implement the terms and conditions of the awarded IDTCs; when the item is new, the new item lead-time will apply; replacement items will be phased in according the Prime Vendors supply chain. Although the Prime Vendor must utilize the National Contracts for items approved by the customers, there are times when the Prime Vendor may need to purchase alternate products. These instances will be reviewed on a case-by-case basis and must be approved, in writing, by the Contracting Officer. DLA Troop Support currently has a National Contract in place for the acquisition of chicken items and DLA Troop Support intends to put other categories of protein items onto central contracts.

#### **G. DLA TROOP SUPPORT MANUFACTURER'S PRICING AGREEMENT PROGRAM:**

1. A DLA Troop Support Manufacturer's Pricing Agreement ("MPA") Program has been developed to maximize the leverage of DLA Troop Support's buying power and to obtain fair and reasonable product pricing under Subsistence Prime Vendor contracts for the customers of DLA Troop Support. The agreements between DLA Troop Support and manufacturers shall identify a fixed product price for specific items that will be cataloged by the Prime Vendor. The Prime Vendor will be responsible for purchasing MPA items from the MPA holders at the product price established by the MPA.
2. The list of MPA holders, the specific items under agreement, and the fixed product prices for those items will be provided during contract implementation (ramp-up/ramp-down).
3. The Prime Vendor will be required to establish commercial agreements with the MPA holders for all MPA items cited for cataloging during the ramp-up phase of the contract. As the program

is implemented, it is anticipated that 75 to 80 percent of the contract product price dollar value will be under agreement. This percentage pertains only to product shipped from CONUS manufacturers / consolidators, and does not include product such as Local Market Ready and water items, which are locally sourced. Currently, approximately 40% of the contract product price dollar value is under agreement.

4. Post implementation, the Prime Vendor must have a MPA Holder commercial agreement in place before a new MPA item may be added to the catalog. For existing cataloged items that are added to the MPA Program, the Prime Vendor must establish the MPA Holder commercial agreement within 30 days of receiving notice from the Contracting Officer. The Prime Vendor shall immediately bring to the attention of the Contracting Officer the names of MPA Holder(s) unwilling or unable to enter into a commercial agreement with the Prime Vendor, including an explanation for each. All MPA items are required to be placed on the catalog at the MPA established prices, unless otherwise approved by the Contracting Officer.
5. It is anticipated that MPA prices will remain fixed for a minimum of 30 days and a maximum of six months. Updated MPA listing will be issued to the Prime Vendor monthly via e-mail. The new MPA product prices shall be updated on the contractor catalog during the scheduled catalog update that immediately follows receipt of the new product into the Prime Vendor's inventory.
6. Information on the DLA Troop Support MPA Program is located at the following website: <http://www.troopsupport.dla.mil/subs/support/mpa/index.asp>

#### **H. MANDATORY ITEMS (MANDATORY FOOD PRODUCTS AND NON-FOOD ITEMS)**

1. The website for general information on Mandatory Food and Non-Food Items is: <http://www.dla.mil/TroopSupport/Subsistence/FoodServices/AbilityOne.aspx>
2. Certain supplies or services to be provided under this contract for use by the Government are required by law to be obtained from nonprofit agencies participating in the program operated by the Committee for Purchase from People Who Are Blind or Severely Disabled (the Committee) under the Ability One Program, formerly known as Javits-Wagner-O'Day Act (JWOD) (41 U.S.C. 46- 48c).
3. The mandatory products are required to be purchased from the Non Profit Agency manufacturers listed on the website identified above. The listing of required mandatory products and Non Profit Agency manufacturers are subject to change when directed by the Committee. The Prime Vendor is required to expeditiously catalog the mandatory products and remove any commercial equivalent product with "essentially the same"\* product characteristics. If the removal and replacement will take longer than 30 days after notification by the Contracting Officer, the approval of the Contracting Officer must be obtained for the extension.
4. Any other commercial equivalent product with "essentially the same" product characteristics cannot be sold to the DLA Troop Support customers under this contract.
5. The Prime Vendor must ensure that, at a minimum, 30 days stock of mandatory products are on hand to satisfy anticipated customer demand taking into account lead times for delivery from the designated mandatory source to the Prime Vendor. If the Prime Vendor is notified that any of the below products are not available from the designated mandatory source, the Prime Vendor must notify the Contracting Officer immediately.
6. The Prime Vendor is not authorized to submit catalog changes containing other commercial equivalent products with "essentially the same" product characteristics as the identified mandatory items.
7. If the Prime Vendor is requested to carry other commercially equivalent products with "essentially the same" product characteristics but with a unique packaging requirement that is not currently provided by the mandatory source, the Prime Vendor must notify the mandatory source and the Contracting Officer in order to provide the designated mandatory source with the opportunity to satisfy the unique packaging requirement being requested. Included in the Prime Vendor's notification to the designated mandatory source and Contracting Officer, must be the customer's justification for the unique packaging requirement.
8. Price and delivery information for the mandatory products are available directly from the

- Designated Sources listed on the aforementioned website. Payments shall be made directly to the Designated Source making delivery. The current procurement list F.O.B. Origin prices as established by the Committee for Purchase are included in the website for the food and non-food products.
9. To allow the proper flow of order and billing information through the DoD ordering, financial, and other operating systems, stock numbers have been assigned for individual containers where necessary to permit the sale of individual containers in lieu of case quantities.
  10. All changes to the DLA Troop Support Subsistence Prime Vendor Ability One Mandatory Product List ("MPL") will be made on the DLA Troop Support Subsistence Ability One webpage.
  11. The DLA Troop Support Subsistence Prime Vendor Ability One MPL webpages will be updated for the following changes in: prices, ordering information, contractor locations, items (additions and deletions), Ability One approved contractors, and purchase exceptions.
  12. The Prime Vendor will be notified via e-mail. The e-mail notification will identify the changes to the MPL and alert the Prime Vendor to check the DLA Troop Support Subsistence Ability One Program webpage. Additionally, changes to the MPL will be bolded for easy identification. The Prime Vendor shall confirm receipt of this e-mail notification.
  13. In certain circumstances, there may be a delay in posting and/or email notification to the Prime Vendor. When this occurs, an MPL provider may issue the Prime Vendor a notification letter from the Ability One Commission, included on Ability One Commission Letterhead, as proof of an applicable price or other change. The Prime Vendor shall treat such notification from the Ability One Commission as if the notification had been provided by DLA Troop Support.
  14. The Prime Vendor is required to expeditiously catalog the mandatory products and remove any commercial equivalent product with "essentially the same" product characteristics. Within 30 days of notification by the Contracting Officer, the Prime Vendor must provide the Contracting Officer with current details of issues (i.e. outstanding orders, product in the pipeline, etc.) and provide the date when the catalogs will be updated. The Contracting Officer will notify the Subsistence Ability One Team.
  15. Any other commercial equivalent product with "essentially the same" product characteristics cannot be sold to DLA Troop Support customers under this contract. The Prime Vendor is not authorized to submit catalog changes containing other commercial equivalent products with "essentially the same" product characteristics as those items on the MPL.
  - \*16. The following criteria should be used in determining if a commercial product is "essentially the same" as an Ability One MPL item:
    - i. It has effectively the same form, fit and function.
    - ii. The Ability One and commercial products may be used for the same purpose.
    - iii. The Ability One and commercial products are relatively the same size and a change in size will not affect the use or performance.
    - iv. The appearance, color, texture, or other characteristic of the Ability 1 product and commercial product are not significantly different from one another
  17. The only potential exception to this requirement is identified as follows:

If the Prime Vendor is requested to carry items commercially equivalent to MPL items but with unique packaging requirements provided by the supplier but not currently provided by the MPL source, the Prime Vendor must notify the Contracting Officer. The Contracting Officer will notify the Subsistence Ability One Team.
  18. Payments shall be made directly to the MPL designated source.
  19. Monthly MPL Compliance Reports are issued for each active Prime Vendor catalog. The monthly MPL Compliance Reports are sent to the Prime Vendor for its catalogs and to the administering Contracting Officer. These reports are to be reviewed to ensure active catalogs include the MPL items. The Prime Vendor will be notified of non-compliances.

## **I. NATIONAL ALLOWANCE PROGRAM AGREEMENT (NAPA)**

1. Definitions:

- i. Agreement Holder: The supplier or manufacturer that has agreed to offer discounts to DLA Troop Support on product under DLA Troop Support Subsistence Prime Vendor contracts.
  - ii. National Allowance Program: The program implemented by DLA Troop Support to maximize the leverage of DLA Troop Support's buying power and reduce the overall product price under contracts to the customers of DLA Troop Support.
  - iii. National Allowance Program Agreements ("NAPAs"): The agreements between DLA Troop Support and suppliers/manufacturers that identify product category allowances. These allowances or discounts apply only to the product/invoice price of the product. The NAPA does not affect the Prime Vendor's distribution price in any way.
2. DLA Troop Support has implemented a NAPA Program as part of the Subsistence Prime Vendor Program. Under the NAPA Program, DLA Troop Support will enter into agreements with suppliers/manufacturers offering domestic products.
3. Under the NAPA Program, agreement holders will:
  - i. Authorize and consent to allow the Prime Vendor(s) to distribute its products to ordering activities under the Subsistence Prime Vendor Program.
  - ii. Offer discounts on the product price of the product ordered under Subsistence Prime Vendor contracts, in the form of deviated allowances, whereby the price to the customer includes the discount. The deviated price is the price that will be submitted via the 832 catalog transaction.
4. NAPAs neither obligate the Prime Vendor to carry, nor the ordering activity to purchase, any of the agreement holder's products; however, NAPA terms will apply to any order placed by the customer for products covered by a NAPA, in which case the invoice price must reflect the NAPA price.
5. If a Prime Vendor has a pricing agreement/arrangement with more favorable terms and/or pricing structure than those offered under the NAPA, then it is required to pass on these savings to the customer.
6. Under this contract:
  - i. The Prime Vendor agrees to bill the invoice price to the Government as specified by the NAPA allowance and initiates a bill-back to the agreement holder, if any activity orders any product covered by a NAPA. The agreement holder will reimburse allowances to the Prime Vendor within a time period mutually agreeable to the Prime Vendor and the agreement holder. Other off invoice or bill back arrangements may exist between the Prime Vendor and the agreement holder, but the Prime Vendor's catalog price must be specified by the NAPA allowance.
  - ii. Any disputes involving the NAPA between the Prime Vendor and the agreement holder will be resolved between them according to their own commercial practice. However, DLA Troop Support will attempt to facilitate a resolution of any such disputes.
7. NAPA Tracking Program: The Prime Vendor agrees to comply with the requirements of DLA Troop Support's Tracking Program for NAPAs and shall provide the required product information to support the NAPA allowance and sales tracking website. Data shall be submitted as follows:
  - i. Format: The required information shall be formatted in an Excel spreadsheet, flat ASCII file or a delimited file. Each transmission must be of the same format. Request to change from one format to another must be forwarded to the Contracting Officer for approval.
  - ii. Transmission of Data: The information shall be submitted electronically via-  
Email to [data@one2oneus.com](mailto:data@one2oneus.com) Include contract number(s) in email title.
  - iii. Frequency of Submission: The information shall be submitted as often as the data may change but no more than weekly.
  - iv. Contents of the data File: The contents of the data file shall include the information shown below for all of the products, NAPA and non-NAPA that are shipped to the Government. All of the fields for each item must be populated with information unless otherwise stated.

Field Number	Field Description	Field Name	Width	Format	Note
1	Prime Vendor Part Number	PVPARTNO	15	Alpha-Numeric	
2	Product Description	DESC	45	Alpha-Numeric	
3	Unit of Measure	UOM	03	Alpha-Numeric	
4	Manufacturer SKU or UPC	MFGNO	15	Alpha-Numeric	Note 1
5	Brand Label or Manufacturer Name	MFG	45	Alpha-Numeric	Note 2
6	Unit Allowance Amount	ALLOW	12	999999.99	Note 3
7	Allowance UOM	ALLUOM	03	Alpha-Numeric	Note 4
8	Allowance to Ship Conversion	ALLCONV	12	999999.99	Note 5
9	Prime Vendor Markup Amount	PVMARKUP	12	999999.99	Note 6

v. Fields 6, 7, and 8 relate to NAPA. If a product is NOT subject to a NAPA allowance then fields 6, 7, and 8 can be left blank or zero.

vi. Notes:

- Field #1 - This field represents the manufacturer's part number of the product. If a valid case UPC is available, you should use the case UPC. The UPC check digit is optional. In the case where a UPC is not available, then you must use the manufacturer's part number (SKU number) as designated by the manufacturer. All leading zeros are required. All characters such as dashes are also required if the manufacturer uses the character in their part number identifier.
- Field #4 - This field needs to identify the manufacturer (not necessarily the supplier) of the product. If your item master has a valid case UPC and you send the UPC in field 4 there is no need to provide this field. If you do not have a valid case UPC, please indicate the manufacturer or brand name or some code indicating the same. If you use a code, please provide an additional listing of those codes and their description. Please note, this is the manufacturer of the product not necessarily who supplied you the product.
- Field #6 - This is the off-invoice allowance amount. It can be found in the NAPA table. If the product is not subject to a NAPA allowance, then please set this field to zero.
- Field #7 - This is the allowance UOM. It can be found in the NAPA table. If the product is not subject to a NAPA allowance, then please leave this field blank.
- Field #8 - Conversion to the Unit of Issue UOI. The conversion factors to equalize the allowance UOM to the unit of issue UOI. For example, if the unit of issue UOI is "CS", for case, and the allowance UOM is "CS", for case, the conversion factor would be set to 1. However, in the case where the Unit of Issue is "CS" and the allowance UOM is "LB", for pounds, this conversion factor may be fifty (50) because there are 50 lbs in a case. If the product is not subject to a NAPA allowance, then please set this field to zero.
- Field #9 - For each item, provide the applicable markup amount. As previously negotiated with DLA Troop Support, you have assigned a markup amount to each food category or to each item. This amount should correspond to the unit of issue measurement. This is required in order to insure that a NAPA allowance was provided off-invoice.

vii. The NAPA Program is for the exclusive use of DLA Troop Support customers purchasing product under the resultant contract.

Note: For information on NAPA items holders and holders, refer to the following website:



<https://www.troopsupport.dla.mil/subs/support/napa/index.asp>

## **J. REBATES/DISCOUNTS AND PRICE-RELATED PROVISIONS**

1. The contractor shall employ 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. For all items, the contractor warrants, on a continuing basis throughout the period of performance, that its product price under this contract is equal to or lower than its product price to its commercial customer accounts. All NAPA discounts, food show discounts, early payment discounts (except as identified in paragraph (2) herein), and other discounts, rebates, allowances or other similar economic incentives or benefits received at any time during the period of performance shall be passed to the Government via a reduced catalog price. Instructions for identifying discounts, rebates, allowances or other similar economic incentives or benefits that shall be provided to the Government are set forth in the Pricing and in the Reports section of the Statement of Work.
2. The Prime Vendor may retain Early Payment discounts that meet the following conditions:
  - i. the Early Payment discount is an incentive to encourage payment earlier than the normal payment due date;
  - ii. the Early Payment discount is consistent with commercial practice
  - iii. the Early Payment discount is routinely given by the manufacturer/growers to customers other than the Prime Vendor at the same discount rate and under the same conditions as provided to the Prime Vendor;
  - iv. the Early Payment discount is not established, requested, or negotiated for the purpose of avoiding giving DLA Troop Support a lower cost or a rebate or in exchange for a higher invoice price;
  - v. the Early Payment discount is no more than 2 percent of the manufacturer/grower's invoice price and the early payment is required within 10 days to obtain the discount; and
  - vi. the Prime Vendor actually made the required payment within the time period required to receive the discount.
3. Upon request the Prime Vendor shall provide to the Government any invoices, quotes, or agreements relevant to the product price component for existing catalog items, for any new items being added to the catalog, and for requested price changes to existing catalog items. The Prime Vendor must include detailed payment terms on each invoice or quote used to substantiate product price(s), including any applicable discounts or rebates. If there are no payment terms associated with the document, the Prime Vendor must annotate it with "No payment terms."
4. The Government may require (as needed) the Prime Vendor to submit invoices and other documentation from all subcontractor tiers or any manufacturer/grower or person in the product price supply chain, to substantiate that all discounts, rebates, allowances or other similar economic incentives or benefits have been applied to the product price charged to the Government and/or to substantiate that product prices under this contract are equal to or lower than product prices that are given to its commercial customers. If the Contracting Officer determines, after reviewing an invoice or other documentation, that a discount, rebate, allowance or other similar economic incentive or benefit should have been passed on to the Government, or if price verifications reveal any instance of overpricing or underpricing, the Government shall be entitled to a prospective product price reduction and a retroactive refund for the amount of the overcharges or discounts, rebates, allowances or other similar economic incentives or benefits, including interest and the Prime Vendor shall be entitled to a credit for any undercharges. Likewise, if the Contracting Officer determines that a product price was not equal to or lower than that given to the Prime Vendor's or sub-contractor's commercial customer accounts, the Government shall be entitled to a prospective product price reduction and a retroactive refund for the difference between the product price charged to the Government and the product price charged to the Prime Vendor's or sub-contractor's commercial customers, including interest. The Contracting Officer, or authorized representative, shall have the right to examine and audit all the records (as defined at FAR 52.215-2(a)) relevant to the existence of

discounts, rebates, allowances or other similar economic incentives or benefits, and commercial customer product 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.

5. The Government may review/audit the Prime Vendor's electronic purchasing system to confirm that the product price of a product sold at a given time to a DLA Troop Support customer is identical to the product price used by the Prime Vendor to determine the price of such product sold at the same time to its other customers. Should the Government identify evidence of incorrect pricing, or should other pricing issues arise, the Government reserves the right to conduct more frequent and extensive reviews/audits. 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.

#### **K. ITEM AVAILABILITY**

1. Items must be stocked in sufficient quantities to fill all ordering activity requirements. Fluctuations, increases, decreases, and surges in demand must be taken into consideration when the Prime Vendor determines its supply chain management, including stocking procedures. Also, lead times from CONUS to OCONUS must be considered.
2. For Zone 1; the Prime Vendor shall maintain a minimum of sixty (60) days of supply (DOS) on hand on a line item basis at each platform (aka warehouse facility) in order to fill all ordering activity requirements and meet the surge and sustainment requirements of this contract.
3. If an item with an established demand (12 weeks of historical demand data) is not properly managed by the Prime Vendor, and a not in stock ("NIS") situation occurs that is projected to last for more than 21 days, the Prime Vendor will be required to commercially airlift the product from CONUS at its own expense. Use of the Defense Transportation System (DTS) may be available to the Prime Vendor for these movements at the Contracting Officer's discretion; however, the Prime Vendor will be responsible for reimbursing the Government for all costs associated with those movements.
4. On-Hand is defined as readily available to DLA Troop Support customers and does not include inventory that is pending from a port, marked as picked, allocated for any customer, on medical hold, recalled or awaiting a shelf life extension. Return items can only be included in the on-hand DOS calculation if the items have sufficient shelf life and are fit for human-consumption.

#### **L. SURGE AND SUSTAINMENT**

1. The primary mission of the Defense Logistics Agency (DLA) is to support the military in peace and during contingencies. The ability to ramp-up quickly to meet early requirements, and to sustain an increased pace throughout the contingency are critical to the execution of U.S. military strategy. DLA's designation as a Combat Support Agency makes it directly responsible for the timely support of critical supplies to the Combatant Commanders in support of their operational requirements. Because of DLA's unique role, surge and sustainment capability is a primary consideration in all acquisitions. All DLA contractors are accountable for surge and sustainment performance, ensuring surge capability actually exists and validating surge capability through surge testing. Therefore, surge testing will be required under this contract for the life of the contract.
2. DLA defines surge as the ability to ramp up quickly to meet early requirements normally needed within the first 45 days of a contingency. Sustainment is defined as the ability to sustain an increased pace throughout the contingency(s) for six months or longer. The spectrum of possible contingencies includes major theatre and smaller scale contingency operations. Examples of various contingencies are as follows:

Joint Chiefs of Staff (JCS) Logistics Exercises – The Prime Vendor must have the ability to support short term surges in demands, which may increase three times the pre-surge average weekly demands (based on an average of the most recent 52-week period). There may be occasions where large increases in quantity will be necessary for short periods of time and on short notice. A surge situation is defined as an increase in military feeding of 300% of peacetime demand for a period of up to 30 days. Rarely, there is sufficient advance notice as to when exercise surges will occur. The contractor will be required to meet the surge demand in the

normal contractual lead times. For this contract, the Prime Vendor will be required to have the ability to sustain surges of 300% of pre-surge demand levels for 30 days without advance notice. If, for example, an item has a pre-surge demand of 100 cases per week, the contractor is expected to be able to support 300 cases per week for 30 days during the surge period.

**Military Operations** – The Prime Vendor must have the ability to support surges in demand, which may be needed for an extended period of time on short notice. For this type of scenario, the capability to ramp-up quickly to meet early requirements, as well as sustainment for an extended period of time is essential.

**Mobilization** – A full scale military mobilization or a national emergency could increase demand for supplies of those items and quantities listed in the contractor catalog. This increase in quantity may be needed for a six-month period or longer. Normal mobilization strategies provide lead times of at least 30 days to build to the necessary support level. The Prime Vendor must have the ability to support this increased level of supply for an extended period of time.

#### **M. FOOD SERVICE OPERATING SUPPLIES (FSOS)**

Definition: consumable or disposable products associated with the preparation of serving food. This includes but is not limited to plastic, foam, paper goods and cleaning supplies. The Prime Vendor may be required to supply Food Service Operating Supplies ("FSOS") to the customers.

Certain FSOS items have been determined to be inclusive under the Berry Amendment Restrictions according to DFARS 225.7002-1 and 10 USC Section 2533a (2001), and must be sourced domestically (U.S.).

All Food Service Operating Supplies (FSOS) items are subject and inclusive under Federal Acquisition Regulations (FAR) restricting nations to source supplies. See FAR 25.701, Prohibited Sources, for more information.

#### **N. DISPENSING SUPPLIES AND SERVICES**

1. When requested, the Prime Vendor is required to furnish beverage dispensing machines and beverage products, as specified herein. The cost and upkeep of the machines consisting of, but not limited to, labor, transportation, and supplies required to repair and maintain the equipment, shall be the sole responsibility of the Prime Vendor.
2. The Prime Vendor shall furnish mechanically refrigerated dispensing machines and heads suitable for use with the Prime Vendor's bag-in-the-box juices and drinks. A sufficient number of machines and dispensing heads shall be installed in the customer's facilities to accommodate the specific needs of each ordering activity.
3. The Prime Vendor will provide a technically qualified service representative to perform monthly maintenance and quality control inspections on each dispensing system. If more frequent maintenance is deemed necessary, the Prime Vendor must provide the additional service at no additional cost.
4. Any equipment or material furnished by the Prime Vendor shall remain the property of the Prime Vendor and must be returned to the Prime Vendor at the conclusion of the contract in the same condition in which it was received by the customer.
5. When requested, the Prime Vendor shall furnish hot soup, ice cream, cereal or other types of dispensers suitable for the types of items needed by the customer. Maintenance or replacement shall be in accordance with normal commercial practice and at no additional cost to the Government. The Prime Vendor will be responsible for the cost of the dispensers.

#### **O. DISPOSAL OF PRODUCTS**

All products, Prime Vendor owned and Government Furnished Material, shall be properly managed by the Prime Vendor to avoid the need for disposal. In general, the Government shall not be liable for any disposal costs under this contract. The Government shall only be liable for disposal costs associated with specific direction provided by the Contracting Officer. Any request for disposal payment must be accompanied by supporting documentation provided by the Prime Vendor. An example of a Contracting Officer directed disposal is identified below:

The Contracting Officer orders delivery of 100 cases of product (government furnished material – GFM) to the Prime Vendor’s OCONUS warehouse. The GFM is properly stored and managed by the Prime Vendor, but never ordered by the customer and the shelf life of the 100 cases expires. In this scenario, the Government is responsible for the disposal costs of the 100 cases (Distribution Category 12) only.

The costs for disposal (Distribution Category 12) shall be separately billed by the Prime Vendor via a manual invoice. Each manual invoice, submitted by the Prime Vendor, must reflect the number of cases actually disposed of. Each manual invoice must be verified and signed by the Contracting Officer Representative and approved by the Contracting Officer before it can be submitted electronically for payment. Detailed support documentation must be submitted with each manual invoice. The approved invoice amount will be placed on order via Subsistence Total Ordering and Receipt System (“STORES”) using local stock numbers designated for itemized billing/costs, receipted, invoiced, billed and paid. Disposal invoices and supporting documentation shall reflect a complete calendar month (e.g. January 1 through January 31), and must be submitted to the Contracting Officer no later than the 15<sup>th</sup> day of the following month (e.g. February 15 in the preceding example). Assuming the aforementioned conditions are met, payment will be authorized by the Contracting Officer at the end of each billed month

#### **P. PORK AND OTHER ITEMS**

The prime vendor will be required to procure and perform delivery of pork and other potentially theater restricted items to DoD and other federal customers. Exportation of these items from CONUS is governed by the USDA, therefore, for countries where there are no USDA restrictions on exporting Items and where there are no in-theater Governmental restrictions on the importation of these items, it is the Prime Vendor’s sole responsibility to determine how to satisfy this requirement.

For countries where there are no USDA restrictions on exporting items, yet there are in-theater Governmental restrictions on the importation of items or in-theater movements from one country to another, it remains the prime vendor’s responsibility to determine how to satisfy this requirement. The prime vendor may have to work with the US Government, in-theater Embassies, Foreign Diplomatic offices/Governments, US Department of State, etc. to facilitate the possible delivery and/or movement of these item; however, there are countries, regardless of prime vendor or US Government intercession, importation of pork and other theater restricted items will not be allowed.

#### **Q. NON-COMPETITION/NON-SOLICITATION**

The Prime Vendor warrants that it will not actively promote, encourage, or market to any of the customers on this contract and onto a contract of any other Government agency or commercial entity.

FAR 8.002 directs that Government Agencies shall satisfy requirements for supplies and services from a wholesale supply source (such as DLA) before purchasing from commercial sources. DFARS PGI 208.7006, Part 4, identifies DLA Troop Support as the acquiring department within DLA with the responsibility for acquisition of Subsistence items. In accordance with these provisions, the Prime Vendor warrants that under this contract, it will not attempt to sell items within the scope of the contract directly to any customer serviced under this contract during the life of the contract.

### **V. TRANSPORTATION**

#### **A. As the Government reserves the right to use the system that provides the best services to its customers (readiness included as a factor) the following applies:**

1. The Prime Vendor will be required to ship the products from the United States within the United States Defense Transportation System (“DTS”). The Prime Vendor will use contracts established by United States Transportation Command (USTRANSCOM) for those shipments. The Prime Vendor will contact the Defense Logistics Agency Distribution, New Cumberland Transportation Operations via the following e-mail address: [oceancontainers@dla.mil](mailto:oceancontainers@dla.mil) to request bookings. The DLA Distribution Transportation Operations team will book or provide

Theodor Wille Intertrade GmbH (TWI)

authorization/instruction to the Prime Vendor in order to book the required transportation with the authorized carrier. The USTRANSCOM contracted carrier will be responsible for the transportation of the Prime Vendor's products from the specified CONUS manufacturer or CONUS distribution facility to the Prime Vendor's OCONUS distribution facilities. This transportation method is known as "Point to Point" delivery.

2. The DLA Distribution Representative, in coordination with the Prime Vendor representative, will ensure the necessary arrangements are made for ocean transportation, bookings and freight forwarding to the Prime Vendor's OCONUS facility, unless otherwise specified in the contract.
3. Shipping Instructions for the Prime Vendor will be sent via e-mail. The Prime Vendor will be required to provide DLA Distribution with a packing list two hours after loading the container and provide the ocean carrier with any USDA health certificates, commercial packing lists, commercial invoices, or other documentation required for transit through any country along the shipping route. The Prime Vendor may also be required to provide documentation that will be used to identify that the products being shipped by the Prime Vendor via the carrier are for "U.S. Armed Forces." The Prime Vendor is responsible for timely submission of its packing lists for the containers. Within two (2) hours of loading the container, the Prime Vendor will send the packing lists to DLA Distribution for preparation of the shipping documents. Prime Vendors that fail to follow this process will not receive future bookings until the matter is resolved. If the cargo has to be returned for any problem caused by the Prime Vendor, the import back into the U.S. is the responsibility of the Prime Vendor and the original transportation charges shall be reimbursed to DLA.
- 4 For all shipments to OCONUS Distribution Facility(s), all products are required to be palletized at least 80% of cube or weight of usable space in a container.

Maximum cube/weight utilization is encouraged for all shipping containers; however, the below chart lists the minimum acceptable container utilization for any OCONUS shipment.

80% Usable Container Capacity

Container Type	20' Containers		40' Containers	
	Cube	Weight	Cube	Weight
Dry	760	31,360	1,600	35,200
Reefer	659	27,920	1,346	31,840
Insulated	760	31,360	1,600	35,200
High Cube Dry	920	31,360	1,782	34,960
High Cube Reefer	920	31,360	1,578	31,440
High Cube Insulated	920	31,360	1,782	34,960

All shipments to OCONUS Distribution Facility(s) shall be shipped in 40' containers. Information concerning 20' containers is only provided in the event that the Contracting Officer instructs the Prime Vendor of a requirement to ship products in 20' containers. Any exceptions to meeting the 80% minimum require prior approval from the Contracting Officer and/or Contracting Officer Representative (as delegated). The Government reserves the right to bill the Prime Vendor for underutilized containers.

5. When a carrier is utilized pursuant to a USTRANSCOM contract, the applicable Government designated Ocean carrier will provide sea vans and transport them to the specified CONUS manufacturer or CONUS distribution facility. The Prime Vendor will load the vans at their distribution facility in accordance with the terms outlined in Section "Packaging/Packing."

Note: All containers are considered live load. During the live load, the Prime Vendor will have four (4) hours free time to load the container before detention charges accrue. The applicable detention rates will be defined in the carrier's USTRANSCOM contract and charged to the Prime Vendor.

The Government-designated Ocean carrier will then pick up the loaded vans and transport them to the applicable Port for subsequent shipment. Upon arrival at the OCONUS Port(s), the freight forwarded shipment will be transported to the Prime Vendor's OCONUS Distribution Facility(s) by a USTRANSCOM carrier.

6. In order to enforce this requirement, the Prime Vendor shall assign a customer representative to the contract, which will be solely responsible for overseeing this process.
7. Under the DTS transportation method of delivery, the Prime Vendor will be responsible for properly loading and contacting the ocean carrier for drayage of the loaded container to the embarkation port. The carrier will have the reefer container set at the required temperature when it arrives. The Prime Vendor must ensure that the temperature is set as required and the unit is cooling upon receipt. Temperature setting should be photographed by the Prime Vendor so that discrepancies can be later verified. The Prime Vendor will be responsible for making a visual inspection of the container to ascertain that it is intact and that equipment appears to be operable. The Prime Vendor will be responsible for any detention charges and arranging the return of empty containers to the Government designated ocean carrier, but will not be responsible for return drayage. The Prime Vendor must advise the DLA Distribution Representative of any new supplier locations well in advance of the supplier being operational so that available line haul rates can be ensured.
8. DLA Troop Support has been advised by USTRANSCOM that the "Point to Point" delivery time to Northern Europe from the Eastern and Western U.S. coasts averages sixty-five (65) days depending upon the point of embarkation. The delivery time for new items can range from eighty (80) to ninety-five (95) days when taking into consideration the fact that the item must be sourced, ordered and then shipped. However, these timeframes are **estimates** and the Prime Vendor must be aware that delays in excess of these timeframes may occur. The Prime Vendor is solely responsible for maintaining sufficient stock levels in its OCONUS facility(s) to cover any such delays in transport. Any Prime Vendor claims for cost relating to delays in transportation or other transportation-related issues, such as loss or damage to goods, lie against the USTRANSCOM contracted carrier. The Government has no Liability for late delivery or damage to goods in transit. The terms and conditions of the USTRANSCOM contract with the designated carrier govern carrier liability for any loss or damage to products during "Point to Point" transportation, and the Prime Vendor is solely responsible for developing and presenting any claims for delay, loss, or damage to the USTRANSCOM designated carrier when applicable. The Prime Vendor is cautioned that in some instances the USTRANSCOM contract carrier may have limited or no liability under the terms of the USTRANSCOM contract (see B. Insurance/Liability and Claims, below).

Note: Failure to comply with these requirements may result in frustrated cargo and rejection at the point of entry.

## **B. SAFETY OF LIFE AT SEA (SOLAS)**

1. SOLAS requires that the Verified Gross Mass (VGM) of all loaded containers be provided to the ocean carrier and terminal representative before any container is lifted onboard a vessel. Additional information on these requirements is included in Military Surface Deployment and Distribution Command Customer Advisory CA-16-04/08-0035 dated April 8, 2016 found at <https://www.sddc.army.mil/res/Pages/advisories.aspx>.
2. When shipping containers booked through the Defense Transportation System (DTS), in order to comply with SOLAS requirements, the Subsistence Prime Vendor MUST ensure that the VGM of each container is provided to DLA Distribution, that the VGM of each container is certified, and that the tare weight of each container is also provided to DLA Distribution. This information shall be provided by the Subsistence Prime Vendor, or its representative, in a format approved by the DLA Distribution Transportation office.

The certified VGM of the container shall be determined by one of the following methods, unless otherwise authorized by the Contracting Officer, with all weighing being completed in accordance with the laws of the jurisdiction in which the weighing occurs:

Method No. 1: Weigh the packed container after loading is finished;

---or---

Method No.2: Weigh the individual packages/cargo, including the packing and securing material, then add the tare weight of the container.

3. When shipping containers booked through DTS, the VGM provided to DLA Distribution must be certified with the following statement:

"I hereby certify that this container was weighted IAW the International Convention for the Safety of Lives at Sea (SOLAS), Chapter VI, Part A, Regulation 2 - Cargo Information, and the gross weight is determined to be \_\_\_\_\_ lbs. Signed and certified: (electronic signature; pen and ink signature; or signature block in all capital letters)."

All forms of signature must be legible and made by a representative of the "shipper." For the purposes of the certified VGM for any material shipped through DTS under this contract, the "shipper" is defined as the company at whose location the container is loaded and sealed. There may be instances where the party booking the container differs from the shipper; however, the shipper is still responsible for supplying and certifying the VGM data unless otherwise directed by the Contracting Officer or DLA Distribution. The Subsistence Prime Vendor will be responsible for ensuring that the shipper provides an accurate VGM and provides the appropriate certification. Failure to submit the VGM, the above certification statement, and/or a legible, valid form of signature may delay the container shipment. The Government will not be responsible for any delays or costs associated with the failure to provide the required VGM and certification. Consistent with the basic contract terms, any such costs, including demurrage or product loss, will be the Subsistence Prime Vendor's responsibility.

Inclusion of the above certification on a packing list is generally the preferred method of submission; however, other forms of submission may be acceptable when approved or required by DLA Distribution and the Contracting Officer.

4. It is the Subsistence Prime Vendor's responsibility to ensure all information and documentation submitted is accurate so that containers will not be delayed during transit. The Subsistence Prime Vendor is advised that a container missing the VGM certification may not be loaded onboard the vessel and may be denied entry to the port facility. Any discrepancies in the VGM could result in additional charges and/or cargo being frustrated within the transportation pipeline. The Subsistence Prime Vendor will be responsible for costs incurred for delays due to improper or erroneous documentation, including documentation related to SOLAS requirements. The U.S. Government is not responsible for any costs resulting from or related to delays associated with these SOLAS requirements or improper documentation.
5. Additionally, for Class I Subsistence shipments through DTS, the Subsistence Prime Vendor will be required to provide the DTS carrier with the VGM directly. The method for providing each carrier with the VGM may vary based on the carrier and the port. The Subsistence Prime Vendor shall request specific guidance on how this information is to be provided to the carriers from the DLA Distribution Transportation Office.
6. The Subsistence Prime Vendor is responsible for ensuring its continued compliance with transportation related laws and regulations applicable to performance under this contract. The Subsistence Prime Vendor should continue to coordinate with USTRANSCOM, Military Surface Deployment and Distribution Command, DLA Distribution, and DLA Troop Support to ensure its continued compliance with all DTS shipping requirements.

### **C. INSURANCE/LIABILITY AND CLAIMS**

1. As discussed above, the Prime Vendor will transmit its transportation requirements to DLA Distribution, which will arrange government-funded transportation through DTS or other system, as appropriate orders against the USC. The Prime Vendor's products will be shipped through DTS via commercial carriers receiving USTRANSCOM contract awards. Although these carriers are responsible for any loss or damage to the products they transport, such responsibility or liability may be limited by the terms of the applicable USTRANSCOM contract, as well as maritime law, customs, and practices, e.g., Carriage of Goods by Sea (COGSA) limitations 46 U.S. App. § 1300 et. seq.; Force Majeure; Carmack Amendment 49 USC § 14706; etc.
2. The Prime Vendor must enter into an agreement and work with the USTRANSCOM carriers handling routes within the Prime Vendor's geographical responsibility to develop a claims

process involving the Prime Vendor and the USTRANSCOM contractor(s). The purpose of such an agreement is to establish a working relationship between the Prime Vendor and the USTRANSCOM contractor(s) in order to facilitate the transportation of product and to establish points of contact in order to resolve any issues that may arise during the performance of this contract. Such an agreement shall address issues such as claims processing and dispute resolution for losses and damage to Prime Vendor cargo by the USTRANSCOM carrier(s) and for the resolution of claims by the USTRANSCOM carrier(s) against the Prime Vendor for detention of carrier containers, port storage for detained containers, and maintenance provided by a carrier for detained refrigerated containers. The Prime Vendor and the USTRANSCOM carrier(s) will be responsible to each other, directly, for the payment and resolution of any claims. For example, the Prime Vendor shall pay the USTRANSCOM carriers directly for any dry runs, diversions, re-bookings caused by incorrect requests, short stops not at the request of the Government, detention, port storage or maintenance charges incurred by the Prime Vendor. The Prime Vendor shall provide the Contracting Officer with a copy of such carrier agreements, as well as any contact information that it receives from the USTRANSCOM contractor(s). The Prime Vendor shall update this information as necessary and provide the Contracting Officer with any changes made to such agreements. The Prime Vendor claims procedure developed for handling any claims between the Prime Vendor and the USTRANSCOM contractor(s) shall also be provided to the Contracting Officer. During the implementation period and/or as a requirement, the Prime Vendor shall contact the USTRANSCOM designated carrier(s) for the routes within the Prime Vendor's geographical responsibility. The Prime Vendor shall copy the Contracting Officer with the contact information that it receives from the carrier(s) and shall update this information as necessary. During the implementation period and/or as required, the Prime Vendor and the carrier(s) shall develop a claims procedure for the handling of any claims that may arise between the Prime Vendor and the carrier(s) for the products shipped by the carrier(s). This procedure shall be the basis for the resolution of any claims for loss or damage, as well as any other issues that may arise. A copy of this procedure, and any changes or updates, shall be promptly furnished to the Contracting Officer.

3. The Prime Vendor should consider that substantive terms and conditions of the USTRANSCOM contract and this contract may be relevant to the agreement and procedures negotiated with the USTRANSCOM carrier(s) concerning claims procedures, dispute resolution procedures, etc. Also, the Prime Vendor should consider in negotiating any agreement or procedures that the USTRANSCOM carrier may take remedial action, including the assertion of a lien on Prime Vendor cargo or other actions, to protect its interests. Similarly, the Prime Vendor may exercise any right of setoff involving a commercial contract or other remedial action against the USTRANSCOM carrier to protect its interests. Finally, the Prime Vendor should consider in negotiating any agreement or procedures that disputes between the Prime Vendor and the USTRANSCOM carrier will not be subject to the Contract Disputes Act or the "Disputes" clause of this contract. Because claims for loss/damage to Prime Vendor cargo, detention of USTRANSCOM carrier containers, port storage assessed against detained carrier containers, maintenance of detained carrier refrigerated containers, etc. are to be covered by agreement between the Prime Vendor and USTRANSCOM carrier(s), disputes regarding such matters will be covered by the business arrangement between the Prime Vendor and USTRANSCOM carrier(s) and laws applicable to such arrangements.
4. As explained above, the Government is not responsible or liable for any loss or damage to the Prime Vendor's products shipped through the DTS. Any such losses or problems can be mitigated by establishing a good working relationship with the carriers, being familiar with the terms and conditions of the USTRANSCOM contract, and obtaining maritime insurance for the products shipped. Any discrepancy reports, notice of claims or claims for such loss or damage, as well as, any other communications regarding such loss or damage shall be submitted by the Prime Vendor directly to the carrier for resolution, not to DLA Troop Support or USTRANSCOM. The Prime Vendor shall copy the Contracting Officer with any such claims, notice, or reports. At the request of the Prime Vendor, the Contracting Officer may facilitate the resolution of the claim, but all communications regarding the claim shall be between the Prime Vendor and the carrier and not through DLA Troop Support or USTRANSCOM. This procedure is not subject to change or modification, except by the Contracting Officer. If the



Prime Vendor is unable to communicate directly with the carrier for any reason, it should promptly so advise the Contracting Officer.

5. The lack of an agreement between the Prime Vendor and a USTRANSCOM carrier will not prohibit the Government from using that carrier in performance of the contract. The purpose of the carrier agreement is to facilitate a dispute resolution process between the Prime Vendor and the USTRANSCOM carrier(s). In the absence of a carrier agreement, the Prime Vendor and USTRANSCOM carrier(s) will still be liable to each other for any claims or disputes related to transportation of goods under DTS. The Government is not responsible or liable for any loss or damage to the Prime Vendor's products shipped through the DTS.

#### **D. CUSTOMS**

The ocean carrier via the USTRANSCOM contract will be responsible for all customs clearance from the point of debarkation through to the Prime Vendor's OCONUS facility(s). Therefore, the Prime Vendor is only responsible for customs clearance from his OCONUS facility(s) to the final delivery points within the region. The Prime Vendor is, however, responsible for providing any necessary documentation to assist in customs clearance.

#### **E. PRIME VENDOR RESPONSIBILITIES REGARDING TRANSPORTATION**

1. The Prime Vendor will be responsible for all documentation and required paperwork, as well as packaging/packing and marking of products.
2. The Prime Vendor will be responsible for making a visual inspection of the container to ascertain that it is intact and that all equipment appears to be operable.
3. All freeze and chill trucks will use temperature monitoring/recording devices, readings of which will be made available upon request. The Prime Vendor must use Temperature Monitoring Devices (TMDs) that allows the customers to easily access and/or read the information upon arrival at the customers' facility(ies). Security issues accessing this information at the customer level, should be taken into consideration.

It is the Prime Vendor's responsibility to ensure Long Range Temperature Monitoring Devices (TMDs) are used for temperature controlled containers where necessary. If the customer locations transit time exceeds 30 days, Long Range TMDs will be required. Long Range TMDs must also allow the customers to easily access and/or read the information upon arrival at the customers' facility(ies).

4. Additionally, the Prime Vendor will be responsible for the van temperature verification, pre-cooling vans, when appropriate, and loading vans.
5. Unless otherwise specified in the contract, the Prime Vendor will be responsible for arranging the return of empty containers to the carrier. The Prime Vendor shall be responsible for detention charges that result from the delayed return of the empty containers.
6. In order for the Prime Vendor to book its own cargo, in accordance with Military Surface Deployment and Distribution Command Customer & Carrier Advisory, CA-17-08/29-0170 Update 3 dated March 15, 2018, all personnel will be required to use Common Access Card (CAC), External Certificate Authority (ECA) or a Yubikey Security Key to access the Surface Deployment and Distribution Command (SDDC) transportation systems, Integrated Booking System (IBS). CAC, ECA or Yubikey access will be required throughout the life of the contract. If cargo is booked by anyone other than the Prime Vendor, it is the Prime Vendors responsibility to ensure all aspects of the booking(s) are accurate. Errors in the booking data not addressed/corrected prior to cargo departure (CONUS and/or OCONUS) are the Prime Vendors responsibility and the US Government will not be held accountable for any resultant negative effects.

#### **F. GOVERNMENT RESPONSIBILITIES REGARDING TRANSPORTATION**

1. USTRANSCOM will be responsible for the contracting of transportation of products from the Prime Vendor's CONUS Distribution Warehouse(s) to the Prime Vendor's OCONUS warehouse(s).

2. The DLA Distribution Representative in coordination with the Prime Vendor will be responsible for making ocean transportation bookings that provide transportation from the Prime Vendor's CONUS facility to the door of the PV's OCONUS facility to include setting up transportation from the OCONUS port to the Prime Vendor's OCONUS facility.
3. The DLA Distribution Transportation Operations team will generate the Transportation and Control Movement Document (TCMD), commercial invoice, commercial packing list and Consulate letter that will be used to identify that the products being shipped by the Prime Vendor are for "U.S. Armed Forces."

#### **G. VEHICLE TRANSPORTATION**

The Prime Vendor is responsible for providing sufficient transportation assets to support all authorized customer requirements under this contract.

#### **H. GLOBAL POSITIONING SYSTEM**

1. The Prime Vendor is required to have a Global Positioning System (GPS) that closely monitors all bobtails, flatbeds, shipment containers, reefers, etc. that are destined for delivery to all locations. The units are required to be tagged with GPS devices.
2. The Prime Vendor is also required to provide vehicle tracking data into the military's Radio Frequency-In Transit Visibility (RF-ITV) system. The integration between the Prime Vendor's GPS and the military RF-ITV is limited to Prime Vendor vehicles and associated foodstuff shipments within the Subsistence Prime Vendor contract. The Prime Vendor shall provide an interface between its GPS and the military RF-ITV system to allow for data transfer from Prime Vendor to the U.S. Military regarding vehicle location in theater. The following information shall be available: (1) Vehicle Departure from Origin Data (including mission and Cargo RFID reference), (2) Vehicle Location data for ITV between Prime Vendor and final destination, (3) Vehicle Arrival to Destination information, (4) Vehicle Return Notification, and (5) Notification of AVL or Bob-tail change. The Prime Vendor's GPS shall interface with the US Military's RF-ITV system as XML data, transmitted over a secure internet connection (HTTPS). This information will be in the form of an asynchronous transmission from the Prime Vendor to RF-ITV and corresponding acknowledgement of received data from RF-ITV to Prime Vendor. The following control features shall be implemented: (a) Acknowledgement by the RF-ITV system for each data set that is sent by the GPS regarding the Prime Vendor vehicles in theater, (b) The GPS will resend acknowledgement requests in a pre-defined number of attempts if no acknowledgement is received within the predefined timeout. It is estimated that typical reporting frequency of Prime Vendor vehicles serving military needs will be 4 to 6 positions per day per vehicle. The frequency may be changed as necessary. The GPS and interface capabilities are required to be tested during the contract implementation period and functional when the first order is placed with the Prime Vendor. In the event of interface changes initiated by the Prime Vendor, additional related costs associated with maintaining the level of integration outlined above will be borne by the Prime Vendor. In the event of interface changes initiated by the Government, additional related costs associated with maintaining the level of integration outlined above will be borne by the Government. The Government has the option to utilize new features introduced in future Prime Vendor GPS upgrades. Performance of these GPS requirements shall be included in the distribution price.
3. The Prime Vendor bears all risk and responsibility for personal injury or death of its employees or agents or subcontractor employees or agents or for any damage to, loss of or demurrage of equipment during the transportation of product under this contract.

#### **I. AIRLIFTS**

1. The prime vendor is required to stock sufficient quantities of product to meet all customer demands. If an item with an established demand is not properly managed by the vendor, a not-in-stock situation occurs, and the item is projected to be out of stock for more than 21 days, the prime vendor will be required to airlift product at its own expense or reimburse the Government the cost of any DTS airlift conducted to rectify the not-in-stock situation.

2. Any Government emergency requirement to airlift product to a customer must be directed by the Contracting Officer or Contracting Officer Representative if delegated this authority and the product shall be moved via military assets or TRANSCOM Tender processes. All prime vendor costs, including but not limited to tri-walls, ice, delivery to the airfield, etc. shall be included in the distribution price.
3. The prime vendor must have a working arrangement in place with a commercial air source that can be ready to deliver on a moment's notice. The prime vendor will be responsible for all commercial airlift, pallet, and ice requirements to include loading. Pallet tri-walls must be constructed from the appropriate level of cardboard to withstand the normal requirements of the journey. Frozen and chill pallet tri-walls must be lined with suitable insulating materials and either wet ice or dry ice will be added as needed to maintain the products for the expected journey timeframes. Once product is tri-walled and dispatched, the order cannot be cancelled and is treated as filled; however, the prime vendor remains responsible for the product during transit. Once product is received and accepted by the customer, the prime vendor shall not be responsible for the deterioration or loss of goods that are in transit by the customer to a final destination.
4. For any airlift booked thru SDDC, a Transportation Control Number (TCN) will be needed for each pallet of cargo. It is the Prime Vendors responsibility to create and maintain those TCNs. TCN will be provided to SDDC if requested and should be included on all associated paperwork.

#### **J. DIRECT VENDOR DELIVERIES WITHIN NORTHERN EUROPE**

Customers under this contract will require direct vendor deliveries for certain items (e.g., FF&V, water, bakery, soda, etc.) from approved local sources. The Prime Vendor shall sub-contract with the approved source(s), i.e., the subcontractor is located in the same country as the delivery point, to fulfill these direct vendor delivery requirements.

When the Prime Vendor utilizes sub-contractors to perform direct vendor delivery services to the customers under this contract, the following price formula shall apply:

$$\text{Contract Unit Price} = \text{Product Price} + 50\% \text{ of the Distribution Price}$$

Distribution Price Categories, 6, 7, 8, 9, 10, 11 and 21 are subject to this pricing and possibly Distribution Price Categories 18, 19 and 20 depending on the area. This reduction will be accomplished by reducing the existing Distribution Price Category by 50% and submitting 832 Catalog Price Changes reflect the reduced price. It will be the Prime Vendor's responsibility to notify the Contracting Officer if the subcontractor changes and is no longer a direct delivery.

#### **K. OVERLAND TRANSPORT OF PRODUCT IN SUPPORT OF AERIAL PORTS OF DEBARKATION AND SEA PORTS OF DEBARKATION (APOD/SPOD) AND PORT TO PORT SHIPMENTS**

1. As directed by the Contracting Officer, the Prime Vendor may be required to transport product to or from the APOD and SPOD locations closest to the OCONUS Prime Vendor warehouse locations in support of US government sponsored air shipments or port to port movements. Transports must be requested via e-mail or other written correspondence by the Contracting Officer or Contracting Officer Representative. At a minimum, the Prime Vendor would be required to perform the following tasks:
  - i. Coordinate with DLA-Troop Support designated personnel for the specific mission requirements, transport time, location, and destination.
  - ii. Organize and deploy warehousing, transportation, and personnel assets to the respective sites to fulfill or receive shipments.
  - iii. Provide transport of pallets, dunnage of air pallets, tarping and strapping of goods.
  - iv. Protect goods from moisture, contamination and any other damage.
  - v. In case of delayed or cancelled flights, restock, re-ice, and repack supplies.
2. No more than two (2) requests for overland transport of product to or from an APOD or SPOD location may be directed by the Contracting Officer in a calendar year. All Prime Vendor costs,

including but not limited to the tasks described above shall be included in the distribution price.

#### **L. PRIME VENDOR PRODUCT TRANSFER**

DLA Troop Support Prime Vendors will be permitted to transfer product between one another based on their own agreements. However, the receiving Prime Vendor must catalog the item(s) at the actual unit price as defined in this contract which is equal to product price plus the receiving Prime Vendor's distribution price. The receiving Prime Vendor will not be entitled to any amount above contract product price.

### **VI. INTERNATIONAL AGREEMENTS, WORKERS COMPENSATION INSURANCE, AND INTERPRETATIONS/TRANSLATIONS**

#### **A. INTERNATIONAL AGREEMENTS (i.e. Defense Cooperation Agreement, Diplomatic Notes, Status of Forces Agreement ("SOFA"), etc.)**

Shipments to the contracted Zone are subject to whatever country-to-country agreements may exist between those countries and the United States. TWI is therefore responsible for ascertaining, for all countries under this contract, the precise rules and regulations, limitations, documentation requirements, and restrictions that apply to imports for the use of the U.S. Forces. Applicable stationing agreements, to the best of DLA Troop Support's knowledge at this time, contain provisions permitting the importation of subsistence items and other supplies intended for U.S. Forces free of duties and taxes. As a result, all products intended for overseas shipments under this contract must be shipped from the United States in containers separate from any product shipped for the Prime Vendor's commercial customers.

Furthermore, SOFA supplements and stationing agreements may provide for specific markings on the containers. The Prime Vendor must identify any such marking requirements and ensure that the markings are properly applied.

#### **B. WORKERS COMPENSATION INSURANCE**

1. FAR 52.228-3 WORKERS COMPENSATION INSURANCE (DEFENSE BASE ACT) (JUL 2014) is included by reference in this contract.
2. The Secretary of Labor may waive application of the Defense Base Act (DBA) with respect to any contract, work location, or class of employees upon the written request of the head of any department or other agency of the United States. DLA understands that it is Department of Labor's policy that waivers do not apply to citizens or legal residents of the U.S. or to employees hired in the United States. In addition, once granted, the waiver is only valid if alternative workers' compensation benefits are provided to the waived employees pursuant to applicable local law. If there are no local workers' compensation laws, the waiver has no effect and local and foreign nationals working under a United States contract are covered under the DBA. It is the Prime Vendors responsibility to obtain the insurance coverage as required. All costs to provide coverage throughout the life of the contract are included in the awarded Distribution prices.

#### **C. INTERPRETATIONS/TRANSLATIONS**

1. The Prime Vendor shall provide host nation/English translation of operating instructions, procedures and all other documents required for complete and efficient performance of this contract. These translations shall be placed or posted in close vicinity to each work area where they are required for day-to-day work.
2. The Government is not obligated to provide any assistance to the Prime Vendor in the day-to-day translations and interpretations necessary to communicate with DLA Troop Support.
3. The Prime Vendor shall provide a means of real time communications/ translation/ interpretation between and among all levels of its organization. This requirement for communication and understanding shall apply to all levels of supervision and shall be provided by supervisors at all levels or by adequate numbers of readily available interpreters/translators who shall be present during all exchanges of information that require interpretation or

translation.

4. All correspondence, official documents that impact work performed under this contract and communications between the Prime Vendor and the U.S. Government pertaining to this contract shall be in the English language.
5. Documents not in English, i.e. foreign manufacturer/suppliers quotes/invoices, customs documents, etc...must be accompanied by a copy translated into English and documents not denominated in American dollars will include a copy converted to American dollars at the exchange rate specified using the FX Converter on the OANDA Currency Site (<http://www.oanda.com>) as of the close of business on the effective date of the document.

## **VII. INVENTORY AND WAREHOUSE MANAGEMENT**

### **A. WAREHOUSE MANAGEMENT**

1. The Prime Vendor will be required to perform supply chain and warehouse management functions and to position a full line of food and beverage, non-food items, and Government Furnished Material ("GFM") items into its warehouse(s). The Prime Vendor has responsibility for all supply chain management. In regard to GFM, the military theater food adviser shall recommend the time to reorder and the respective replenishing amounts.
2. Supply chain management is the sole responsibility of the Prime Vendor. As supply chain management is the sole responsibility of the Prime Vendor, the Government will not be liable for expired or excess inventory during the life of the contract or after the contract has expired. Any information provided to the Prime Vendor by the Government (i.e. estimates, headcounts, etc.) during contract performance is merely guidance to assist the Prime Vendor in fulfilling its role of supply chain management in the context of specific contract requirements. Though the Government will utilize its best efforts and reasonableness in furnishing said information, it provides no warranties or representations that the information provided is wholly accurate. Ultimately, the Prime Vendor is responsible for ensuring that its supply chain management is sufficiently executed and managed to meet the specific requirements contained in this contract. The Prime Vendor will be responsible for stocking any item that has a fifteen (15) case average monthly requirement. However, there might be instances when the Prime Vendor will be required to source items that do not meet this monthly case level.
3. The Prime Vendor shall maintain a minimum of sixty (60) days of supply (DOS) on hand on a line item basis at all times at each OCONUS warehouse location. The standard American pallet size is 48x40 inches. The Prime Vendor will be responsible for developing its own demand estimates to ensure proper stocking levels, including average weekly and average monthly demands (AWD/AMD).
4. The Prime Vendor must provide all of the necessary assets, to include, material handling equipment and labor to maintain operations.
5. The Prime Vendor is responsible to provide the proper equipment (i.e. pallet jacks, forklifts, etc.) to move material to the back of the delivery vehicles at the customer delivery points.

### **B. GOVERNMENT FURNISHED MATERIAL – OPERATIONAL RATIONS**

1. The Prime Vendor must have the capability to receive, store, distribute, perform open case inspections, perform open case re-work, label, re-label, dispose and account for Government Furnished Material ("GFM") type items such as Operational Ration Type items as described below. The U.S. Government reserves the right to modify the type of GFM and/or add other types of GFM to be accounted for to include traditional line-item-A type items.

Operational Rations:

Unitized Group Rations ("UGRs") are used to sustain military personnel during worldwide operations. The UGR is designed to maximize the use of commercial items and to simplify the process of providing high quality food service in a field environment. All components for a complete meal are included in the UGR, with the exception of mandatory supplements, such as milk. Each UGR meal module also contains all required disposable items (cups, compartment trays, and utensils). This ration is available in three options, with each sharing a core of quick

## Theodor Wille Intertrade GmbH (TWI)

prepared and/or ready to use commercial products. (The number and variety of menus is subject to change):

UGR Heat and Serve ("UGR-H&S"), which is characterized by tray pack entrees and starches/desserts. The unit of issue for the UGR H&S group feeding rations consists of 3 shipping cases under a single NSN (each of the 3 UGR H&S Breakfast and 10 Dinner menus has its own unique NSN, i.e. 13 NSNs).

UGR-A, which includes perishable frozen entrees (A-Rations). Each complete UGR-A ration consists of 3 shipping cases: 2 cases represent the semi perishable portion of the module and 1 case is the perishable (frozen) portion of the module. The semi perishable portion of the modules are ordered/shipped under a single NSN (i.e. the two cases, Box 1 and Box 2, must be delivered together), and the perishable portion of the module is shipped under a separate, second NSN. There are currently 7 Breakfast, 14 Lunch/Dinner rations, and 7 short order menus, for a total of 28 NSNs.

There is no minimum ordering quantity required (i.e. orders for single modules are accepted). The UGR-H&S option is unitized into 3 boxes, which places 2 rations on one tier of a pallet, and one pallet (4 tiers) provides 8 rations. For the UGR-A, the semi perishable pallet is comprised of 3 ration modules per tier, and 12 ration modules per pallet. The UGR-A perishable pallets contain varied numbers of ration modules per pallet, as the shipping case size varies per menu.

UGR-E is a compact, self-contained module that provides a complete hot meal. The components are thermally processed, pre-prepared, shelf-stable foods, and currently packaged in hermetically sealed, half-size steam table containers. There are currently 4 breakfast and 8 lunch/dinner menus. The module consists of one box, 20 x 16 x 10 ¼. One pallet contains 18 boxes. Six boxes fit on one tier or a 40 x 48 inch pallet. There are three tiers per pallet. Each box weighs approximately 45 pounds. The module comes complete with all food items and disposable items (cups, compartment trays, napkins, utensils, and trash bags). Standard items that are included in all modules are coffee, creamer, hot sauce, gloves, box cutter, hand cleaner (towelette), dinner trays, dining packets, trash bags, and heater module.

Individual Feeding Rations – are semi perishable rations that require temperature controlled storage. The unit of issue is a single shipping case.

a. <u>Meal, Ready-to-Eat (MRE)</u>	8970-00-149-1094
b. <u>Long Range Patrol Ration (LRP)</u>	8970-01-467-1749
c. <u>Meal, Cold Weather (MCW)</u>	8970-01-467-1753
d. <u>Humanitarian Daily Ration (HDR)</u>	8970-01-375-0516
e. <u>First Strike Ration</u>	8970-01-543-3458
f. <u>Meal Religious Halal</u>	8970-01-E10-0002
g. <u>Meal Religious Kosher Passover</u>	8970-01-524-8003
h. <u>Meal Religious Kosher</u>	8970-01-E10-0001

For more information regarding these rations, please go to <http://www.dla.mil/TroopSupport/Subsistence/Operationalrations.aspx>.

2. Pallet spaces for operational rations are American sized pallet spaces (48 x 40 inches). Estimated GFM distribution quantities are identified on the schedule of items. The Prime Vendors costs for GFM storage, distribution, re-work, and re-labeling shall be included in the Distribution Price for GFM, distribution categories 14, 15, 16, and 17. These costs shall not be separately billed by the Prime Vendor. When the product is ordered by the customer and delivered by the Prime Vendor invoicing and payment will occur.
3. The PV must store Operational Rations for lengths of time that exceed the shelf life of the product. Extension of the product shelf is dependent on inspection and approval of the appropriate Public Health Command (PHC).

### C. BREAKING CASES

Under the proposed contract, the Prime Vendor will be required to break cases for spices. The decision to break cases for additional items, other than spices, must be mutually agreed upon between the Prime Vendor and the Contracting Officer, at no additional costs to the Government.

**D. OFFICE SPACE AND EQUIPMENT FOR GOVERNMENT EMPLOYEES**

1. Contracting Officer Representatives ("CORs"). The Prime Vendor will be required to station CORs at its various facilities. It is estimated that one (1) COR will be stationed at the Prime Vendor's main Distribution Facility in Zone 1. The Prime Vendors are required to provide an office (approximately 150 square feet) with a self-closing, tight-fitting door, capable of being locked. This office must be within or adjacent to the Prime Vendor's office/warehouse facility and must be fully functional within the 180 day implementation period. Other requirements include (at minimum) a desk and chair, electricity, temperature control, access to the PVs office equipment such as a printer, paper shredder, document scanner, copy machine, as well as normal housekeeping services, use of the rest rooms, and a parking space. During the life of the contract, should additional CORs be assigned to Zone 1, the same accommodations must be made available to each COR at no additional cost to the Government.
2. Work Space and Equipment must be available for Army Public Health Center (PHC) Inspectors when present. The primary mission for PHC Inspectors is inspection, extension, or condemnation of Operational Rations and Government Furnished Material. Additionally, AVIs inspect and recommend rejection, extension or condemnation of Prime Vendor owned product as requested by the Prime Vendor, deemed necessary by the Theater Food Advisor and approved by the Contracting Officer or authorized Contracting Officer Representative. These inspections will occur on an as needed basis during the PVs normal business hours. Equipment maybe required for these inspections, PHC will notify the PV accordingly and the PV will provide this equipment at no additional cost to the Government. Below is a sample of the equipment that may be required:

Secure Office & Work area (approx. 150 sq ft) capable of being locked	1 Laser Jet Printer, Black and White
2 Computers with monitors. (minimum requirement: DLA – Current Versions of Microsoft Office, Acrobat Professional (read/write), Form Flow, Explorer, Battery back-up, internet access, and IT support.	2-12" wide wall lockers with locks for personal item storage
Paper Shredder, low volume simple office shredder	2 desks w/drawers and chairs or equivalent
2 Large Filing Cabinet	1 Couch, coffee table for break room
1 Microwave Oven Large	1 Refrigerator Large
1 Copy Machine	Commercial stand up chill box for frozen sample thawing/slacking
Commercial oven/stove with vented hood, 4 heating elements minimum	Floor Scale, tip, lbs 1-100, graduated or equivalent
Tabletop scale, digital (gram and oz)	2 parking spaces
4 sets, Freezer Coat/pants (for working in freezers)	4 Cutting Boards, commercial quality 18"x24"x3/4"
Business quality document scanner	3 butcher knives
3 boning knives	3 Spoons, plain bowl, basting
Stone, sharpening	3 Spatulas, Stainless Steel
3 Metal Tongs, commercial 12" minimum	3 Pans, Cooking (18" and 12")
3 Pots, Cooking Round (14qt, 8qt, and 4qt)	3 Pans, Baking Sheet (7330-00-633-8905)
1 Can Opener, Mounted (7330-00-205-3151)	Ruler, Machinist's Steel Rule; graduated to 1/8", 1/16", 1/32", and 1/64", 12" long, 5220-00-234-5224
1 Drill, 1/4". Cordless (Model 7078/1898 or equivalent) needed for internal temperature of frozen product	Metal Sieve with Catch Pan (USA Testing Sieve, A.S.T.M. -9450 E-11, Spec sizes No. 8 & 20 (for sifting products when looking for insects or spec req
3 Gauge, compound pressure, vacuum, dial (6685-00-806-9300)	3 Small Trash receptacles for office
Miscellaneous Kitchen utensils, plates, cups, cleaning supplies	3 Large Trash Cans
Temperature control, as well as normal housekeeping services	Use of the rest rooms

**VIII. SECURITY MEASURES / FORCE PROTECTION, THEATER SUPPORT & CONTINGENCY OPERATIONS****A. SECURITY MEASURES / FORCE PROTECTION**

1. The DLA Troop Support Subsistence Directorate provides worldwide subsistence logistics support during peacetime 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 and ensure steps are taken to prevent the deliberate tampering and contamination of subsistence items. Such precautions are designed to provide for Food Defense as described by the Food & Drug Administration (FDA) at <http://www.fda.gov/Food/FoodDefense/default.htm>.
2. As the holder of a contract with the Department of Defense, the Prime Vendor should be aware of the vital role it plays in supporting the Government's customers. It is incumbent upon the Prime Vendor to take actions to secure product delivered to all customers. It is a requirement for the Prime Vendor to have written force protection/food defense plans relating to plant security and security of product in light of the heightened threat of terrorism and to secure prime vendor product from intentional adulteration/contamination. The Prime Vendor's Food Defense Plan must be in compliance with the DLA Troop Support Food Defense Checklist as determined by the Contracting Officer. (NOTE: to download a copy of the DLA Troop Support Food Defense Checklist go to [http://www.dla.mil/Portals/104/Documents/TroopSupport/Subsistence/FoodSafety/FoodQuality/food\\_defense\\_check.pdf](http://www.dla.mil/Portals/104/Documents/TroopSupport/Subsistence/FoodSafety/FoodQuality/food_defense_check.pdf) or contact the applicable Contracting Officer or the DLA Troop Support Quality Audits & Food Defense Branch at 215-737-8656). This Plan must be submitted to the Contracting Officer within 60 days after contract award to be reviewed for acceptability. The Contracting Officer may conduct ongoing verifications of the Prime Vendors security and food defense system throughout the life of the contract. Failure to have or maintain an acceptable food defense plan will be considered a breach of contract. The DLA Troop Support-FTSB may conduct Food Defense Audits/reviews during Prime Vendor Product Quality Audits, Unannounced Quality Systems Management Visits and/or other visits to verify the implementation, compliance and effectiveness of the Prime Vendor's Food Defense Plan. The Prime Vendor's Food Defense Plan should include specific security measures relating to but not limited to the following areas:
  - Employee Identification
  - Background checks where applicable
  - Control of access to plant facility, gates and doors at the facility
  - Internal Security
  - Training and security awareness
  - Product Integrity
  - Transportation Security

The Prime Vendor may modify its Food Defense Plan at any point during contract implementation or during the period of performance, however, any change must be determined acceptable by the Contracting Officer. Whenever a change is made to the Food Defense Plan, it must be submitted to the Contracting Officer for review and approval. If more than one facility will be used to store or distribute product, a separate acceptable Food Defense Plan for each facility is required.

3. The Prime Vendor will ensure that all products and/or packaging have not been tampered or contaminated throughout the manufacturing, storage and delivery process. The Prime Vendor will immediately inform the Contracting Officer of any attempt or suspected attempt by any party or parties, known or unknown, to tamper with or contaminate subsistence supplies.
4. The following security guidance is also provided:
  - i. Make sure all boxes, bags, etc. are intact and demonstrate no evidence of tampering. All incoming truck drivers should provide adequate identification upon request. Visitors should also be properly identified and have limited access to those areas appropriate for their visit. Procedures for storing product should adequately control access to eliminate any possibility of product adulteration.



- ii. The warehouse facilities must have sufficient lighting, an adequate number of cameras located inside and outside for complete surveillance, security fences and locking devices. Guards for static security shall be utilized.
  - iii. Open trucks shall never be left unattended, and bolt-seals shall be used when possible to designate loaded trailers. Security seals shall be properly placed on all delivery vehicles and registered/logged in per delivery. The Prime Vendor will ensure that employee background checks are up to date. Ensure drivers have communication devices available in the event of an emergency and establish emergency phone numbers for them to use. Firms should keep a low profile and share customer routes, etc. on a need to know basis. Review of overall organizational corporate security plans should be conducted and consider whether private security firms are needed to assess or reduce risk. It is important to convey to all warehouse, office and fleet personnel that security should not be taken lightly and any suspected adulteration or evidence of product tampering must be reported immediately.
  - iv. When split/consolidated deliveries are authorized, the delivery vehicles are required to be sealed after each delivery point. The Prime Vendor shall be responsible for providing the seals. The military liaison or designated representative at the drop-off point shall be responsible for re-sealing the delivery vehicle with the new seal and annotating the number on the delivery ticket. Under no circumstances will drivers re-seal delivery vehicle or complete the associated paperwork. Split/consolidated deliveries made in conditions other than those cited above are subject to be rejected by the customer.
5. Information Protection. The Prime Vendor shall prevent unauthorized release of sensitive and/or classified information in accordance with communications security (COMSEC) and operations security (OPSEC), and information system security (INFOSYSSEC) by all employees.
  6. Operational Security. The Prime Vendor shall establish, maintain and execute a vigilant Operations Security ("OPSEC") Program to include, but not limited to, receipt, accountability, safeguard, destruction, and investigation of any operational information.
  7. INFOSYSSEC Security. The Prime Vendor shall establish, maintain and execute a vigilant information system security ("INFOSYSSEC") Program to include, but not limited to, receipt, accountability, safeguard, destruction, and investigation of any computer security, internet security, network security, information security, security, computer, network, information, hacking, hacker, exploits, and vulnerabilities.
  8. Data Use, Disclosure or Information, and Handling of Sensitive Information. The Prime Vendor shall maintain, transmit, retain in strictest confidence, and prevent the unauthorized duplication, use and disclosure of information. The Prime Vendor shall provide information only to those employees of the Prime Vendor and its subcontractors who have a need to know such information in the performance of their duties under this contract. Information made available to the Prime Vendor by the Government for the performance and administration of this effort shall be used only for those purposes and shall not be used in another way without the written agreement of the Contracting Officer.
  9. Cybersecurity Requirements:
    - A. Incident Reporting: In addition to adhering to the reporting requirements as outlined in DFARS clause 252.204-7012, when the contractor discovers a cyber-incident that affects covered defense information or the contractor's ability to meet the requirements of the contract, the contractor will:
      1. Provide the results of any reviews conducted for evidence of compromise of covered defense information or that affect the Contractor's ability to provide operationally critical support; including, but not limited to, identifying compromised computers, servers, specific data, and user accounts.
      2. Rapidly report the incident(s) to the applicable Contracting Officer and the DLA Cyber Resilience Program Office (the point of contact information will be provided at the time of contract award).

3. Preserve and protect relevant artifacts (e.g., configurations, audit logs, packets, etc.) for at least 90 days from the submission of the cyber-incident report so that if it is deemed necessary, DLA's Cyber Resilience Program Office or Cyber Emergency Response Team may request access to this the artifacts.

4. Provided, upon request, by the Contracting Officer on behalf of the DLA Cyber Emergency Response Team, access to additional information (to include damage assessment information gathered, etc...) or equipment that is necessary to conduct a forensic analysis related to an identified incident.

B. Independent Verification and Validation: In addition to adhering to the cybersecurity requirements as outlined in DFARS clause 252.204-7012, specifically the derived requirements in NIST SP 800-171, as it relates to "security and risk assessments", the contractor will:

1. Upon request, provide the Contracting Officer and the DLA Cyber Resilience Program Office a copy of the most current plan of action to mitigate or correct identified weaknesses and vulnerabilities within information system(s) owned and operated by the contractor, which enables the contractor's ability to meet the requirements/deliverables outlined within the contract.

2. Allow DLA's Cyber Assessment Team or a 3rd Party Assessor (DLA will be privy to all the standards and requirements of the 3rd Party Assessor prior to agreeing to this) to perform a security assessment (Blue Team review, penetration test, etc.) of the information systems owned and operated by the contractor. This will be a measured assessment with pre-defined IP address ranges identified up front and will include technical and operational reviews designed to test the rigor of all required security controls implemented.

a. If this assessment is to be performed by DLA's Cyber Assessment Team, the rules of engagement that will govern this action will be provided to the contractor within 90 days of the actual engagement.

C. Other Safeguarding or Reporting Requirements: The cybersecurity requirements identified for this contract in no way abrogates the contractor's responsibility for other safeguarding or cybersecurity related reporting, etc, as it pertains to its covered information systems as required by other applicable clauses within this contract, or as a result of other applicable U.S. Government statutory or regulatory requirements.

D. Subcontracts: The contractor shall include all the cybersecurity requirements detailed above in all subcontracts and agreements with applicable third parties.

## **B. THEATER SUPPORT**

### 1. Management

i. The Prime Vendor shall ensure that all of its employees, subcontractors, subcontractor's employees, invitees and agents comply with all guidance, instructions and general orders applicable to U.S. Armed Forces issued by the Theater Commander or his/her representative, as well as, all pertinent Department of the Army and Department of Defense directives, policies and procedures, as well as federal statutes, judicial interpretations and international agreements (i.e. Status of Forces Agreements, Host Nation Support Agreements, etc.) applicable to U.S. Armed Forces. This will include any and all guidance and instructions issued based upon the need to ensure mission accomplishment, product protection and safety. Disputes are to be resolved by the Contracting Officer. Notwithstanding the above, the Contracting Officer is the only authorized official who may increase, decrease or alter the scope of work to be performed, and any orders or instructions interpreted by the contractor as impacting the scope or cost of the contract shall immediately be brought to the attention of the Contracting Officer for resolution.

This paragraph applies only to personnel.

ii. The Prime Vendor shall take reasonable steps to ensure the good conduct of its employees and shall at all times be responsible for the conduct of its employees and those of its subcontractors and invitees.

- iii. The Prime Vendor shall promptly resolve, to the satisfaction of the Contracting Officer, all Prime Vendor employee performance and conduct problems identified by the Contracting Officer or his/her designated representative.
      - iv. The Contracting Officer may direct the Prime Vendor, at its own expense, to remove or replace any employee failing to adhere to instructions and general orders issued by the Theater Commander or his/her designated representative. The Contracting Officer may also direct the Prime Vendor, at its own expense, to remove or replace any employee that has been determined to be a force protection risk. The Prime Vendor will replace any such employee within 72 hours or as instructed by the Contracting Officer.
2. Management Plan. The Prime Vendor shall develop a detailed management plan that describes the Prime Vendor's policies and procedures with regard to planning, organizing, staffing, directing, and controlling the performance of the contract, to include effective management methods and strategies, as well as cost effective management methods that provide the flexibility needed to effectively manage the US Government's requirements. The Prime Vendor shall articulate in written format, internal and external management processes that directly relate to the PWS/SOW. At a minimum the plan shall address: contract administration; Government compliance; health, safety and environmental; human resources; program management; procurement and supply management; project controls; property controls; and security (physical, communication, operational, force protection). The Prime Vendor's management plan shall also include its plan to provide a bi-monthly manning document, deliverable to the COR, that discusses current manning levels and incoming personnel.
3. Personnel
  - i. Objective. The Prime Vendor shall provide a work force possessing the skills, knowledge, training, equipment and certifications required to satisfactorily perform the services required for this contract. Documentation establishing and/or showing evidence that employee(s) possess the certifications, qualifications, and background checks required by contract must be presented to Prime Vendor or designated representative prior to beginning duties. Personnel may not have been declared incompetent by reason of mental defect by any court of competent jurisdiction. Personnel may not be suffering from habitual drunkenness or from narcotics addiction or dependence as evidenced by a recognized drug/alcohol testing procedure or possession of unauthorized substances or paraphernalia. All Prime Vendor and subcontractor personnel under this contract must abide by all General Orders and other policies which apply to Prime Vendor personnel.
  - ii. Availability. The Prime Vendor shall configure its resources such that no gaps in services occur resulting from leaves of absences and availability of physical resources such as weapons, vehicles and communication equipment.
  - iii. Personal Attributes. All Prime Vendor personnel shall be a minimum age of 21 and not have a criminal record. Nor shall any Prime Vendor personnel have an existing warrant for any crimes. Prime Vendor personnel can be U.S. Citizens, Third Country Nationals, or Local National. The U.S. Government ("USG") encourages the Prime Vendor to support the Local National Socioeconomic Program. At a minimum, no Prime Vendor personnel shall be affiliated with associations, elements, groups, organizations, and/or programs that seek to undermine the legitimacy and initiatives of the Government of the countries they operate in and USG. All Prime Vendor personnel shall be medically screened to ensure that they do not possess an existing health condition that would result in them being unable to perform their assigned duties.
  - iv. Language Requirement. The Prime Vendor shall employ only persons able to speak, read, write and understand English for those positions requiring them to interact with clients and other government personnel, and/or where English is used or essential to provide product, or record data, information or service.
  - v. Contract Manager. The Contract Manager provides contractual interface between the Prime Vendor, sub-contractors, DLA Troop Support, and In-Country Officials and any designee. The Contract Manager provides expertise and coordination of modification compliance. The Contract Manager will identify and develop solutions to any contractual

issues and implement approved solutions in coordination with the government. The Contract Manager participates in all meetings addressing the contract and travels to the customer locations as required in performance of his duties.

4. Risk Assessment and Mitigation. The Prime Vendor will brief its employees regarding the potential danger, stress, physical hardships and field living conditions of performing under this contract.

The Prime Vendor will conduct physical and medical evaluations of all its employees at its own expense to ensure that they are capable of enduring the rigors of performance under this contract. The Prime Vendor will designate a point of contact for all of its plans and operations. The Prime Vendor will prepare plans for support as required by contract or as directed by the Contracting Officer. For the purpose of issuing ID badges, and for access purposes, the Prime Vendor will provide a list of suitable or qualified subcontractors including local vendors in an area of operations.

5. Vehicle and Equipment Operation

- i. The Prime Vendor shall ensure that employees possess the required civilian licenses to operate the equipment necessary to perform the contract in the theater of operations in accordance with the statement of work.

- ii. The Prime Vendor and its employees may be held jointly and separately liable for all damages resulting from the unsafe or negligent operation of equipment.

6. Container Management. The Prime Vendor shall be responsible for managing the flow of containers from the port through the warehouse and into the theater. Planned and unplanned delays such as supply route blackouts, local holidays and border closures must be considered in the schedule for container movement. Although the Government is not liable for any costs related to such delays in transportation/container movement of Prime Vendor product, the Prime Vendor should use its best efforts to eliminate detention charges and reduce port storage fees while ensuring containers carrying "Not-in-Stock (NIS)" items are pulled first, followed by special meal containers. The Prime Vendor must consider all factors impacting the supply chain when making their supply chain management decisions. The Prime Vendor is solely responsible for ensuring its supply chain is properly managed to satisfy contract requirements. The Government is liable for such transportation costs for containers of GFM product, the Prime Vendor should use its best efforts to eliminate detention charges and reduce port storage fees. The PV will be responsible for all additional DTS costs incurred by the USG as a result of the PVs performance/decisions.

7. Passports, Visas and Processing Procedures

- i. At the Prime Vendor's employees and/or Prime Vendor's expense, all of its employees shall obtain all passports, visas, badges or other documents necessary to enter and/or exit any area(s) identified by the Contracting Officer. Prime Vendor personnel, as identified by the Contracting Officer or Contracting Officer Representative, may be authorized to receive Common Access Cards (CACs) and/or other Base Access Badges, which shall be issued by U.S. Government Authorities at the nearest available facility to the work location of the Prime Vendor.

- ii. The Prime Vendor shall communicate directly with the customer to obtain all access requirements. A plan of action for adherence to access requirements must be submitted to the Contracting Officer within 30 days of contract award. The plan of action shall include the Prime Vendor's understanding of the access requirements per the U.S. Military and the various Governments covered under this contract and how long it will take to meet the requirements.

- iii. All Prime Vendor employees shall be subject to the customs processing procedures, laws, agreements and duties of the country to which they are deploying.

8. Tour of Duty / Hours of Operation. The Prime Vendor may be required to perform 24 hours per day, 7 days per week, and 365 days per year, to include all holidays. Working hours will correspond with the supported customer's mission requirements. The Prime Vendor shall comply with all duty hours and tours of duty identified by the Contracting Officer or his/her

designated representative. The Contracting Officer, or his/her designated representative, may modify the work schedule to ensure the government's ability to continue to execute its mission. The Prime Vendor must at all times maintain an adequate work force to ensure uninterrupted performance of all tasks defined within this contract.

9. Life Support / Sustainment. All life support and logistical support will be furnished by the Prime Vendor, with the responsibility of securing real estate, facilities for offices and billeting, and motor pool residing with the Prime Vendor.
10. Cell Phones and Internet. The U.S. Government will not pay for rent, lease, purchase or sustainment of personal cell phones. U.S. Government cell phones will be provided on an as available and as required basis to perform official US Government business only. The U.S. Government will not provide internet services to the Prime Vendor's office buildings, unless specifically authorized by the Contracting Officer.
11. ITV Software. The Prime Vendor shall integrate security movements into their Intransit Visibility Requirements.
12. General Contractor Furnished Items and Services
  - i. General. The Prime Vendor shall furnish everything required to perform this requirement. The equipment required to perform the services will remain Contractor Furnished Equipment ("CFE") and the U.S. Government will not take possession of it.
  - ii. Compliance. The Prime Vendor shall ensure that required items are acquired in accordance with all current applicable national and international laws and regulations. All property acquired by the Prime Vendor for the performance of this effort, shall be considered Contractor Furnished Equipment. The Prime Vendor shall hold title to that property. The Prime Vendor shall be responsible for the disposition of all Contractor Furnished Equipment unless directed differently by the Contracting Officer.
  - iii. Uniforms. The Prime Vendor may choose to designate a company uniform, but the Government does not require it and will not reimburse the Prime Vendor. There is no USG "dress code", however, inappropriate attire as determined by the Prime Vendor will not be permitted. The Prime Vendor shall provide all personnel, personal protective equipment Interceptor Body Armor ("IBA") and gear, uniforms (Nomex suit and gloves or equivalent for Protective Security Detachment ("PSD"), Convoy Escort Team ("CET"), and CET members only). PSD's are required to wear professional attire. Logo t-shirts are prohibited unless part of a company's issued uniform.
  - iv. Personnel Identification. The Prime Vendor shall furnish an identification badge (ID) to each employee, which shall include at a minimum, a recent photograph, name of the employee, and name of the Prime Vendor.

### **C. CONTINGENCY OPERATIONS**

During the life of this contract, should any of the countries be designated as "Contingency Operations" as defined in FAR Part 2, the Prime Vendor will be expected to comply with all regulations regarding the Contingency Operations, e.g., the Joint Contingency Contracting System (JCCS) for CENTCOM, and completing the Foreign Vendor Vetting Information Sheet (FVIS) for AFRICOM, or other military databases or similar tools that may come into effect during the life of the contract.

The Prime Vendor will be required to maintain a detailed contingency CONOPs designed to ensure that you will be able to independently provide continued support to all DLA customers covered by this contract should any of your warehouse platform(s) become unusable for any reason including but not limited to the following: inaccessibility by road, destroyed by attack, infestation, lack of proper heating, air conditioning and cooling, loss of lease, arson, etc. or if any customer location(s) become inaccessible by road. The Prime Vendor must have the capability to perform the CONOPs at all times throughout the life of the contract. From time to time, the Prime Vendor may be required to update its CONOPs based on conditions on the ground. This contingency CONOPs may be tested at any time throughout the life of the contract. Such testing will be at no additional costs to the Government and shall be included in the Prime Vendors distribution price.

**D. MANDATORY ELIGIBILITY FOR INSTALLATION ACCESS**

1. U.S. and Coalition Commanders possess inherent authority to maintain law and order, provide security, and impose discipline necessary to protect the inhabitants of U.S. and/or Coalition installations, U.S. and Coalition personnel operating outside of installations, and U.S. or Coalition-funded developmental projects in the area of responsibility (AOR). This authority allows commanders to administratively and physically control access to installations and/or project sites, and to bar contractors – including prime contractors, subcontractors at any tier, and any employees, from an installation or site. A commander's inherent force protection (FP) authority is independent of an agency's contracting authority, and it may not be superseded by any contractual term or provision.
2. The Prime Vendor acknowledges that acceptance of contract award requires the Prime Vendor, and all subcontractors under any affected contract, be initially eligible, and remain eligible during the entire period of contract performance to include any warrant period, for installation/base access to a U.S. and/or Coalition installation, regardless of whether the performance will take place on or off a U.S. or Coalition installation. Failure to obtain or maintain installation/base access eligibility for the Prime Vendor, or any subcontractor, may render a proposal unacceptable or be grounds for termination for cause.
3. Installation access determinations arise from the Combatant Commander's inherent authority and are separate and distinct from any law, regulation, or policy regarding suspension and debarment authority. Contractor queries or requests for reconsideration related to U.S. or Coalition installation base access eligibility must be directed to the authority responsible for base access decisions.

**E. CONTINGENCY (CONTINUITY OF OPERATIONS ((COOP))**

COOP planning at all levels encompasses a broad scope of activities necessary to ensure the success of an organization in response to a threat or terrorist incident, a natural disaster or some other emergency situation. The Prime Vendor will be required to maintain a detailed Contingency Concept of Operations (CONOPs) designed to ensure that you will be able to independently provide continuity of operations (COOP) support to all DLA customers covered by this contract should any of your warehouse platform(s) become unusable for any reason including but not limited to the following: inaccessibility by road, destroyed by attack, infestation, lack of proper heating, air conditioning and cooling, loss of lease, arson, loss of communications, etc. or if any customer location(s) becomes inaccessible by road. The Prime Vendor must have the capability to perform the CONOPs at all times throughout the life of the contract. From time to time, the Prime Vendor may be required to update its CONOPs based on conditions in the Areas of responsibility (AORs). This Contingency CONOPs may be tested at any time throughout the life of the contract. Such testing will be at no additional costs to the Government and shall be included in the Prime Vendors distribution price.

**IX. QUALITY CONTROL, QUALITY ASSURANCE AND INSPECTIONS****A. PRODUCT QUALITY**

1. Shelf-life:
  - i. Acceptance of supplies awarded under this contract will be limited to product processed and packed from the latest seasonal and/or latest pack available during the specific annual contract period. For annual pack items, including seasonal items, products will be from the latest seasonal pack available, unless approved in advance by the Contracting Officer.
  - ii. For items produced with shelf life greater than 150 days, no product shall be delivered to customers with less than 30 days manufacturer's original shelf life remaining unless the customer and Contracting Officer grant prior written approval.
  - iii. For items produced with shelf life less than 150 days, no product shall be delivered to customers with less than five (5) days manufacturer's original shelf life remaining unless the customer and Contracting Officer grants prior written approval.
  - iv. All products delivered shall be fresh and within the manufacturer's original shelf life (i.e., Best if Used by Date, Expiration Date, or other markings). All products shall be identified

with readable "open coded" "Best When Used by Date," "Sell by Date," date of production, date of processing/pasteurization or similar marking indicating the end of the guaranteed freshness date.

- v. Products required by the DLA Troop Support Item Description to be chilled must be maintained and delivered to the customer chilled unless approved by the Contracting Officer. Products required to be frozen must be delivered frozen to the customer unless approved by the Contracting Officer. Some products commonly sold as "Chill" in the commercial market may be required to be frozen, as described and identified as "Frozen" within the DLA Troop Support item description. This is due to customer need and shipment to OCONUS locations, so these specific items should be purchased frozen from the manufacturer. These short-shelf life "chilled" items that require delivery/storage in a frozen state may include but are not limited to: hot dogs, bologna, bacon, deli meat(s), cooked ham(s), other cooked meat(s), and cheeses. These items should be frozen at the manufacturer's plant. If the manufacturer does not have this capability, then the Prime Vendor is responsible for ensuring compliance with this requirement. These items, identified as "Frozen" shall be blast-frozen by the Prime Vendor following the manufacturer's "Freeze-by- Date" guidelines to preclude degradation and extend shelf-life. The Prime Vendor's label shall correlate with the manufacturer's frozen shelf life recommendations for each type of product. All documentation of the manufacturer's recommended "Freeze-by-Date" and the frozen item recommended shelf life should be available for review if the product is blast-frozen at the Prime Vendor's or subcontractor's facility. NOTE: A product designated by DLA Troop Support as "Frozen" shall never be frozen using a slow-frozen process.
  - vi. The Prime Vendor must maintain adequate inventory turnover rate information. The Prime Vendor must also have a system that tracks and aids in the control of shelf-life and proper shelf-life dating for items normally inventoried.
2. Expired Product/Shelf Life Extensions. It is NOT DLA Troop Support's Policy to grant shelf life extensions for prime vendor product. However, on a limited case by case basis, the Contracting Officer reserves the right to authorize shelf life extensions taking into consideration the reason for the request, manufacturer letter of extension granted, customer approval, Military Inspection Service availability, and approved price reduction offered. No product shelf life extension shall be granted without a price reduction. The procedures for a Prime Vendor's request for shelf life extensions for prime vendor product are as follows:
- i. The Prime Vendor submits the extension request to the Contracting Officer. The paperwork shall include the following: NSN, Part Number, Item Description, original number of cases received, date received at PV facility, Manufacturer's original expiration date, number of cases issued, number of cases remaining/in-stock, Dollar Value, Price Reduction Offered, Reason/Justification for the request (slow-moving, error on quantity ordered VS quantity requested by customers, etc.), Manufacturer Letter of Extension, and Manufacturer's extended expiration date. If acceptance of request is considered by the Contracting Officer, the Contracting Officer Representative(COR), as designated, coordinates/requests inspection of products from the local Military Inspection services (Veterinarian/Medical) for each specific product on the list.
  - ii. The Military Inspection Services (Veterinarian/medical personnel) inspect each product (in accordance with its list of priorities) for wholesomeness and fit for continued use. Products found fit for a shelf life extension should be extended by the Military Inspection Services taking into consideration the length of the extension guarantee by the manufacturer and its own inspection results. Items fit for continued use should be extended using a DD 1232 Quality Assurance Representative Correspondence form or other approved inspection document. The shelf-life of a product will not be extended, regardless of the Manufacturer Letter of Extension, if the Military Inspection Services inspection results indicates unwholesomeness or product is not fit for continued use.
  - iii. The COR coordinates with customers (Theater Food Service Advisors) regarding over-aged product, provides list of items inspected and found fit for continued use by the Military Inspections Services, and requests customer agreement to receive the product.
  - iv. If a shelf life extension is approved in accordance with the above specified procedure,

the Contracting Officer replies to the Prime Vendor with acceptance of the submitted request for extension package for each approved item. The COR coordinates shelf life extension approvals to ensure items extended are issued immediately to customers agreeing to receive the products to preclude further product degradation. A copy of the shelf life extension approval (DD1232 and/or other Military Inspection Services paperwork) must accompany each shipment containing the extended product. Shelf-life shall only be extended once for any specific product. All requests for shelf life extensions for products that were previously (shelf life) extended will be rejected by the Contracting Officer.

- v. In circumstances where an exception to the above shelf life requirements has been granted, based on an offered product price reduction, the reduced product price must be reflected on the customer's catalog before the excepted items are ordered by customer. ofThe PV must submit a catalog price change via 832 EDI transaction to reflect the agreed upon product price reduction. It is the PV's responsibility to monitor the inventory which has been approved and notify the Contracting Officer and/or Contract Specialist when that inventory is depleted. Once the extended product has been depleted, the PV is responsible for submitting another catalog price change via 832 EDI transaction to change the catalog price to the appropriate product price. While DLA Troop Support will attempt to request special catalog runs to process these transactions, special catalog runs are not guaranteed. After approved short shelf life product is depleted, the PV remains responsible for full contract performance, including filling orders for those items, throughout the time until the catalog can be updated. DLA Troop Support will not entertain any catalog price reconciliations for products that were sold at the reduced product price before the catalog could be updated. DLA Troop Support will not grant any fill rate exceptions relating to product not shipped before an 832 transaction is run to update the product price.
3. Commercial standards should be used to maintain temperatures appropriate for individual items.
- i. Level of Product Quality. When designating an item as a match for the DLA Troop Support item in the market basket, the item must be:
    - a. Identical in respect to packaging when the DLA Troop Support unit of issue is not described by weights (i.e. pound or ounce).
    - b. Identical for portion control items, except that pack size may vary. For example, NSN 8905-00-133-5889 "Beef Braising Steak, Swiss" is described as "frozen, formed, portion-cut, not mechanically tenderized, US Choice Grade or higher, 6 oz each, NAMP 1102 or equivalent, from knuckle, inside round, Eye of Round, or Outside Round, 53 lbs. per box." The requirement for the formed six (6) ounce portion must be identical. However, if the commercial pack size were a 15-lb. box, it would be acceptable by modifying the unit of issue ratio in the STORES ordering system. With respect to the previous examples, the DoD ordering activities require continuity with the DoD unit of issue for proper inventory and accounting within DoD.
    - c. Equivalent in respect to grade or fabrication.
  - ii. All items must meet or exceed the Government's item description of its assigned Government stock number.

## **B. PRODUCT SANITARILY APPROVED SOURCE REQUIREMENTS**

Applicable food products, e.g. poultry, dairy and seafood items, delivered to customers under this contract, as well as any customer added to the Subsistence Prime Vendor Program, shall originate either from an establishment listed in the "Directory of Sanitarily Approved Food Establishments For Armed Forces Procurements," or one which has been inspected under the guidance of the United States Department of Commerce ("USDC") or the United States Department of Agriculture ("USDA").



SANITARY CONDITIONS

## (a) Food establishments.

(1) All establishments and distributors furnishing subsistence items under DLA Troop Support contracts are subject to sanitation approval and surveillance as deemed appropriate by the Military Medical Service or by other Federal agencies recognized by the Military Medical Service. The Government does not intend to make any award for, nor accept, any subsistence products manufactured, processed, or stored in a facility which fails to maintain acceptable levels of food safety and food defense, is operating under such unsanitary conditions as may lead to product contamination or adulteration constituting a health hazard, or which has not been listed in an appropriate Government directory as a sanitarily approved establishment when required. Accordingly, the supplier agrees that, except as indicated in paragraphs (2) and (3) below, products furnished as a result of this contract will originate only in establishments listed in the U.S. Army Public Health Command (USAPHC) Circular 40-1, Worldwide Directory of Sanitarily Approved Food Establishments for Armed Forces Procurement, (Worldwide Directory) (available at: <http://phc.amedd.army.mil/topics/foodwater/ca/Pages/DoDApprovedFoodSources.aspx> ). Compliance with the current edition of DoD Military Standard 3006A, Sanitation Requirements for Food Establishments, is mandatory for listing of establishments in the Worldwide Directory. Suppliers also agree to inform the Contracting Officer immediately upon notification that a facility is no longer sanitarily approved and/or removed from the Worldwide Directory and/or other Federal agency's listing, as indicated in paragraph (2) below. Suppliers also agree to inform the Contracting Officer when sanitary approval is regained and listing is reinstated.

(2) Establishments furnishing the products listed below and appearing in the publications indicated need not be listed in the worldwide directory. Additional guidance on specific listing requirements for products/plants included in or exempt from listing is provided in Appendix A of the worldwide directory.

(i) Meat and meat products and poultry and poultry products may be supplied from establishments which are currently listed in the "Meat, Poultry and Egg Inspection Directory," published by the United States Department of Agriculture, Food Safety and Inspection Service (USDA, FSIS), at <http://www/fsis.usda.gov/wps/portal/fsis/topics/inspection/mpi-directory>. The item, to be acceptable, shall, on delivery, bear on the product, its wrappers or shipping container, as applicable, the USDA shield and applicable establishment number. USDA listed establishments processing products not subject to the Federal Meat and Poultry Products Inspection Acts must be listed in the Worldwide Directory for those items.

(ii) Intrastate commerce of meat and meat products and poultry and poultry products for direct delivery to military installations within the same state (intrastate) may be supplied when the items are processed in establishments under state inspection programs certified by the USDA as being "at least equal to" the Federal Meat and Poultry Products Inspection Acts. The item, to be acceptable, shall, on delivery, bear on the product, its wrappers or shipping container, as applicable, the official inspection legend or label of the inspection agency and applicable establishment number.

(iii) Shell eggs may be supplied from establishments listed in the "List of Plants Operating under USDA Poultry and Egg Grading Programs" published by the USDA, Agriculture Marketing Service (AMS) at <http://www.ams.usda.gov/poultry/grading.htm>.

(iv) Egg products (liquid, dehydrated, frozen) may be supplied from establishments listed in the "Meat, Poultry and Egg Product Inspection Directory" published by the USDA FSIS at [http://apps.ams.usda.gov/plantbook/Query\\_Pages/PlantBook\\_Query.asp](http://apps.ams.usda.gov/plantbook/Query_Pages/PlantBook_Query.asp) . All products, to be acceptable, shall, on delivery, bear on the product, its wrappers or shipping container, as applicable, the official inspection legend or label of the inspection agency and applicable establishment number.

(v) Fish, fishery products, seafood, and seafood products may be supplied from establishments listed under "U.S. Establishments Approved For Sanitation And For Producing USDC Inspected Fishery Products" in the "USDC Participants List for Firms, Facilities, and Products", published electronically by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration Fisheries (USDC, NOAA) (available at: [seafood.nmfs.noaa.gov](http://seafood.nmfs.noaa.gov)). All products, to be acceptable, shall, on delivery, bear on the product, its wrappers or shipping container, as applicable, the full name and address of the producing facility.

(vi) Pasteurized milk and milk products may be supplied from plants having a pasteurization plant compliance rating of 90 percent or higher, as certified by a state milk sanitation officer and listed in "Sanitation Compliance and Enforcement Ratings of Interstate Milk Shippers" (IMS), published by the U.S. Department of Health and Human Services, Food and Drug Administration (USDHHS, FDA) at <http://www.fda.gov/Food/GuidanceRegulation/FederalStateFoodPrograms/ucm2007965.htm>. These plants may serve as sources of pasteurized milk and milk products as defined in Section I of the "Grade 'A' Pasteurized Milk Ordinance" (PMO) published by the USDHHS, FDA at <http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk/default.htm>.

(vii) Manufactured or processed dairy products only from plants listed in Section I of the "Dairy Plants Surveyed and Approved for USDA Grading Service", published electronically by Dairy Grading Branch, AMS, USDA (available at: <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRD3651022>) may serve as sources of manufactured or processed dairy products as listed by the specific USDA product/operation code. Plants producing products not specifically listed by USDA product/operation code must be Worldwide Directory listed (e.g., plant is coded to produce cubed cheddar but not shredded cheddar; or, plant is coded for cubed cheddar but not cubed mozzarella). Plants listed in Section II and denoted as "P" codes (packaging and processing) must be Worldwide Directory listed.

(viii) Oysters, clams and mussels from plants listed in the "Interstate Certified Shellfish Shippers Lists" (ICSSL), published by the USDHHS, FDA at <http://www.fda.gov/food/guidanceregulation/federalstatefoodprograms/ucm2006753.htm>.

(3) Establishments exempt from Worldwide Directory listing. Refer to AR 40-657/NAVSUPINST 4355.4H/MCO P1010.31H, Veterinary/Medical Food Safety, Quality Assurance, and Laboratory Service, for a list of establishment types that may be exempt from Worldwide Directory listing. (AR 40-657 is available from National Technical Information Service, 5301 Shawnee Road, Alexandria, VA 22312; 1-888-584-8332 ; or download from web site: [http://www.apd.army.mil/pdffiles/r40\\_657.pdf](http://www.apd.army.mil/pdffiles/r40_657.pdf)) For the most current listing of exempt plants/products, see the Worldwide Directory (available at: <http://phc.amedd.army.mil/topics/foodwater/ca/Pages/DoDApprovedFoodSources.aspx>).

(4) Subsistence items other than those exempt from listing in the Worldwide Directory, bearing labels reading "Distributed By", "Manufactured For", etc., are not acceptable unless the source of manufacturing/processing is indicated on the label or on accompanying shipment documentation.

(5) When the Military Medical Service or other Federal agency acceptable to the Military Medical Service determines the levels of food safety and food defense of the establishment or its products have or may lead to product contamination or adulteration, the Contracting Officer will suspend the work until such conditions are remedied to the satisfaction of the appropriate inspection agency. Suspension of the work shall not extend the life of the contract, nor shall it be considered sufficient cause for the Contractor to request an extension of any delivery date. In the event the Contractor fails to correct such objectionable conditions within the time specified by the Contracting Officer, the Government shall have the right to terminate the contract in accordance with the "Default" clause of the contract.

(b) Delivery conveyances.

The supplies delivered under this contract shall be transported in delivery conveyances maintained to prevent tampering with and /or adulteration or contamination of the supplies, and if applicable, equipped to maintain a prescribed temperature. The delivery conveyances shall be subject to inspection by the government at all reasonable times and places. When the sanitary conditions of the delivery conveyance have led, or may lead to product contamination, adulteration, constitute a health hazard, or the delivery conveyance is not equipped to maintain prescribed temperatures, or the transport results in product 'unfit for intended purpose', supplies tendered for acceptance may be rejected without further inspection.

FEDERAL FOOD, DRUG AND COSMETIC ACT-WHOLESALE MEAT ACT

(a) The Contractor warrants that the supplies delivered under this contract comply with the Federal Food, Drug and Cosmetic Act and the Wholesome Meat Act and regulations promulgated there under. This warranty will apply regardless of whether or not the supplies have been:

(1) Shipped in interstate commerce,

(2) Seized under either Act or inspected by the Food and Drug Administration or Department of Agriculture.

(3) Inspected, accepted, paid for or consumed, or any or all of these, provided however, that the supplies are not required to comply with requirements of said Acts and regulations promulgated there under when a specific paragraph of the applicable specification directs otherwise and the supplies are being contracted for military rations, not for resale.

(b) The Government shall have six months from the date of delivery of the supplies to the government within which to discover a breach of this warranty. Notwithstanding the time at which such breach is discovered, the Government reserves the right to give notice of breach of this warranty at any time within this six-month period or within 30 days after expiration of such period, and any such notice shall preserve the rights and remedies provided herein.

(c) Within a reasonable time after notice to the Contractor of breach of this warranty, the Government may, at its election:

(1) Retain all or part of the supplies and recover from the Contractor, or deduct from the contract price, a sum the Government determines to be equitable under the circumstances;

(2) Return or offer to return all or part of the supplies to the Contractor in place and recover the contract price and transportation, handling, inspection and storage costs expended therefore; provided, that if the supplies are seized under either Act or regulations promulgated there under, such seizure, at Government option, shall be deemed a return of supplies within the meaning of this clause and thereby allow the government to pursue the remedy provided herein. Failure to agree to any deduction or recovery provided herein shall be a dispute within the meaning of the clause of this contract entitled "Disputes".

(d) The rights and remedies provided by this clause shall not be exclusive and are in addition to other rights and remedies provided by law or under this contract, nor shall pursuit of a remedy herein or by law either jointly, severally or alternatively, whether simultaneously or at different times, constitute an election of remedies.

Any warehouse/storage facility used by the Prime Vendor to store food products intended for DLA customers must be inspected for sanitation and food defense compliance during Joint Quality Audits performed by USDA-AMS' and DLA Troop Support 's Quality Auditors or by USDA-AMS's Auditors as requested/directed by DLA.

Note: If the Prime Vendor stores, distributes, processes, and/or ships fresh fruits and vegetables (i.e. produce) to DLA customers, 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, a Hazard Analysis and Critical Control Point ("HACCP") Audit will be performed if a fresh-cut operation is performed at the Prime Vendor's facility. Bulk Fresh fruits and vegetable suppliers must be inspected and listed under the USDA-AMS GAP and/or the GHP Directory.

**C. WARRANTIES**

The supplies furnished under the resultant contract(s) shall be covered by the most favorable commercial warranties that the Prime Vendor gives to any of its customers, whether Government or commercial. The supplies and the rights and remedies provided therein are in addition to, and do not limit, any rights afforded to the Government by FAR 52.212-4 (o) "Warranty", Contract Terms and Conditions—Commercial Items (OCT 2018) and any addendum contained in the contract. The Prime Vendor will provide a copy of its most favorable commercial warranty to the Contracting Officer after award.

**D. QUALITY PROGRAM**

1. An established Supplier Selection or certification program, which promotes competition and results in consistent quality with minimal variation in product, shall be used to ensure

standardized product quality for each item supplied and/or listed in the stock catalogs, regardless of supplier. The rationale for choosing the supplier is based on successful relationships. The product quality shall be equal to that described in the pertinent item specification. Product characteristics shall be standardized to the extent that variations in flavor, odor, and texture will be minimized.

2. The Prime Vendor shall have a formal quality assurance program and a quality control manager that is responsible for oversight of the program. All aspects of quality as related to this subsistence contractor program shall be proactively monitored and evaluated by the Prime Vendor.
3. The Prime Vendor shall have inspection procedures that ensure the receipt, storage, and outbound movement of quality products to the customer. The Prime Vendor shall have adequate automated procedures, including procedures to ensure that the temperature and humidity controls that the Prime Vendor have in place are adequate and working.
4. The Prime Vendor shall develop and maintain a quality program for the product acquisition, warehousing and distribution to assure the following:
  - i. Standardized product quality;
  - ii. Wholesome product by veterinary standards;
  - iii. The usage of First-Expired, First-Out (FEFO) principles
  - iv. Product shelf life is monitored;
  - v. Items are free of damage;
  - vi. Items are segregated in OCONUS warehouses from commercial products;
  - vii. Correct items and quantities are selected and delivered;
  - viii. Ensure requirements of the Berry Amendment are met, when applicable;
  - ix. Customer satisfaction is monitored;
  - x. Product discrepancies and complaints are resolved and corrective action is initiated;
  - xi. Manufacturer, FDA, or DoD initiated food recalls are promptly reported to customers and DLA Troop Support;
  - xii. Compliance with EPA and OSHA requirements;
  - xiii. Distressed or salvaged items or products shall not be used;
  - xiv. Applicable food products delivered originate from a source listed as a Sanitarily Approved Food Establishment for Armed Forces Procurement;
  - xv. Hazard Analysis and Critical Control Point (HAACP), if applicable;
  - xvii. Commercial standards are used to maintain temperatures appropriate for individual items.
5. It is the policy of the Federal Government to encourage responsible uses of medically important antibiotics in the meat supply chain by supporting the emerging market for meat that has been produced according to responsible antibiotic-use policies, defined as those policies under which meat producers use medically important antibiotics only under veterinary oversight and only when needed to prevent, control, and treat disease – but not for growth promotion. This policy is expected to be in place in 2020; however, TWI is strongly encouraged to begin adopting responsible antibiotic-use policies prior to this date

## **E. QUALITY SYSTEMS MANAGEMENT VISITS AND AUDITS**

1. Quality Systems Management Visits (QSMVs)
  - i. The Supplier Support Division's audit personnel will conduct unannounced Quality Systems Management Visits (QSMVs) to review the Prime Vendor's compliance with the terms of the contract. The visits will be either on a routine basis or as a result of unsatisfactory ratings received during DLA Troop Support Product Audits, customer complaints, requests from the Contracting Officer, or as otherwise deemed necessary by the Government. QSMVs may include visits to subcontractors and/or product suppliers/food distributors used by the Prime Vendor. If DLA Troop Support deems it necessary to conduct an on-site visit with a subcontractor, product supplier and/or food distributor used by the Prime Vendor, the Prime Vendor shall make arrangements for these visits. During the QSMV the Government may review/verify one, several or all of the following areas as deemed necessary (this is not all inclusive): methods and procedures used to comply with the terms of the contract; condition of storage facilities; product shelf-life management;

inventory in-stock (i.e. age of product and condition, labeling, product rotation (e.g. First In-First Out), etc.); shelf life extensions; product substitutions; control of material targeted for destruction/disposal or to return to suppliers as a result of customers' returns including DLA Troop Support's contractor audit results and other recalls; review of paperwork for product destroyed/condemned or returned to supplier 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.; and Prime Vendor's response to customer returns/issues and visits to customer locations. The QSMV may also include unannounced visits to customers served by the Prime Vendor.

- ii. The Prime Vendor must provide the Government a report showing all DLA Troop Support catalog products sorted by location when the QSMV Team arrives. The Prime Vendor's technical proposal will be incorporated by reference into the contract.
- iii. The Prime Vendor will be responsible for complying with its technical proposal. Procedures and processes set forth in the Prime Vendor's technical proposal may be used as standards for a QSMV. If there is any conflict between the contract language and the Prime Vendor's technical proposal, the contract language governs.
- iv. The Prime Vendor must take corrective action to address any concerns identified as a result of the QSMV. Concerns identified during the QSMV, or Prime Vendor failure to take corrective action in response to QSMV findings, will be grounds for terminating the contract for cause. The government may, at its discretion, take other action to correct the concerns identified during the QSMV, such as but not limited to additional unannounced QSMVs. Such action will not constitute Government forbearance or waiver of noncompliance with contract requirements, and will not affect the government's right to terminate the Prime Vendor's contract or take other corrective or adverse action.

## 2. Product Quality Audits:

### i. Basic Audits

- a. The DLA Troop Support Worldwide Food Audit Program, covering all Food Classes within a Prime Vendor's catalog (Meat, Poultry, Seafood and Processed Products, and other items as deemed appropriate) functions as a Service and Quality Assurance check for our DoD customers to ensure the war fighters are receiving products of an optimum quality level. The audit objectives focus on the following to ensure:
  - Prime Vendor adherence to contract requirements;
  - The quality level of the materials supplied is satisfactory and uniform throughout the DLA Troop Support -FT Subsistence Prime Vendor Regions; and
  - There is no product misrepresentation or unapproved substitution.
- b. The Audit objectives are accomplished utilizing the expertise of the U.S. Dept. of Agriculture ("USDA") Agricultural Marketing Service ("AMS") Meat, Poultry and Processed Products Graders, U.S. Dept. of Commerce ("USDC") National Marine Fisheries Services, and DLA Troop Support -FT Quality Assurance personnel. Representatives from the above agencies form the DLA Troop Support Worldwide Food Audit Team.
- c. Each Prime Vendor will undergo an initial audit once per contract tier pricing period with the first audit occurring during the first tier pricing period and other audits occurring once during each subsequent tier pricing period. The Audits are conducted as a product cutting. The average cost of one Food Audit is approximately \$15,000.00 (product cost only). As a Prime Vendor, your firm will be expected to provide samples of the government's choice at a cost of approximately \$15,000.00 per audit. Additional cost may be incurred by the Prime Vendor if the Prime Vendor's facility does not have a facility/kitchen or the equipment needed to perform the audit. The Government will not pay for any products used during the food audit. All costs associated with these audits must be included in your distribution prices. Product destruction and transportation to the destruction site, if applicable, will be the responsibility of the PV.

## ii. Audit Process

- a. The Prime Vendor 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.
- b. DLA Troop Support PV Quality Audits are typically a three (3) day process. Day one (1) is devoted to sample selection at the Prime Vendor's warehouse. Day two (2) and three (3) encompass the performance of the actual audit.
- c. If the Prime Vendor stores, distributes and/or ships fresh fruits and vegetables to DLA customers, a Produce Quality Audit may be conducted in conjunction with the Prime Vendor Quality Audit or separately. Also, a Joint DLA/USDA-AMS Good Agricultural Practices ("GAP")//Good Handling Practices ("GHP")//Hazard Analysis and Critical Control Point ("HACCP") (if fresh-cut operation performed at the Prime Vendor facility) will be performed. A Produce Quality Audit is typically a two (2) day process. Day one (1) is devoted to sample selection at the Prime Vendor's warehouse and performance of the GAP/GHP/HACCP Audit. Day two (2) encompasses the performance of the actual Produce Quality audit, a Joint USDA-AMS effort. Warehouse/storage facility used by the Prime Vendor to store food products intended for DLA customers will be inspected for sanitation and food defense compliance during Joint Quality Audits performed by USDA-AMS' and DLA Troop Support 's Quality Auditors or by USDA-AMS's Auditors as requested/directed by DLA.
- d. Upon arrival at the Prime Vendor's facility (Day one (1)), the Lead Auditor will provide a list of items identified for evaluation and the samples will be selected by a USDA-AMS' Auditor. The Lead Auditor will accompany the USDA-AMS during the performance of the GAP/GHP Audits.
- e. Items selected for evaluation will be segregated from the Prime Vendor's regular inventory and appropriate procedures shall be used to maintain the integrity of the samples. Evidence that the Prime Vendor 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.
- f. During the Produce Quality Audit (Day two (2)), 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, 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.
- g. Deviations from the contract or stock number requirements will be color coded and classified based on the severity of departure from requirements as follows:

**PRIME VENDOR PRODUCT AUDIT RATINGS (COLOR CODE RATING 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 or affect its condition and/or the continued storage of the item for further use. Examples of minor nonconformance's: Cataloging issues; Minor workmanship/fabrication violations; Minor weight/portion control violations; Items that exhibit very slight freezer burn or dehydration on some sample units; Minor deviations from packing, packaging, labeling and marking requirements that would not necessitate a regulatory market suspension or affect DLA Troop Support ability to recall the item.

**ACTION REQUIRED:** This nonconformance requires attention from the Prime Vendor. Minor nonconformances may be tolerated by the customer for a short period of time (until the Prime Vendor receives a new product at its OCONUS facility, but for no more than 30 days at CONUS locations).

**MAJOR NONCONFORMANCE (BLUE)** = A major nonconformance, other than critical, is a deviation from the contract or the item description stock number requirements. This major nonconformance is a deviation that materially affects or is likely to have a major effect on the serviceability, usability, condition and/or continued storage of an item for further use. Examples of major nonconformance's: Domestic source/regulatory/approved source violations; Wrong item; Grade failures or mismatch; Major workmanship/fabrication violations; Major weight/portion control violations; Item shelf life/ expiration date violations; Not latest season pack/crop year violations; Items that exhibit major freezer burn or dehydration, 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 prevents the performance and production of an end item/meal by the customer; and/or major deviations from packing, packaging, labeling and markings that would necessitate a regulatory market suspension or have a major effect on DLA Troop Support's ability to recall the product.

**ACTION REQUIRED:** Prime Vendor is required to STOP ISSUE of the item, 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 decomposition, contamination, foreign material, and/or other conditions that render an item unfit for human consumption.

**ACTION REQUIRED:** Prime Vendor is required to STOP ISSUE of the item, immediately NOTIFY DOD CUSTOMERS, REQUEST RETURN of the item in question, and notify supplier/producer of the item (if applicable).

**NOTES:**

**1/ MAJOR NONCONFORMANCE (BLUE)** = In Prime Vendor OCONUS locations only, the Contracting Officer may approve continue issue of the item because of location extenuating circumstances and on a case-by-case basis. This approval is dependent on the type and severity of the deviation; DLA Troop Support -FTSB' Lead Auditor recommendation; customer approval; and if the same item and/or a substitute of equal/higher technical quality is Not-in-Stock at OCONUS location. Continue issue of the item may require and include Prime Vendor screening/rework of the nonconforming item and follow-up Government inspection/audit to verify action taken by the Prime Vendor (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 items not meeting item description cited in DLA Troop Support catalogs. The rating assigned to the item WILL NOT be changed by the Lead Auditor because of acceptance with a waiver/rework/repair of the item is in question. The DLA Troop Support Food Safety Office (DLA Troop Support -FTW), at the request of the Contracting Officer, may issue a restricted (to DLA Troop Support customers only) Hazardous Food Recall for all those items originating from an unapproved source and distributed to DLA Troop Support customers worldwide.

**2/ CRITICAL NONCONFORMANCE (RED)** = The DLA Troop Support Food Safety Office (DLA Troop Support-FTW) 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 DOD customers. If applicable, the Contracting Officer should suggest suppliers/producers of the item to review shipping

documents to ensure the same item was not delivered to other DOD customers.

### iii. Audit Preparation

The Prime Vendor is responsible for and will bear all costs for the facility and the equipment/supplies used during the audit. Immediately upon receipt of the audit notification, the Prime Vendor 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 Prime Vendor facility or the space is inadequate other arrangements must be made by the Prime Vendor. The room must be equipped with running water. Cleanup of the cutting area/room and continuous cleanup of equipment will be the Prime Vendor's responsibility. The Prime Vendor must call 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 / personnel that may be needed:

- Freezer storage area to store samples selected.
- Chill area for tempering product for approximately 10 + 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.
- Pans or work area in close proximity to a sink area to drain/purge from packaged product.
- Deep fat fryer.
- Microwave.
- Calibrated scales – A scale capable of weighting portion control items and roasts; a large scale capable of weighting large cases (weighing up to 70 pounds); a digital portion scale capable of weighting in ounces and grams.
- A minimum of 10 large flat baking sheet pans, plastic trays or some type of tubs to place thawed meats. Cart to move samples around.
- Cutting boards (two or three).
- Large trash cans with bags.
- Power hook-up for 3-4 computers. Access to a copy machine.
- Small box for ground beef samples (Approx. 10 oz) and dry ice or cold packs for mailing.
- Miscellaneous supplies: Paper towels; heavy-duty plastic bags; one box of large latex gloves; paper flip chart/easel with markers (RED, BLUE, ORANGE, GREEN, BLACK); cellophane tape.
- Optional but considered highly desirable: Cloth towels and floor covering to maintain clean and sanitary floor areas.
- A camera and a person to take digital pictures during the audit may be required.
- A copy of the pictures will be e-mailed to the DLA Troop Support auditor at the end of the audit.

### iv. Sample List/Selection of Samples

- a. The DLA Troop Support Lead Auditor will provide a list of sample items upon arrival at the contractor facility. Two samples for each item will be selected. Pick list/picker stickers, six (6) month velocity or usage report, and an on-hand inventory quantity report (i.e. number of cases on hand) should be developed for each item after receipt of the list. In addition, since all seafood items are required to originate from an approved source, copies of certificates/documentation for these items and any item on the list that is required to be certified must be available for review upon arrival at the facility. 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 will require tempering/thawing. An area will need to be provided for the sample tempering process with a capacity for at least 10 or more single layer pallets side by side. In order to rapidly temper these items, the warmest area at the facility will be needed.
- b. Upon tempering the items will need to be placed in a chilled environment. All samples must be stored in controlled conditions to protect from abuse or tampering. The meat audit items (approx.13-20) will be primarily Center of the Plate –Beef and Pork- Steaks,



## Theodor Wille Intertrade GmbH (TWI)

Roasts, Chops, Diced, and Ground items. Ground Beef Bulk and Patties will be sent to the USDA laboratory for Analytical testing- Fat only. The Prime Vendor will need to arrange for the shipping of the samples approximately 4 ounces, except in OCONUS areas where prohibition exists or it is impractical. The seafood items (approx. 13-20) will consist of Fish - Portions, Sticks, Fillets, and Steaks, Shrimp, Lobster, Crab, Clam, Oyster, and Crawfish. Poultry items (approx. 13- 20) will also be center of the plate items. Processed Products Fruit and Vegetable will consist of approximately 13-20 Items.

NOTE: Certification/Documentation - To avoid delays/questions during the audit, the Prime Vendor should ensure that ALL products intended for DLA Troop Support customers are derived from Approved Sources and meet the Berry Amendment requirements (unless otherwise is indicated in the contract or authorized by the Contracting Officer). The Prime Vendor should obtain and have the following certifications/documentation available during the sample selection (preferable) and/or during the audit should the Lead Auditor need to review documentation to verify compliance with the following: All Seafood items are required to originate from an approved domestic source; processed fruits and vegetables are required to be from the latest seasonal pack (crop year) available, so be prepared to provide seasonal pack/crop year information for samples selected; and any item on the list that is required to be certified must be available for review.

v. Audit Results

Quality audit results are performance indicators that will be used in conjunction with a Prime Vendor's past performance when evaluating its overall performance on future procurements. DLA Troop Support considers 85% acceptability for each category (Meats, Poultry, Seafood, and Processed Products) as the minimum standard for acceptable performance. The Prime Vendor will be given a detailed report on each product reviewed. It will be the Prime Vendor'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.

vi. Follow-Up Audits

Follow up audits may be scheduled within a one-year period of the initial audit 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.

Additionally, the Prime Vendor may be liable for Government costs (USDA-AMS/USDC inspection costs, travel, per diem, administration, etc.) incurred as a result of performing a follow-up audit. During a follow-up audit only those commodities 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 PV's catalog were NIS) during the initial audit, may also be audited during a follow-up. If the follow-up is a one (1) day audit (one or two commodities) these samples may require removal from refrigeration and/or frequent monitoring by Prime Vendor personnel, the previous day/evening to ensure thawing within a 24-hour period. Additionally, the DLA Troop Support -FTSB's Lead Auditor may stop at the facility to review the thawing progress the evening before the audit.

vii. Audit failures

As noted herein, audit failures and/or failure to take corrective 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 or follow-up audits. Such action will not constitute Government forbearance or waiver of the deficiency and will not affect the Government's right to terminate the Prime Vendor contract or pursue other corrective or adverse actions against the contractor.

**F. WAREHOUSING AND SANITATION PROGRAM/STORED PRODUCT PEST MANAGEMENT**

The Prime Vendor shall develop and maintain an approved, commercial sanitation certification and adhere to a stored product pest management program for the food and other co-located non-food items that comply with industry standard programs such as the Code of Federal Regulations, Title 21, Part 110, Food manufacturing Practices, the Federal Insecticide, Fungicide, and Rodenticide Act, the Food, Drug, and Cosmetic Act of 1938 as well as all pertinent state and 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.

**G. DELIVERY TEMPERATURES, SHIPPING AND STORAGE REQUIREMENTS**

1. The Prime Vendor is responsible for proper product storage, segregation and delivery of product in excellent condition. The following will apply:
  - i. In order for frozen items to be accepted by the receiving activity, the following criteria must be observed:
    - a. Packages must be solid, not soft, upon arrival;
    - b. Container and wrapping must be intact, not damaged, and in a solid condition;
    - c. Packages must be free of drip and show no evidence of thawing and re-freezing (i.e. watermarks on boxes; off odor) or dehydration; and
    - d. Cello wrapped packages will not be discolored or show other signs of freezer burn.
2. Items requiring "Protection from Heat" shall be stored and delivered at a temperature below 70 degrees Fahrenheit.
3. Items requiring chilled conditions shall be stored and delivered under refrigeration of 32 to 40 degrees Fahrenheit.
4. For ice cream, the recommended storage and delivery temperature is -10 degrees Fahrenheit and the temperature shall not exceed 0 degrees Fahrenheit

**H. REJECTION PROCEDURES**

1. If product is determined to be defective, damaged, and/or compromised in any other manner, it may be rejected by the authorized Government receiving official.
2. When product is found to be non-conforming or damaged, or otherwise suspect, the authorized Government receiving official shall reject the item and/or determine the course of action to be taken with the product in question. If present, the COR may be consulted. The final decision is to be made by the authorized Government receiving official or Contracting Officer.
3. In the event an item is rejected, 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 delivery ticket/invoice total must be adjusted to reflect the correct dollar value of the shipment.
4. Replacements will be authorized based on the customer's needs. Any replacement delivered items will be delivered under a separate delivery ticket/invoice utilizing a new call number, CLIN number, and delivery order number. These re-deliveries will not constitute an emergency requirement and therefore will have no additional charges. These re-deliveries shall be made by the Prime Vendor as soon as possible.
5. In the event that a product is rejected after initial delivery is made, the Prime Vendor may be required to pick up the rejected product or the customer may agree to dispose of it. 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 contractor has already been paid for the product, an offset will be issued through DLA Troop Support's financial system.
6. Government policy requires that product shall be inspected upon receipt as promptly as practicable. However, failure to promptly inspect or accept supplies shall not relieve the Prime Vendor from responsibility, nor impose liability on any of the customers, for nonconforming

supplies.

7. Supplies transported in vehicles which are unsecured, show signs of tampering, not sanitary, or which are not equipped to maintain prescribed temperatures, may be rejected summarily without further inspection.
8. Product that is rejected shall not be delivered to any customer.

#### **I. AUTHORIZED RETURNS**

The Prime Vendor shall accept returns under the following conditions:

- i. Products shipped in error;
- ii. Products damaged in shipment;
- iii. Products with concealed or latent damage;
- iv. Products that are recalled;
- v. Products that do not meet shelf life requirements;
- vi. Products that do not meet the minimum quality requirements as defined for the items listed in the Market Basket;
- vii. Products delivered in unsanitary delivery vehicles;
- viii. Products delivered that fail to meet the minimum/maximum specified temperature;
- ix. Quantity excess as a result of order fulfillment error by the contractor / and or purchase ratio factor error; and
- x. Any other condition not specified above that is determined a valid reason by the customer and approved by the Contracting Officer or the Contracting Officer's Representative prior to return.

#### **J. SHORT SHIPMENTS AND SHIPPING ERRORS**

1. The authorized Government acceptance official will annotate short shipment(s) on the delivery ticket/invoice that accompany the delivery. Once complete, the acceptance official will print their full name, sign and date the delivery ticket/invoice. The Prime Vendor's representative (i.e. the truck driver/pilot), will acknowledge and counter-sign the delivery ticket/invoice. Both Government acceptance official's and the Prime Vendor's representative's signatures MUST be legible. If either signature is not legible, the delivery ticket/invoice payment may be delayed or not processed at all.
2. Any product delivered in error by the Prime Vendor must be picked up on the next delivery day after notification by the ordering facility.

#### **K. U.S. ARMY MEDICAL DEPARTMENT ARMY PUBLIC HEALTH CENTER INSPECTORS AND INSPECTIONS**

As described and detailed in this contract, all inspections by United States Army Public Health Center ("USAPHC") (Formally VETCOM) shall be conducted in accordance with 48 CFR Part 246, Army Regulation (AR) 40-657, AR 40-656, and any other rule, regulation, or standard food inspection policy applicable to the Subsistence Prime Vendor operating within the geographic areas under this contract. Any and all inspection determinations made by the USAPHC shall be final.

#### **L. MILITARY INSPECTION AT DESTINATION**

1. All deliveries are subject to military inspection at destination. Delivery vehicles may be required to stop at a central location for inspection before proceeding to the assigned delivery point(s). 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 Office" activity on the installation after all drops have been made and prior to the carrier's departure from the installation.
2. Under normal conditions, all deliveries shall be F.O.B. Destination to the end user delivery points. The delivery points are indicated in the Customer Section below. For Prime Vendor deliveries of product from the OCONUS facility(s), all items will be delivered to end-user customer delivery point's loading platform (unless otherwise indicated) and be free of damage, with all packaging and packing intact. The Government shall not be liable for any delivery,

storage, demurrage, accessorial, or other charge involved before the actual delivery (or "constructive placement" as defined in carrier tariffs) of the supplies to the final destination. The Prime Vendor may be liable directly to the USTRANSCOM carrier(s) for charges for detained containers, port storage of detained containers, and maintenance of detained refrigerated containers. The Prime Vendor shall pay and bear all charges to the specified point of delivery. For complete definition of F.O.B. Destination, see FAR 52.247-34, F.O.B. DESTINATION (Nov 1991), which is incorporated into this contract by reference.

- i. FOB Destination Shipments: All shipments, unless otherwise specified by the Contracting Officer.
  - ii. Inspection and acceptance of products will be performed at destination by an authorized Government receiving official. 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.
  - iii. The Prime Vendor's delivery vehicles shall be equipped to maintain the appropriate temperatures and product segregation as necessary to deliver products at the proper temperature. Deliveries shall be made in clean, closed vehicles. When transporting food items, the vehicles shall be maintained in good sanitary condition to prevent contamination of the material. Delivery vehicles used to deliver items under this contract shall be subject to military veterinary inspection at destination. In addition, the delivery vehicles will be inspected for cleanliness and condition.
  - iv. The authorized Government receiving official at each delivery point is responsible for inspecting and accepting products as they are delivered. The delivery ticket/invoice shall not be signed prior to the inspection of each product. All signatures, whether from the Prime Vendor or the customer, must be legible so that the individual signing may be identified and questioned in the circumstance of any dispute that may arise.
  - v. All overages/shortages/returns are to be noted on the delivery ticket/invoice by the authorized Government receiving official and truck driver/pilot. A signature on the delivery ticket/invoice denotes acceptance of the product.
  - vi. The Prime Vendor shall forward two (2) copies; of the delivery ticket/invoice with the shipment. The authorized Government receiving official will use the delivery ticket/invoice as the receipt document. Both copies of the signed and annotated delivery ticket/invoice will serve as the acceptance document. No invoice may be submitted for payment until acceptance is verified.
3. Under special circumstances; i.e., special military exercises, F.O.B. Origin terms will apply. In these instances, the Government will accept product at the Prime Vendor's CONUS facility (FOB Origin) and a fifty percent (50%) reduction of the distribution price shall be applied. For complete definition of F.O.B. Origin, see FAR Clause, 52.247-29, F.O.B. ORIGIN (Feb 2006), which is incorporated into this contract by reference. On any F.O.B. origin shipment, the Prime Vendor must arrange for USDA Inspection and is responsible for associated cost.
- i. FOB Origin Shipments – Only when specified by the Contracting Officer.
  - ii. Inspection and acceptance of products will be performed at the Prime Vendor's CONUS distribution point by a USDA official (costs for this inspection program are borne by the Prime Vendor). Inspection will normally be limited to identity, count, and condition. The USDA official will sign the contractor prepared DD Form 250 form denoting acceptance of the product by the government. Invoices matching the DD250 quantities along with a copy of the DD250 will be express mailed by the contractor to both DLA Troop Support and the end customer.

#### **X. PACKAGING, PACKING, AND LABELING**

- A. All packaging and packing shall be in accordance with best commercial practices. Labeling shall be in accordance with commercial labeling complying with the Federal Food, Drug and Cosmetic Act and regulations promulgated there under. Shipping containers shall be in compliance with the National Motor Freight Classification and Uniform Freight Classification Code. The Prime Vendor

shall be responsible for complying with any applicable packaging, packing, and marking regulations of the various countries in/through which product will be stored/transported.

- B. Semi-perishable items shall be snugly packed in shipping containers that fully comply with the National Motor Freight Classification and Uniform Freight Classification Code, as applicable.
- C. All food and beverage products shall be identified with open code dates clearly showing the use by date, date of production, date of processing/pasteurization, sell by date, best if used by date, or similar marking indicating the end of the guaranteed freshness date. The Prime Vendor shall provide a code book for label/date verification.
- D. All meats, poultry, and seafood will be vacuum packed when practicable. In all instances the packaging must protect the product from freezer burn and contamination.
- E. Frozen product must be processed and packed to allow removal of the individual units from the container without damage to that or other units. The intent is to be able to remove only that amount of product required for current needs, without the necessity of defrosting all units.
- F. Chill and freeze products must be shipped in refrigerated (Reefer) Vans and appropriately separated per temperature requirements.

#### G. DLA PACKAGING REQUIREMENTS FOR PROCUREMENT

##### (1) Additional Packaging and Marking Requirements:

(a) Prohibited cushioning and wrapping materials: Use of asbestos, excelsior, newspaper, shredded paper (all types, including wax paper and computer paper), and similar hygroscopic or non-neutral materials and all types of loose-fill materials, including polystyrene, is prohibited for application such as cushioning, fill, stuffing, and dunnage. In addition, the use of yellow wrapping or packaging material is prohibited except where used for the containment of radioactive material

(b) MIL-STD-129 establishes requirements for contractors that ship packaged materiel to the Government to provide both linear bar codes and two-dimensional (2D) symbols on shipping labels. Shipping labels with 2D symbols are referred to as Military Shipping Labels (MSL) and are required 122 on all CONUS and OCONUS shipments with the following exceptions:

(1) Subsistence items procured through full-line food distributors (prime contractors), "market ready" type items shipped within the Continental United States (CONUS) to customers within CONUS;

(2) Any item for which ownership remains with the contractor until the item is placed in designated locations at the customer location prior to issuance to the customer. Government control begins upon placement of the item by the contractor into the designated location or issuance from the designated location by contractor personnel (i.e., the contractor is required to stock bins at the customer location and/or issue parts from a contractor controlled parts room).

(3) Bulk petroleum, oil and lubricant products delivered by pipeline; or tank car, tanker and tank trailer for which the container has a capacity greater than 450 L (119 gallons) as a receptacle for a liquid; a maximum net mass greater than 400 kg (882 pounds) and a capacity greater than 450 L (119 gallons) as a receptacle for a solid; or a water capacity greater than 454 kg (1000 138 pounds) as a receptacle for a gas.

(4) Medical items procured through Customer Direct suppliers or prime contractors that do not enter the Defense Transportation System.

(5) Delivery orders when the basic contract has not been modified to require MIL-STD-129.

(c) MIL-STD-129 provides numerous illustrations of what should be bar-coded and the recommended placement of the bar code. Further information is available on the DLA Packaging Website

at:  
<http://www.dla.mil/LandandMaritime/Offers/Services/TechnicalSupport/Logistics/Packaging.asp>

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##### (2) Requirements for Treatment of Wood Packaging Material (WPM)

(a) Assets packed in or on wood pallets, skids, load boards, pallet collars, wood boxes, reels, 152 dunnage, crates, frames, and cleats must comply with the Heat Treatment (HT) or Heat Treatment/Kiln Dried (HT/KD) (continuous at 56 degrees Centigrade for 30 minutes) standard in 6 DoD Manual 4140.65-M "Compliance for Defense Packaging: Phytosanitary Requirements for Wood 155 Packaging Material (WPM)". WPM must be stamped or branded with the appropriate certification 156 markings as detailed in DOD 4140.65-M and be certified by an accredited

American Lumber Standards Committee (ALSC)-recognized agency. The WPM certification markings must be easily visible, especially in pallet loads, to inspectors.

(3) Palletization shall be in accordance with MD00100452, REVISION C, DATED 09/2016161 found at <http://www.dla.mil/LandandMaritime/Offers/Services/TechnicalSupport/Logistics/Packaging/Palletization.aspx>.

## **XI. MARKINGS**

- A. To ensure that the carrier and the receiving activity properly handle and store items, standard commercial precautionary markings such as "KEEP FROZEN", "KEEP REFRIGERATED", etc. shall be used on all cases when appropriate.
- B. To the maximum extent possible, nutritional and ingredient labels shall be placed on the individual package.
- C. Any delivered product not labeled with the name and address of the manufacturing establishment must be identified as to its manufacturer by "timely" advance written notice to each installation's officer in charge of food service (e.g. Installation Food Advisor (IFA)). The listing is requested in alphabetical order in respect to the shipping container nomenclature. This listing must be kept current and provided to each Installation's Food Advisor, Food Service Officer, or FSC on a quarterly basis.

### **Case Marking/Labeling – Customers OTHER THAN THE NAVY**

Shipping cases shall be marked or labeled on one end or side panel with the following information:

- Stock Number
- Item Nomenclature or Description
- Global Trade Item Number (GTIN)
- Date of Pack
- Product Expiration Date and/or
- Best If Used By Date

- D. CODE DATES: All products shall be identified with readable open code dates (open code dates are markings that indicate product expiration date). All products delivered by the Prime Vendor will have an "open coded" (month/year) "Date of Pack" (DOP) and an "open coded" "Best When Used By Date," "Sell by Date," date of production, date of processing/pasteurization or similar marking indicating the end of the guaranteed freshness date. If the product manufacturers/producers do not use open code dating, the Prime Vendor should request labeling with open code dates or shall use the origin manufacturers/producers Product Code Key to decode the item shelf life information, decode the closed code date, and must apply the open code date to their own label. Item Nomenclature shall be sufficient to identify the item. It is mandatory that a label containing this information be on every case delivered. Bar Codes are not required on shipping cases. If bar codes become a requirement during the life of this contract, the Prime Vendor will be required to apply the bar codes as directed.
- E. TRACEABILITY REQUIREMENTS FOR PRIME VENDOR AND ITS SUPPLIERS RE-PACKAGING AND RE-LABELING PRODUCTS:

If the Prime Vendor removes the item from the manufacturer's original packaging/shipping container and re-packages/re-labels an item, documentation must be maintained to trace the item back to the original producer/packer in case of a hazardous food recall or an item is rated Red/Critical during a DLA Troop Support audit. The Prime Vendor shall maintain or request from its suppliers documentation/certificates containing the following information: Item nomenclature, name and number of establishment, location, country of origin, date of production/pack ("DOP"), lot number, etc. If processing/production/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 a lot number/DOP/Code Date of an item can be traced back to the original manufacturers/producers of an end item. The manufacturer/producer and/or the contractor's item label shall clearly identify the item(s) shelf life information (using an open code date) on the exterior of each case. In addition, the Prime Vendor must maintain records of quantities and when and where the re-packaged/re-labeled item(s) were shipped. The Prime Vendor must be able to show/provide DLA Troop Support Quality Auditors the documentation for samples selected during contractor Product Quality Audits or

Unannounced Quality Systems Management Visits (QSMVs). It is the Prime Vendor's responsibility to notify and ensure their suppliers understand and comply with this requirement.

- F. The above requirements are necessary in the event of a food recall (i.e., ALFOODACT) of potentially hazardous products when a recall is issued by a Regulatory Agency and for the Prime Vendor to isolate suspected items in order to notify customers in an expeditious manner whenever products are rated "Red/Critical" during a DLA Troop Support audit. The above requirements serve two main purposes: (1) 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 products and (2) to maintain traceability of re-packaged/re-labeled items in order to verify country of origin, approved source requirement during the shelf life cycle of the item in the contractor storage and the customer's receipt/storage of the item in order to expedite the recall process for all suspected items intended for DLA Troop Support's customers.

## **XII. PALLETIZATION**

- A. All Prime Vendor shipments must be palletized in accordance with good commercial practices. The Prime Vendor is responsible for the purchase of all pallets, which must be American sized pallets (48 x 40 inches). Pallets may not always be returned on a 1 to 1 basis. This does not relieve the Prime Vendor from delivering products on the proper type pallet. Pallet retrieval and all associated costs shall be the responsibility of the Prime Vendor. Deliveries will be uniquely palletized for ultimate consignees. Under no circumstances will material for different consignees be co-mingled on the same pallet.
- B. The palletized/containerized unit loads require placards. The placards contain identification and contract data markings, which are to be stenciled, printed or labeled on two adjacent sides of the unitized load. The placards contain the stock number, Food Items Code (FIC), item description, quantity, size and unit, the quantity is the number of shipping cases in the unit load, the gross weight and cube, the contract and delivery order number, expiration date and the contractors name and address.
- C. Cases may be mixed on the pallet, but are to be skillfully built to protect the product and case integrity as to allow the receiver to out check/in check all items on that pallet. All shipments must include a pallet manifest in addition to the truck manifest.
- D. Special Navy Ship Requirements:
1. For deliveries to large deck U.S ships (CVN/LHA/LHD Ship Classes) or CLF ships the following applies.
    - a. When a CVN/LHA/LHD or Resupply ship is the ultimate consignee:
      - 1) Palletized material shall not exceed 48" in height, including the pallet.
      - 2) All pads must be commercial fiberboard, 40"X48", positioned on the pallets before loading. The unit load bonding material must consist of strappings: two-girth wise and three lengthwise. Bonding material shall be threaded through the strapping slots on the pallet to form a consolidated, stable cargo, which can be handled as a unit or commercially shrink-wrapped.
      - 3) All shipments of bagged products susceptible to breakage/leakage such as flour, sugar, salt and rice must be further packaged in a tri-wall container.
    - b. When other than a CVN/LHA/LHD or CLF ship is the ultimate consignee:
      - 1) Palletized material shall not exceed 40" in height, including the pallet.
      - 2) Pallets shall be double shrink-wrapped.

## **XIII. CUSTOMERS**

Most locations will require deliveries every other day; however, if necessary, FF&V and LMR deliveries may be required every day. The names of the facilities and even the locations may change during the life of the contract. The Prime Vendor must have the appropriate equipment to make all deliveries in all areas covered by the respective contract. The countries supported in Zone 1 of this contract are as follows:

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<b>Zone 1 Northern Europe</b>	
Austria	Lithuania
Belarus	Luxembourg
Belgium	Monaco
Corsica	Netherlands
Czech Republic	Norway
Denmark	Poland
Estonia	Slovakia
Finland	Sweden
France	Switzerland
Germany	Ukraine
Hungary	United Kingdom (UK)
Iceland	
Ireland	
Latvia	
Liechtenstein	

During the life of the contract for Zone 1, Non-Appropriated Funds (NAF) AIR Customers may be supported. NAF items may include Signature Brands and Proprietary items; should Proprietary items be added to the PVs catalog(s); DLA Troop Support will closely monitor those items so that no other customers can order those items; those items are to be used by certain facilities designated by the Service HQ. Use of these items by other customers, may result in the loss of the NAF requirement. Proprietary Items must be completely segregated from all other Prime Vendor inventory as to ensure these items are not delivered to other customers.

#### **XIV. Delivery, Title, Orders, and Order Fill Rates**

##### **A. CUSTOMER DELIVERIES**

Normal routine deliveries for Land Based customers in Zone 1 shall be made within two (2) calendar days after order placement unless otherwise directed by the Contracting Officer.

- i. Unless otherwise specified by the Contracting Officer, deliveries shall be F.O.B. Destination to all ordering activities and delivery points. All items will be delivered to customer locations, within the scheduled delivery period, free of damage, with all packaging and packing intact. Dependent upon the specific customers, deliveries shall average 1-3 times per week to each customer, unless the customer and the Prime Vendor agree upon more or less frequent deliveries. All orders shall be accompanied with two copies of the delivery ticket/invoice documents. Upon completing the delivery(ies), and before the transporter leaves, the installation copies of the invoice/delivery ticket may be required to be delivered to a central "Accounting/Troop Issue" activity of the installation.

Pallet return may not be allowable either due to customer missions(s) or country custom regulations. Where allowable and practical, pallet exchange programs will be implemented by customers. Pallets will rarely be returned on a 1 to 1 basis. The Prime Vendor shall remove all empty pallets and all excess packaging materials on the next delivery at their own expense. Any charges accrued due to delay or non-removal of the packing material is the responsibility of the PV and will not be reimbursed by DLA Troop Support.

The Prime Vendor should be aware that projected feeding strengths at each military location are subject to fluctuations based on a variety of factors; i.e., seasonal increases/decreases in personnel, surges in personnel during training exercises or crisis situations, or troop transfers, etc. As previously described, any projections are estimates provided as guidance to the Prime Vendor to assist in its supply chain management. The Government will use its best efforts to ensure the accuracy of any information provided, but in no way warrants or represents as to the accuracy of that information as to be liable for such information. It is the sole responsibility of the Prime Vendor to ensure that its supply chain management is executed in such a way as to meet all contractual requirements specified in this contract or added via modification to the resulting contract. Therefore, it is critical that the Prime Vendor's customer service representatives be able to converse fluently in



English, and maintain open communications with the individual bases to properly manage its supply chain, be aware of these fluctuations, and work closely with the customers to provide the increased quantity and frequency of deliveries needed during these critical times.

Installation delivery routes and stop-off sequences will be coordinated and verified with the installations on a post award basis by the Prime Vendor.

All deliveries are subject to military inspection at destination; delivery point information is provided in Attachment 3. Delivery vehicles may be required to stop at central locations and / or Entry Control Points (ECPs) for inspection before proceeding to or leaving assigned delivery point(s). The Prime Vendor may experience delays at some ECPs due to security procedures. The Prime Vendor must maintain records and provide a signed copy of the delivery ticket/invoice per U.S. Government instructions.

Products for individual customers/dining facilities must be segregated. Many of the military bases have more than one delivery point. All products shall be segregated by drop-off point. The intent is to provide expeditious off-loading and delivery to the customer.

The Prime Vendor shall also ensure that the personnel loading and delivering the product provide prompt and efficient service to the customer. Drivers shall carry picture ID's, and comply with badge requirements and any other internal ID and security requirement of the specific site, at no additional cost to the U.S. Government. Trucks/aircraft shall also be properly registered with each activity to ensure smooth admission to the compound, while fully honoring all local security protection measures of the military activities. The Prime Vendor may be responsible for consequential damages resulting from its employees' or subcontractors' failure to abide by security protection measures.

Delivery to airfields and airports may also be required. The Prime Vendor must be in compliance with all theatre air control requirements. The Prime Vendor will be required to palletize, cover, strap down and transport cargo to the designated airfield. At the airfield, the Prime Vendor will be responsible for bringing the product to the tail of the aircraft, if required and the product must be accessible for downloading by the customer. The Prime Vendor will be required to properly prepare / process any and all required documentation before items are accepted for airlift transport. Once the Prime Vendor ensures that said documentation is properly filled out and all cargo is safely palletized and passes inspection, the air pallets will be loaded onto the awaiting aircraft.

Note: If additional customer locations are added during the life of the contract, the already established distribution prices per the contract will apply to the additional locations, and no further cost will be incurred by the Government.

**B. REMOTE LOCATIONS**

The countries below have been designated as remote locations and require a different order lead-time than defined in the Customer Deliveries section. Saturday deliveries may occasionally be necessary, and will be agreed upon by the PV and the individual customer(s). Lead-time is defined as the time of order receipt to the customers' delivery location. TWI's contractual leadtime for remote locations are below:

Zone 1 - Northern Europe:

REMOTE LOCATION	NUMBER OF DAYS LEADTIME REQUIRED
Belarus	█
Corsica	█
Estonia	█
Finland	█
Hungary	█
Iceland	█
Ireland	█
Latvia	█
Lithuania	█
Norway	█
Poland	█

REMOTE LOCATION	NUMBER OF DAYS LEADTIME REQUIRED
Sweden	
Ukraine	
United Kingdom	

**C. TITLE**

Title of all products purchased by the Government remains with the Prime Vendor during the shipment, and title passes to the Government only when products are inspected and accepted at the final delivery point by an authorized Government receiving official.

**D. ORDERING SYSTEM – SUBSISTENCE TOTAL ORDER AND RECEIPT ELECTRONIC SYSTEM (“STORES”)**

1. Accessed via the Internet, the 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 for the purposes of Prime Vendor payment and customer billing.
2. Customers will be able to order all of their requirements through STORES. The system will transmit orders to the Prime Vendor as well as DLA Troop Support.
3. The Prime Vendor shall be required to interface with STORES, or any future ordering system, and must be able to support the following EDI transactions:
  - i. 810 – Electronic Invoice
  - ii. 832 – Catalog (Outbound: Contractor to DLA Troop Support)
    - a. The Prime Vendor will be required to submit a breakout of their total contract unit price (i.e. separate Product price and Distribution Price columns).
    - b. Gross case weight, case cube, and number of cases per pallet will need to be provided by the Prime Vendor.
  - iii. 850 – Purchase order
  - iv. 864 – Inventory Reporting
4. Subsistence EDI guidelines and 864 Inventory Reporting requirements are identified at the bottom of this document.
5. The Prime Vendor shall have access to the Internet and be able to send and receive electronic mail (email).
6. Unit prices and extended prices must be formatted not more than two (2) places to the right of the decimal point.
7. The Prime Vendor is required to utilize the Government’s item descriptions in the Electronic Catalog (832 transmissions). The Government’s format begins with the broad category of the item and then continues with a more specific item description. For example: “Crinkle Cut Carrots,” would be listed as “Vegetable, Carrots, and Crinkle Cut.”
8. The Prime Vendor will utilize the DLA Troop Support invoice reconciliation process or other such systems as they become available, to the maximum extent, towards the goal of correcting invoices early and facilitating the payment process.
9. In the event that STORES or the Prime Vendor interface is not operational, the Prime Vendor must provide alternate ways for the customer to order (i.e. fax, phone, pick-up orders, etc.). However, for delivery, receipt, and payment purposes, the order will be generated manually via the Tailored Vendor Logistics Specialist (“TVLS”) at DLA Troop Support.
10. DoD has mandated that all personnel who access DoD systems must use Public Key Infrastructure (“PKI”) for all private web enabled applications. Prime Vendor personnel are required to have a DoD-approved PKI or External Certificate Authority (“ECA”) certificate to access STORES. The costs associated with a PKI or ECA are the responsibility of the PV.
11. The Prime Vendor is permitted to request no more than one (1) Special 832 Catalog transaction per week. All Special 832 Catalog transactions must be approved by the

Contracting Officer.

#### **E. ORDER PLACEMENT**

1. Order placement must be made by the customer before 12 noon local customer time to be considered for that day.
2. The Prime Vendor is to advise the customers of non-availability of an item and recommendation for re-order no later than 24 hours after customer order placement in STORES. If it appears that the Prime Vendor does not expect a stock replenishment in sufficient time to fulfill the requirement, the Prime Vendor should offer the customer a substitute of equal or higher quality and of equal or lower cost (unless otherwise accepted by the customer) at the time of the non-availability notification, or advise them of the not in stock (NIS) position of the item. The customer will make the final decision on the acceptability for any substitution, and submit a new delivery order.

#### **F. ORDER CANCELLATION**

For all customers, order cancellations must be received by the PV via email from the ordering activity or through a STORES receipt (zero) no less than 24 hours prior to the RDD. Restocking charges may only be applied at the Contracting Officer's discretion, for cancellations up to 24/72 hours respectively prior to delivery on orders over \$10K.

#### **G. HOLIDAYS**

All orders are to be delivered on the specified delivery date. However, when a scheduled delivery falls on a holiday or during a holiday period, the Prime Vendor shall make delivery arrangements in advance with the customer to prevent disruption of service. In certain areas covered under this contract there may be national holidays that cause complete shutdown of operations, in sufficient time prior to these holidays, the Prime Vendor must ensure that ample stock levels are maintained in the OCONUS distribution facility(s) should containers / trucks / aircraft be detained at the ports, borders, air ramps and/or the Prime Vendor's OCONUS distribution facility(s) due to limited transportation capabilities. Proper supply chain management is the Prime Vendor's responsibility.

#### **H. EMERGENCY ORDERS**

1. Emergency orders placed by the customer are those required outside of the normal delivery schedules. The Prime Vendor will provide a maximum of five (5) such "emergency" orders (excluding mobilization actions) per month per customer at no additional cost to DLA Troop Support or its customers. Greater than five (5) "emergency" orders will be approved at the Contracting Officers discretion and must be entered into STORES.
2. The Prime Vendor must receive and process delivery orders on any day of the week, including holidays. Delivery days and times under this contract are not restricted and may occur every day of the week in accordance with local laws and regulations.
3. The Prime Vendor is responsible for providing the ordering facilities with the name of the Prime Vendor's representative responsible for notification of receipt and handling of such emergency service and his/her phone number, e-mail address, and/or pager number.

#### **I. ORDER FILL OR SUBSTITUTION POLICY**

All supplies shall be furnished on a "fill or kill" basis. Customer notification and approval is required before any partial shipment can be made; however, the unfilled quantity is to be reported as not-in-stock (NIS). The Prime Vendor is required to have procedures for handling NIS situations.

TWI's ordering system must accommodate multiple orders from the same customer with the same order date and RDD. Replacement orders will not be acceptable and phone / fax orders will not be viewed as acceptable commitments.

**J. NEW ITEMS**

1. If a customer desires to order an item that is not part of the Prime Vendor's normal inventory, the Prime Vendor will be allowed a maximum of 120 days lead time to source, transport and make available the new item to the end-user customer. This 120-day period will begin after the Prime Vendor receives initial demand and approval from the individual services' Headquarters or Regional Area Command for the item. It is the Prime Vendor's responsibility to obtain individual services' Headquarters or Regional Area Command approval. The 120-day lead time does not apply to replacement items; lead time will depend on existing inventory and its depletion. The Prime Vendor must notify DLA Troop Support and the requesting activity when new items are available for distribution. These items should become a permanent part of the Prime Vendor's inventory if it appears that these items will be ordered regularly; i.e., a hospital supported under the proposed contract(s) uses dietary products and items unique to a healthcare facility. The Government does not intend to add a new item to the Prime Vendor's permanent catalog unless there is anticipated demand of at least fifteen (15) cases per month. For existing catalog items, the Prime Vendor will be responsible for notifying the Contracting Officer on a monthly basis if any cataloged item has not been ordered in sufficient quantities to meet a fifteen (15) case monthly order quantity. Those slow moving items will be considered for catalog deletion. Special Order, Seasonal, Spices, and Holiday Items will be required at less than fifteen (15) case demand levels and are excluded from the fifteen (15) case monthly demand review.
2. The Prime Vendor shall assume the responsibility of introducing new food items to the customers, as well as to show cost effective alternatives to customers' current choices. The Prime Vendor will use its proposed supplier selection process to include analysis/comments/recommendation of new products prior to the product sampling/taste testing. The PV will be responsible to work with the customer to ensure that the customer is included in the decision to determine the acceptability of product.
3. All new items, including replacement, Mandatory, MPA and National Contract items must be approved in accordance with individual services' Headquarters or Regional Area Command operating procedures. New item and replacement item prices must be determined fair and reasonable and approved by the Contracting Officer prior to the items addition to the customer's catalog and therefore customer's order. Customers are responsible for an estimate of initial monthly demand which the Prime Vendor will use for its original order placement with the supplier. The Prime Vendor will re-order inventory according to the customers' monthly sales. It is the Prime Vendor's responsibility to notify customers when product is not moving in accordance with the monthly sales, in order for the customers to potentially adjust purchase quantities.
4. The Prime Vendor agrees that all new items will not be made available and delivered to the customer(s) until sufficient inventory of the new products have been shipped and received in the Prime Vendor's OCONUS facility(s) with the new items added to the customer's catalog via the 832 catalog process according to the bi-monthly and monthly 832 catalog updates.
5. If an item is deleted or replaced by a new item due to customer preference, the customer will make reasonable efforts to draw down the Prime Vendor's existing inventory, before ordering the new replacement item. The new item **will not** be added to the catalog until existing inventory is depleted, unless otherwise approved by the Contracting Officer. In the event that an item is deleted without a replacement, the customer will still make reasonable efforts to draw down the Prime Vendor's existing inventory providing that the Prime Vendor did not mismanage the amount of inventory receipted into inventory. The Government will not, however, be liable for any unpurchased product.
6. An item that has been determined fair and reasonable and added to the PV's catalog(s), then removed and is needed to be added again within a 12-month period, e.g., holiday items, special occasion items, etc.. are not considered "new" items and are not subject to the NIRF process. The PV will follow normal 832 catalog price change procedures provided the item is exactly the same as the item previously determined fair and reasonable. This item may be subject to another fair and reasonable determination at the Contracting Officer's discretion. Items removed greater than 12 months, are considered new items and subject to the NIRF process.

## 7. Procedures for Processing New Items

- i. Written approval from the Contracting Officer shall authorize all specified new item additions and/or changes to NSNs prior to catalog update transmissions. This requirement is for the Contracting Officer's determination of price reasonableness. The customer will continue to determine those items to be added to the catalog.
- ii. Vendors must utilize the latest New Item Request Form (NIRF), which will be provided by the Contract Specialist during post-award administration. When downloading these forms from the website, there will be a message regarding the case label requirement. This pop-up must be acknowledged in order to access these forms. This NIRF must be submitted for all items including Mandatory and MPA items.
- iii. New item prices for non-MPA items must be determined fair and reasonable, and therefore approved by the Contracting Officer prior to the items addition to the customer's catalog. In accordance with past practice, the customer will continue to determine all items to be added to the catalog. However, new non-MPA items will not be added to the catalog unless the Contracting Officer determines the proposed prices for the new non-MPA item to be fair and reasonable and approves the addition.
- iv. Each request for the approval of a new item must have the following documentation attached:
  - Copy of the Manufacturer's original invoice signifying the Manufacturer's FOB Origin product price, and discount terms, or written price quote, on the manufacturer's letterhead, if the item is not currently in stock, containing: item price per unit of measure (UOM), date price quote was obtained, time period price quote is effective for, item description, quantity covered by the price quote, manufacturer's identification number (i.e., Global Trade Identification Number ("GTIN"), Stock Keeping Unit ("SKU"), Universal Product Code ("UPC"), etc.), manufacturer's FOB Origin product price, payment terms include any applicable discounts, manufacturer's point of contact information, stock number if available, NAPA Discount if applicable, FOB Origin Terms to include the location and the original manufacturer or grower's point of contact including name, title, signature address, and phone number. For all Fresh Fruit and Vegetable and OCONUS Items, in addition to the above, you must include the location of the importer.
  - Copy of the Manufacturer's specification sheet.
  - Supplier/Distributor Case Label.
  - Principal Display Panel ("PDP"). This is the portion of the label including the product name, manufacturer's declared statement of identity, and the case net weight. For meat and poultry items, also include the Handling Statement, and Legend/Establishment number.
  - Information Panel ("IP"). This is the portion of the label including the Ingredient Statement, Nutrition facts, county of origin and the name of the manufacturer, distributor, or broker and their address. This submission will assure the correct product information is available to the DLA Troop Support catalog team. Requests submitted without this information, will not be processed (the awardee will be provided copies of the acceptable "case labels" post award).
  - Distribution Price Category and Distribution Price per unit of measure ("UOM") will be annotated on the NIRF by the Contracting Officer or Contract Specialist.
  - Estimate of initial monthly demand for the new item (i.e. Average Monthly Demand) as provided by the customer.

\*Note: Both the Supplier/Distributor Case Label, PDP and the IP must be an actual photograph of the product/case. These must be legible and should be in a jpg, gif, or PDF format.

All requests and the related supporting documentation shall be emailed to the Contracting Officer, Contract Specialist and Tailored Vendor Logistics Specialist ("TVLS") for immediate review. Any request missing information outlined above will not be processed.

The approved price, including Distribution Price and Distribution Price Category as submitted on the NIRF form (i.e. generic, NAPA, or non-food) MUST be what is submitted upon the

832 catalog transmission. Incoming 832 catalog transmissions will be verified for compliance. Prices other than those approved will be rejected.

#### **K. FILL RATE/SUBSTITUTIONS/EXCEPTIONS**

1. The contractual monthly overall fill-rate is ■%; the ■% Fill rate includes approved fill rate exceptions. Fill rates will be measured in the following two (2) categories and the ■% fill rate requirement applies to each category separately:

- CONUS Procured Non-Catch Weight and Catch Weight Items
- OCONUS Procured Non-Catch Weight Items and Catch Weight Items

During contract performance, higher fill rates may result in a higher Past Performance and Experience rating for future acquisitions. Fill rates will be documented in the Contractor Performance Review System ("CPARS") and low fill rates may impact past performance evaluations on subsequent acquisitions.

2. The Government's in-house record for non-catch weight and catch weight items' fill rate shall be calculated utilizing the order, receipt and fill rate exception information located in STORES. Neither the non-catch weight or catch weight fill rate should include, mis-picks, damaged cases, poor quality or cases not accepted by the customer for any other valid reason. The Prime Vendor's Weekly/Monthly fill rate reports submissions will be based on the formulas below.

#### **Monthly Overall Fill Rate Calculation:**

**(UOM Qty accepted / Adjusted UOM Qty ordered) X 100 = Fill Rate %**

**Note:** The Adjusted UOM Qty Ordered takes into account those approved Fill Rate Exceptions that the PV is not responsible for, i.e., C4, C8, V4, etc... as approved by the Contracting Officer or his/her delegation.

3. Definitions:

- i. Non catch-weight item: An item which has a specific weight per case, e.g. 8920-01-E09-7315, Cake Mix, Yellow, 6/5 LB BX.
- ii. Catch-weight item: An item for which a weight range is acceptable; normally meat items purchased by the pound, e.g. 8905-01-E29-2117, Beef Flank Steak, 11-15 LB. In STORES, if catch weight items are not ordered in full case equivalents, the quantity will be rounded to the nearest case using the Case Equivalent Multiplier.
- iii. UOM accepted: For both non-catch weight and catch weight items, the product quantity according to the PVs STORES UOM that the customer has received and receipted, not including damaged cases and mis-picks.
- iv. Adjusted UOM Ordered: For both non-catch weight and catch weight items, the product quantity requested by the customer according to the PVs STORES UOM adjusted for any fill rate exceptions that are not the responsibility of the PV.

4. Designation of catch weight items: To designate a catch weight item, the Prime Vendor must input the Case Equivalent Multiplier "AVG" in 832 catalog field PO404, Packaging Code, for each catch-weight item. The Prime Vendor shall assure that the correct average case weight (i.e. the estimated weight average of cases that will be delivered) is input in 832 catalog field CTP04, Catch Weight Multiple.

5. When calculating the monthly overall fill rate, the fill rate calculation defined above must be used. The monthly overall fill rate is not an average of each Prime Vendor warehouse fill rate. If calculating the fill rate by Prime Vendor warehouse, the fill rate for the individual warehouse must be calculated using the fill rate calculation defined above for that warehouse. When reporting the overall fill rates weekly, the same fill rate calculation must be used for all STORES Orders within the week, must be used. The Weekly Fill Rate must not be averaged to obtain the overall monthly fill rate.

6. The vendor adjusted cases may only be used if the vendor has properly submitted vendor exceptions that explain these adjustments. These adjustments will either be subsequently approved or disapproved by the Contracting Officer or his/her delegation.

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7. No single line item will be credited for more than 100% fill-rate. This includes both catch weight and non-catch weight items and for any items should the accepted quantity be greater than the quantity ordered.
8. The Government in-house record for fill-rate calculates the fill-rate for each line item of each purchase order, the fill rate per purchase order, the fill-rate per customer, and the fill-rate for all customers, for any period of time, based on order required delivery dates ("RDD"). Fill-rates are calculated for non-catch-weight items and catch-weight items.
9. The Prime Vendor shall promptly inform the Contract Specialist, Contracting Officer, and COR of any specific instances that would absolve or excuse its failure to deliver an order, or individual line item(s), in full (i.e. customer written cancelation line or quantity prior to STORES receipt, customer ordered incorrect quantity, item being discontinued, etc.). If the Contracting Officer agrees with the justification, the exception will post to STORES which will result in the order or line(s) either being excluded from the Government fill-rate calculation or the correct order and receipt quantities being included in the calculation. These excusable instances represent Fill-Rate Exceptions, and are shown below.
10. The Prime Vendor shall submit its fill-rate report (to include overall non-catch weight item fill rate based on cases and overall catch weight fill rate based on pounds) to the Contracting Officer. The reports shall be based on order required delivery dates (RDD), not order placement dates. The Government will compare and attempt to reconcile the Government and Prime Vendor's report. The Government's fill-rate report will be the official government record for contract performance evaluation. Requests for fill rate exceptions should be submitted on a weekly basis along with the fill rate report(s).

<b>Fill Rate Exception Codes (All Customers Including Navy Land Based)</b>		
<b>Code</b>	<b>Reason</b>	<b>Exception</b>
C02	Customer Decreased Quantity Or Cancelled (Including Pre-Delivery)	Yes
C03	Cancelled Due To Operational Schedule Change	Yes
C04	Insufficient Lead Time	Yes
C05	Rejected Due To Quality Issues	No
C07	Other, Caused By Vendor	No
C08	Other, Customer Issue	Yes
C09	Late/Non-Delivery of C02 Canisters (Where applicable)	Yes
C10	Vendor Not In Stock Or Short Shipped (No Replacement Ordered)	No
<b>Fill Rate Exception Codes (All Customers Including Navy Land Based)</b>		
<b>Code</b>	<b>Reason</b>	<b>Exception</b>
C11	Vendor Not In Stock Or Short Shipped (Replacement Ordered)	No
D01	Valid STORES System Issues (Receipt, Catalog, PRF, etc....)	Yes
D04	CONUS/OCONUS NIS Approved By The Contracting Officer/COR	Yes
V01	Monthly Item Demand Exceeds Average Demand By >300% (OCONUS Only)	Yes
V02	Newly Cataloged Item (Insufficient Time For Vendor To Capture Demand History)	Yes
V03	Low Shelf Life Item - Frequency Restocking Required	Yes
V04	Customer Decreased Quantity Or Cancelled (Including Pre-Delivery)	Yes
V05	Customer Based Order Quantity On The Incorrect Unit Of Issue	Yes
V06	Customer Did Not Provide Sufficient Ordering Lead Time	Yes
V07	Item Being Phased Out (Catalog Timing Issue - Does Not Include Vendor Voluntary Brand Changes)	Yes
V08	Catch Weight Adjustment (Customer Orders 100 Lbs Actual Weight Of Product Is 98 Lbs)	Yes
V09	Product Recalled	Yes
V10	Other (Vendor To Provide Specific Explanation/Backup Documentation For "Other" Exception)	Yes
V11	Vendor Not In Stock Or Short Shipped	No
V12	CONUS/OCONUS NIS Caused by DTS Delay - Approved By The Contracting Officer/COR	Yes

NOTE: If the demand for a specific item over the last 30 days exceeds 300% of the Prime Vendors AMD for that item from all customers, exception V01 may apply.





2. The Prime Vendor will be required to travel to Philadelphia at least once per year to participate in an in-person IPR at no additional cost to the Government. As a minimum, the Prime Vendor participants must include: the contract administrator and/or program manager.

#### **D. NOTICE TO CONTRACTORS**

1. TWI is advised that although there is a guaranteed minimum under this contract, DLA Troop Support does not guarantee that any or all of the customers will order any or all of their subsistence and related non-food requirements from TWI, nor does the Government guarantee any purchases above the guaranteed minimum.
2. During the life of the contract, the resulting Prime Vendor will be required to periodically hold prices and all other catalog changes, depending on the 832 catalog schedule. Depending on the 832 catalog schedule, the changes may be postponed up to three (3) weeks, including but not limited to the Government's Fiscal Year change on October 1<sup>st</sup> and the week of December 25<sup>th</sup>. Additional changes to the 832 schedule must be agreed upon by the PV and the Contracting Officer.

#### **E. CONTRACTOR PERFORMANCE ASSESSMENT REPORTING SYSTEM (CPARS)**

##### 1. Background

Contractor Performance Assessment Reporting System ("CPARS") is now hosting web-enabled applications that are used to collect and manage a library of automated contractor performance evaluations that are completed in accordance with FAR Parts 36 and 42. FAR Part 36 identifies the requirements for documenting contractor performance for architect-engineer and construction contracts while FAR Part 42 identifies requirements for documenting contractor performance for systems and non-systems acquisitions. The CPARS applications are designed for UNCLASSIFIED use only. Classified information is not to be entered into these systems. In general, contractor performance assessments or evaluations provide a record, both positive and negative, for a given contract during a specified period of time. When evaluating contractor performance each assessment or evaluation is based on objective facts and is supported by program and contract management data, such as cost performance reports, customer comments, quality reviews, technical interchange meetings, financial solvency assessments, construction/production management reviews, contractor operations reviews, functional performance evaluations, and earned contract incentives.

Since November 1, 2006, a DoD Public Key Infrastructure ("PKI") Certificate is required for all contractor users accessing CPARS. The requirement for PKI certificates is implemented in accordance with DoD security policy promoting secure electronic transactions.

##### 2. Obtaining a PKI certificate

For access to CPARS: A DoD PKI Certificate is required for all DoD employees accessing Architect-Engineer Contract Appraisal Support System ("ACASS"), Construction Contractor Appraisal Support System ("CCASS"), Contractor Performance Assessment Reporting System ("CPARS"), and Federal Awardee Performance and Integrity Information System ("FAPIIS"). Government contractors are also encouraged to obtain and use a certificate. Non-DoD Government users may continue to access ACASS, CCASS, CPARS and FAPIIS without a certificate.

PKI Certifications remain a requirement for access to some Government electronic systems. However, OCONUS Government contractors may have some difficulty in obtaining a PKI certificate, and while this is a requirement under special circumstances exceptions can be made. Additionally, the potential cost involved in obtaining a PKI certification should be considered when contractors establish distribution prices.

Government contractors who do not work at a DoD facility may purchase a DoD PKI certificate from one of three External Certificate Authorities ("ECAs"). The ECAs are contractors who provide digital certificates to DOD's industry partners who are using their own equipment or working in non-government facilities. A list of ECAs is available at [https://www.cpars.gov/pki\\_info.htm](https://www.cpars.gov/pki_info.htm). Each contractor employee accessing CPARS will need an Identity Certificate (An Encryption Certificate is not required). Certificates range in price

from \$99 - \$115 per certificate per year, with volume discounts at some ECAs. Each contractor must fully comply with the DoD requirement to implement PKI in order for our information systems to remain secure and viable, at no additional cost to the U.S. Government.

## F. INVOICING

1. Each delivery will be accompanied by the Prime Vendor's delivery ticket/invoice. Two (2) identical copies shall accompany the shipment. The customer shall sign both copies, keep one and return the other to the Prime Vendor. Any changes must be made by the customer on the face of both documents, attachments are not acceptable.
2. All invoicing for payment is to be filed electronically using EDI transaction set 810. No paper invoices shall be submitted to DFAS for payment. All invoices submitted by the Prime Vendor must be "clean", i.e. all debits and/or credits must be reflected on the invoice prior to submission.
  - i. In regard to distribution categories 1-11, 1A-5A, 18-21, 24 and 25 the product price, plus the distribution price will be established as a prime vendor catalog unit price for food and non-food orders submitted by the customer via STORES. In regard to distribution categories 12-17, which do not have associated product prices, the distribution price will be established as a prime vendor catalog unit price for food and non-food orders submitted by the customer via STORES. Any applicable distribution prices must be identified on the catalog to be utilized by DLA Troop Support to generate additional Purchase Order via STORES for all non-standard payments on an as needed basis. The process for ordering, receipting, invoicing, billing, and payment is completely electronic via STORES and Enterprise Business System (EBS).
  - ii. In regard to distribution categories 12-13, which do not have associated product prices, the distribution price will be established as a prime vendor's catalog unit price. In regard to distribution category 12 disposal, in addition to the cost of the actual disposal, if the Contracting Officer has indicated that the Government will pay the product price for the product being disposed of, a separate paper invoice must be submitted by the Prime Vendor for Contracting Officer approval. The Contracting Officer will provide detailed instructions for this process on a case by case basis. In regard to distribution category 13 ~~and N13~~, all charges associated with Restocking Fees must be submitted on a separate paper invoice by the Prime Vendor for Contracting Officer approval.
  - iii. Each paper invoice must be certified by the Prime Vendor to reflect the amount of service actually provided. The approved invoice amount will be placed on order by DLA Troop Support via STORES using local stock numbers designated for itemized billing/costs and receipted. The Prime Vendor will then be authorized to electronically invoice the approved amount for payment on a monthly basis as follows.

Each paper invoice along with supporting documentation shall be cumulative for a one (1) month period and must be submitted to the Contracting Officer Representative no later than the 15<sup>th</sup> day of the following month; e.g. for the period of January 1 thru January 31, referenced invoices must be received by February 15<sup>th</sup>. The Contracting Officer will authorize the prime vendor to submit the approved 810 invoices for payment as soon as evaluation of all documentation is completed.
3. Electronic invoice transactions may be submitted to DLA Troop Support daily; however, it cannot be stressed enough that 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 contractor will be responsible for correction and re-submission.
4. The same invoice cannot be submitted with different dollar amounts, and the same invoice number cannot be used more than once during the fiscal year.
5. Invoices may not be submitted as "LIVE DATA" until a test transaction set has been cleared.
6. For catch weight items, standard rounding methods must be observed, i.e. less than 0.5 is rounded down; equal to or greater than 0.5 is 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 contractor.
7. Unit prices and extended prices must be formatted not more than two (2) decimal places to the right of the decimal point, using standard rounding methods. STORES will not accommodate positions of 3 and above beyond the decimal point.
  8. The following address must appear in the "Bill To" or "Payment Will Be Made By" block of the contractor's invoice:
    - Defense Finance and Accounting Service (DFAS)
    - BSM
    - P.O. Box 369031
    - Columbus, OH 43236-9031
  9. Each invoice shall contain sufficient data for billing purposes. This includes, but is not limited to:
    - i. Contract Number, Call or Delivery Order Number, and DoDAAC;
    - ii. Contract line listed in numeric sequence (also referred to as CLIN order);
    - iii. Item nomenclature;
    - iii. LSN or NSN;
    - iv. Quantity purchased per item in DLA Troop Support's unit of issue and Prime Vendor's unit of measure;
    - v. Clean invoices must be submitted; and
    - vi. Total dollar value on each invoice (reflecting changes to the shipment, if applicable).
  10. The Prime Vendor is required to use the DLA Troop Support Reconciliation Tool to identify and correct mismatches between invoices submitted and customers posted receipts. It is the responsibility of the Prime Vendor to adjust as necessary and communicate with the customer or DLA Troop Support as needed, in order to resolve any/all discrepancies

## **G. PAYMENTS**

1. DFAS-BSM (SL4701) is the payment office for this acquisition.
2. Payment of delivery orders will be made in accordance with the terms and conditions of Paragraph (j) of 52.212-4 Contract Terms and Conditions—Commercial Items (OCT 2018) and any addendum, appearing in the section entitled "Contract Clauses".
3. Payment is subject to the terms and conditions of the Prompt Payment Act (31 U.S.C. 3903) (The due date for making invoice payments by the designated payment office shall be the later of the following two events: (a) the 30th day after the designated billing office receives a proper invoice from the Contractor; (b) the 30th day after the Government acceptance of supplies delivered or services performed. For a final invoice, when the payment amount is subject to contract settlement actions, acceptance is deemed to occur on the effective date of the contract settlement.). All 810 electronic invoices must be submitted with accurate, sufficient, clean data before any payment can be made. However, the contractor shall not submit the 810 invoices for payment until the signed delivery ticket/invoice has been received directly from the customer.
4. Fast pay procedures do not apply.
5. The Prime Vendor must have the ability to accept an 820 transaction set from its financial institution. DFAS BSM will no longer forward a detailed summary of payment(s); this information will only be available from your bank.
6. STORES/BSM Reconciliation Tool: In an effort to improve the payment process, contractors will have availability to view what the customer has or has not receipted, via the BSM website. The contractor will have access to "unreconciled" information; i.e., the invoice does not match the receipt because of a quantity or price discrepancy, or because the customer has not posted a receipt. Both invoice information and receipt information will be available for review by the contractor. While the contractor will not have the capability to update customer receipt information, update capability will be available for unreconciled invoice information for approximately 30 days.
7. The Government intends to make payments under the resultant contract by electronic funds

transfer (EFT). Refer to FAR 52.232-33, "Payment by Electronic Funds Transfer – System for Award Management" (Jul 2013). However, the election as to whether to make payment by check or electronic funds transfer is at the option of the Government.

The Internal Revenue Services issued its final regulations in Federal Register Vol 81, No. 160 on August 18, 2016 concerning section 301 of Public Law 111-347 (dated January 2, 2011), which added section 5000C to the Internal Revenue Code. The final regulations provide guidance on the applicability of Section 5000C(a) which imposes on any foreign person that receives a specified Federal procurement payment, a tax equal to 2 percent of the amount of such payment. The Defense Logistics Agency is working on implementation, and once that's complete collection will commence.

## H. MANAGEMENT REPORTS

The Prime Vendor shall provide the following reports to the Contracting Officer in the frequency indicated. Negative reports are required and the Government reserves the right to add requirements for additional reports at no additional cost to the Government. Each quantity and dollar value provided should be based on the item's unit of issue.

It is at the Contracting Officer's discretion which reports are submitted and the frequency of said reports. All reports shall be cumulative for a one (1) month period and submitted no later than the seventh day of the following month (i.e. reporting period of January 1st through January 31st, the reports must be received by February 7<sup>th</sup>). The weekly reporting period is from Sunday through Saturday. Weekly reports must be submitted by close of business each Wednesday immediately following the reporting period. Unless otherwise identified below, all other reports are to be submitted electronically on a monthly basis. Other reports and additional information on existing reports may be requested by the Contracting Officer.

The Prime Vendor must make an affirmative statement regarding the accuracy and completeness of the information provided in said reports. To this end, the Prime Vendor is required to add the following statement to every management report submitted to DLA Troop Support: "I confirm that all the information submitted to the Government is complete and accurate to the best of my knowledge. I understand that false statements contained herein, may be punishable by law."

### 1. Fill Rate Reports (Weekly & Monthly): (Shall be submitted in non-protected Excel format)

- i. Monthly Fill Rate Report – The monthly fill rates will be reported using the fill rate calculation as defined in the "Fill Rate/Substitution/Exceptions" Section. Mis-picks and damaged cases should not be included in this calculation, however, all items Not-In-Stock, rejected, returned, damaged, mis-picks, etc., should be clearly identified in the report. The report should specify fill rates per customer/dining facility and an overall average for the month. In addition to the fill rate by cases, catch weight items by pounds shall be reported as defined in the fill rate section of the contract.
- ii. Weekly Fill Rate Report – In addition to the Monthly Fill Rate Report, the Prime Vendor will also submit a weekly report reflecting the previous week's business, by customer and overall, to the Contracting Officer. This weekly report will follow the exact same format as the monthly fill rate report.

The Monthly and Weekly fill rate reports should specify fill rates grouped by contract/catalog number(s) (if applicable), DODAAC (first six positions of the delivery order) and delivery order number. The date range of the report shall be based on the customer's RDD for the previous week as defined in paragraph ii above. The report shall contain all orders for the specified time period, as well as, a worksheet summary roll-up report tab that captures all contract/catalog numbers combined. The summary shall contain the following information:

- Overall fill rate based on cases
- Overall non-catch weight fill rate based on cases
- Overall catch weight fill rate based on cases
- Overall catch weight fill rate based on pounds
- Delivery orders shall be grouped by DODAAC. Within each DODAAC sort fill rates by delivery order number

- 2. 832 Report (Monthly): Each line to contain at a minimum: DLA Troop Support stock number, item description, current product price, new product price, distribution price, current total price (current product + distribution), new total price (new product + distribution), distribution category, purchase ratio factor, unit of issue, unit of measure, and NAPA discount.
- 3. Slow Movers (Excess Stock) (Monthly): This report shall list all products that are being ordered in quantities of less than fifteen (15) cases per month. Purpose is to track slow moving items for possible deletion from the catalog.

4. Socio-Economic Report (Monthly):

- i. This report shall list all products manufactured and/or supplied by small business, small disadvantaged business, minority owned small business, women-owned small business, women owned small disadvantaged business, HUB Zone small business, veteran owned small business, or service disabled veteran owned small business. This report shall be sorted by manufacturer/supplier, include quantity and dollar value, and be sorted by the applicable business size category of the manufacturer/supplier. The required format of this report will be provided by the Contract Specialist during post-award administration. NIB/NISH firms are not to be categorized under Small Disadvantaged Business as they are non-profit organizations and should be considered their own separate category.

Note: This report is for direct subcontracts for products supplied to customers. This report is not to include indirect costs. The Small Business Administration ("SBA") must certify HUBZone businesses.

- ii. A summary page of the report shall also be submitted that highlights the total dollars and percentages for each category. This information is very important since DLA Troop Support is required to report its success in meeting these goals for the Defense Logistics Agency (DLA). Also requested, but not required since DLA does not mandate these goals be reported, is a listing of products supplied and/or manufactured by Federal Prison Industries, Labor Surplus Areas, Historically Black Colleges or Universities and Minority Institutions.
- iii. The Small Business Goals associated with this contract for all Tiers are as follows:

	<u>Tier 1</u>	<u>Tier 2</u>	<u>Tier 3</u>
Small Business	█	█	█
SDB	█	█	█
WOSB	█	█	█
VOSB	█	█	█
SDVOSB	█	█	█
HZSB	█	█	█

- 5. Rebates (General) (Monthly): All rebates passed along to the customer via off-price reductions, or that is due to the customer, shall be summarized by listing each customer and the rebate amount. Also, the Prime Vendor shall include the manufacturer offering the rebate and the product usage. The total shall be per customer and per contract. The absence of rebates must be reported on a monthly basis as well.
- 6. Contract Retention Plan (Yearly): The Prime Vendor must have a records retention plan in compliance with FAR 4.703. The Prime Vendor's record retention plan must be approved by the Contracting Officer. The Prime Vendor's record retention plan should include the length of time that it plans to retain contract file documents and electronic documents. The plan should also include the Prime Vendor's plan to back up electronic documents. For example, certain records must be retained until 3 years from the date of final payment. See FAR 4.703 for more information on retention of contract file documents.
- 7. Total Asset Visibility/Supply Chain Fitness Report ("SCFR") (As Needed): The Prime Vendor must be able to present real time asset visibility of its entire inventory (i.e. stock on-order, stock in-transit, and stock on-hand) as well as the anticipated usage and average demand for each item on the Prime Vendor catalog. The SCFR is a report which consists of 4 data tabs, 1 analysis Chart and 1 analysis table. The report format will be provided to the Prime Vendor post award; however, the report tracks weekly movements in demands against weekly changes in three segments of the supply chain (i.e. stock on-order, stock in-transit and stock on-hand). Each of these elements are reported and tracked at the line item level.

8. Not-in-Stock ("NIS") (Weekly): This report must list all not-in-stock products (in accordance with the definition of fill rate/not in stock), the estimated get "well date", the product price, total NIS dollar value for each item and a total NIS dollar value for all items for a one-week period.
9. Rebates (Food Show) (As Needed): This report shall show a detailed break out of all savings received at Food Shows by attending vendors and is as required based on the timing of the Food Show. The Contracting Officer should receive this report no later than two weeks after the end of the special pricing period and said report shall include a list of each customer, the Food Show amount, the manufacturer/broker name, and quantity ordered. Food Show rebates shall be listed per customer, per contract, and per manufacturer. The total shall be per customer and per contract.
10. NAPA Rebate Report (Monthly): This report should summarize the savings passed along to the customers in the form of deviated allowances realized as a result of utilizing the NAPAs. The report shall list each customer, the NAPA amount, the manufacturer/broker name, and quantity ordered. NAPA figures should be listed per customer, per contract and per manufacturer.
11. National Contract Items (Monthly): The Vendor will submit a monthly report listing all National contract items, purchase price, number of cases, total pounds, and total sales for each item. Separate tabs should be submitted for each National contract.
12. Container Utilization Waivers (Monthly): This monthly report shall list all container utilization waiver requests, date of waiver, Prime Vendor name, shipper, container TCN, waiver code, cubes.
13. Cost Savings Report (Monthly): This report will help demonstrate the efforts that the Prime Vendor is making to reduce product price costs. The report format will be provided to the Prime Vendor post award; however, each line shall contain, at a minimum, DLA Troop Support stock number, Global Trade Identification Number ("GTIN"), Manufacturer name, description, savings type, reason for savings, price change comparison (including old price, new price and percentage difference), price validity (start and end dates), and savings for the fiscal year (including actual sales volume and actual cost savings).
14. Financial Status Report (Monthly): In order to ensure timely payments, a summarized account receivable and / or a "days of outstanding sales" shall be submitted by the Prime Vendor on a monthly basis. The report will be categorized by time periods and sorted further by customer. If problems should occur, a detailed listing by invoice number / call number will be requested. However, it is suggested that this report contain as much information as possible to alleviate problems immediately.
15. DLA Owned Material Report (Monthly, If Needed): This report shall show a detailed description of the Operational Rations owned by DLA at various PV locations. In addition to an overall report, the contractor shall provide a screenshot from its internal system to show the monthly inventory transaction history for each item. Each screenshot must clearly identify the item and warehouse location, along with the following information for each transaction; transaction type (receive/issue), quantity, the source or delivery destination, and the date the item was received or issued.  
  
The contractor will also be required to upload monthly inventory report by the third business day of each month in the VMI/SMI Upload Tool (<https://businessportal.dla.mil/irj/portal>). The contractor must register for this tool during the contract implementation period by requesting the JD-02101 role in the Defense Logistics Agency Account Management and Provisioning System (AMPS). Note: Detailed instructions regarding registration and the use of the tool will be provided to the awarded contractor during the contract implementation period.
16. DLA Owned Material Physical Inventory Report (Annually, If Needed): The contractor shall perform a complete physical inventory of all DLA Owned Material and provide a report of the results at least once per year. The report shall show the quantity on hand for each item according to the contractor's inventory management system along with the corresponding quantity from the physical inventory.

**Contractor Retention of Supply Chain Traceability Documentation (SEP 2016)**

(1) By submitting a quotation or offer, the contractor agrees that, when the contractor is not the manufacturer of the item, it is confirming that it currently has or will obtain before delivery and shall retain documented evidence (supply chain traceability documentation) that the item is from the approved manufacturer and conforms to the technical requirements. The retention period is five years after final payment under this contract.

(2) At a minimum, the supply chain traceability documentation for the item shall include: basic item description, part number and/or national stock number, manufacturing source, manufacturing source's Commercial and Government Entity (CAGE) code, and clear identification of the name and location of all supply chain intermediaries between the manufacturer to the contractor to item(s) acceptance by the Government. The documentation should also include, where available, the manufacturer's batch identification for the item(s), such as date codes, lot codes, or serial numbers.

(3) Examples of acceptable supply chain traceability documentation can be found at:  
<http://www.dla.mil/LandandMaritime/Business/Selling/Counterfeit-Detection-Avoidance-Program/>

(4) The contractor shall immediately make available documentation upon request of the contracting officer. The contracting officer determines the acceptability and sufficiency of documentation. If the contractor fails to retain or provide the documentation or the contracting officer finds the documentation to be unacceptable, corrective action may be taken including, but not limited to, cancellation of undelivered orders or rejection of delivered supplies.

**I. PRIME VENDOR 832 CATALOGS**

1. During contract implementation, the Prime Vendor will be required to establish and electronically submit 832 catalogs for testing and for live customer orders. A Subsistence Total Ordering and Receipt Electronic System (STORES) EDI Implementation Guideline is included herein.
2. It is estimated that the Prime Vendor will be required to establish a minimum of four (4) 832 catalogs. Note: The actual number of required catalogs may vary throughout the life of the contract based on the actual number of customers, their needs, and their billing requirements.

Catalog 1: This catalog should contain all items available for issue to all customers located Northern Europe. The catalog unit price will consist of the product price + distribution price.

NOTE: Administrative catalogs will be created in the best interest of DLA Troop Support and the support needed for its customers. Administrative catalogs will not be created for the number of PV platforms, therefore, the PVs warehouse management system MUST be able to accommodate a single catalog with multiple platforms.

**J. OTHER CONSIDERATIONS**

The Prime Vendor will cooperate in any Government investigation relating to this contract. The Prime Vendor will also be responsible for ensuring subcontractor or partner cooperation in any Government investigation relating to this contract. Specific forms of cooperation will include making officials available for interviews, production of records, etc. The Prime Vendor will submit specific monthly reports, signed by a senior official of the company (i.e. Chief Financial Officer or someone higher in the organizational hierarchy), relating to pricing, discounts, rebates, allowances or other similar economic incentives or benefits that will be received by the contractor.