

## **LLNS Special Conditions for Bid Sales**

The Lawrence Livermore National Security (LLNS) Donation, Utilization and Sales (DUS) Group manages and coordinates LLNS's surplus property sales.

**THIS SALE IS TO BE HELD IN ACCORDANCE WITH THE PROVISIONS OF STANDARD FORM 114C (SALE OF GOVERNMENT PROPERTY GENERAL SALE TERMS AND CONDITIONS), STANDARD FORM 114C-1**

**SF-114C SALE OF GOVERNMENT PROPERTY GENERAL SALE TERMS AND CONDITIONS IN STANDARD FORM 114C-1**

References to the "Government" in the SF-114C associated with the "Invitation for Bids" except as used in Paragraph 23, shall be deemed to include Lawrence Livermore National Security (LLNS). With respect to Paragraph 2 of the SF-114C associated with the "Invitation for Bids", the description of the property is based on the best information available to the LLNS Sales office.

With respect to Paragraph 19 of the SF-114C associated with the "Invitation for Bids", a bid for proposal will not be considered for award if any provisions of paragraphs 19(a)(1), (a)(3) or (b) have been deleted or modified.

### **ELIGIBILITY OF BIDDERS**

Bidders must be 18 years of age. Employees of other government agencies or Lawrence Livermore National Security may bid unless restricted by their own agency's regulations. If the Bidder is an employee of the U.S. Department of Energy (DOE)/National Nuclear Security Administration (NNSA) or LLNS, they hereby represent that they:

- (a) have not participated in the seller's determination to dispose of the property,
- (b) have not participated in the preparation of the material for sale,
- (c) have not participated in determining the method of this sale,
- (d) have not acquired information not otherwise available to the general public regarding usage, condition, or value of the property.

### **CALIFORNIA SALES TAX**

California Sales Tax of 9.25% will be added and collected unless an Exemption Certificate or other evidence of exception is furnished prior to award.

### **BIDDING PROCEDURES**

All Bidders must fill out an original LLNS bid sheet and email or mail it to the following address:

Lawrence Livermore National Security  
Attn: DUS Bid Sales, L-695  
P. O. Box 808  
Livermore, CA 94550  
[sales@listserv.llnl.gov](mailto:sales@listserv.llnl.gov)

Bidders may email, hand-carry, use Lab mail or U.S. mail to submit their bid for consideration.

### **CONTRACTOR REVIEW**

LLNS retains the right to inspect and audit the Contractor's facilities and books at any time with prior notice. The Contractor may be requested to provide LLNS access to the Contractor's facility, to ensure compliance with the contract and applicable State and Federal environmental regulations. This shall include access to and copying of records, access to facilities, equipment and/or operations related to the services provided under LLNS contracts.

## **LLNS Special Conditions for Bid Sales**

### **THE SALES MANAGER'S DECISION IS FINAL**

LLNS reserves the right to reject any and all bids. In the event of a rejection, the item may be re-offered during the course of another sale. Rejection of a bid may be a result of the item not meeting the reserve value if applicable. Reserve value is not public information. LLNS reserves the right to cancel any agreement at any time by written notice.

### **IMPORTANT INFORMATION TO BIDDERS**

Bidders are cautioned to bid only on those items they are prepared to pay for and remove in accordance with the terms and conditions of the sale. All items are awarded to the highest Bidder and must be paid for and removed within the time period specified in the notice of award. The Bidder agrees that in the event he/she fails to pay for the property or remove the property within the prescribed period of time, they shall lose all rights, title and interest, which might otherwise have been acquired in and to such property, unless other arrangements have previously been made with LLNS.

### **CONSIDERATION OF LATE BIDS, MODIFICATIONS, OR WITHDRAWALS**

It is the Bidder's responsibility to ensure the timely arrival of bids, modifications or withdrawals at the designated place set forth in the Invitation for Bid (IFB). No late bids will be accepted. No modifications to bids will be accepted. Withdrawal will be at the sole discretion of the LLNS Sales Manager.

### **REVOCAION OF AWARD**

The Bidder warrants that he/she is not delinquent on any payment of any debt due to the United States Government resulting from a prior purchase of Surplus Personal Property. In the event the LLNS determines, after award, that the Bidder has breached warranty, the Government shall reserve the right to annul the contract without liability.

### **FORMS AND METHODS OF PAYMENT**

Payment requirements are outlined in the Govdeals.com website, under their payment terms and conditions.

### **ORAL STATEMENTS AND MODIFICATIONS**

Any oral statement or representation by any representative of the U.S. Government or LLNS, changing or supplementing the offering or contract or any condition thereof, is unauthorized and shall constitute no right for the Bidder or Purchaser.

### **DISPUTES**

Any contract resulting from this offering is subject to the Contract Disputes Act of 1978, Public Law 95- 563. The current "disputes act" is hereby incorporated by reference. Copies of this information is available upon request from the LLNS Sales Office conducting this sale.

## **LLNS Special Conditions for Bid Sales**

### **WITHDRAWAL OF PROPERTY**

LLNS reserves the right to make withdrawals of property from the sale prior to removal. In the event of a withdrawal LLNS's and the buyer shall come to an equitable arrangement that both parties can agree upon. Should an agreement not be reached the current sale will be considered null and void and the adjusted lot will be recometed in a future sale. This includes the proliferation of sensitive property is inadvertently included in this sale. If such property has been received by purchaser, the purchaser will return the property to the LLNS within 10 days of notification.

### **INSPECTION**

Bidders are encouraged to perform a thorough inspection of the property thus relying exclusively on their findings, observations, and conclusions in preparation and offering of bids. The item descriptions provided in this offer are narrative in content. LLNS neither implies nor guarantees a specific quantity or quality of material under this solicitation; all amounts, lengths, diameters, thickness and weights are estimates and are to be considered as estimates for bid evaluation purposes only.

All property sold under this agreement is offered for sale "as is, where is" and without recourse against LLNL, LLNS or the U.S. Government. LLNS does not sell hazardous waste as scrap. Parts containing oil are routinely drained before scrapping; however, from time to time, these parts may contain a small amount of oil film or residue.

### **ENVIRONMENTAL, SAFETY, AND HEALTH**

In performing work under this purchase contract, the Buyer shall perform work safely, in a manner that ensures adequate protection for employees, the public, and the environment, and shall be accountable for the safe performance of work. The Buyer shall exercise a degree of care commensurate with the work and the associated hazards. The Buyer shall ensure that management of environment, safety, and health (ES&H) functions and activities becomes an integral but visible part of the Buyers work planning and execution process.

The Buyer shall comply with, and assist LLNS in complying with, ES&H requirements of all applicable laws and regulations, and applicable directives identified in this contract. The Buyer shall cooperate with LLNS, Federal and non-Federal agencies having jurisdiction over ES&H matters under this Contract.

The Buyer shall promptly evaluate and resolve any noncompliance with applicable ES&H requirements. If the Buyer fails to provide resolution or if, at any time, the Buyer's act or failure to act causes substantial harm or an imminent danger to the environment or health and safety of employees or the public, LLNS may issue an order stopping work in whole or in part. Any stop work order issued by LLNS under this clause shall be without prejudice to any other legal or contractual rights of LLNS or the U.S. Government. In the event that LLNS issues a stop work order, an order authorizing the resumption of the work may be issued at the discretion of LLNS.

The Buyer shall not be entitled to an extension of time or additional fee or damages by reason of, or in the connection with, any work stoppage ordered in accordance with this clause. The Buyer is responsible for its employees' compliance with the ES&H requirements applicable to this Contract, as well as any of its lower tier subcontractors performing under this contract.

The Buyer shall immediately report to LLNS any occupational injury, illness, or release of hazardous material into the environment, associated with performance under this contract. In addition, the Buyer shall cooperate with LLNS and provide a written report of the incident (e.g., a First Report of Injury).

The Buyer shall allow LLNS access to all Buyer's injury or illness prevention plans established, or which are required by law to be established.

## **LLNS Special Conditions for Bid Sales**

Buyer supplied containers must comply with all State and Federal Regulations governing the quality and condition of the containers for safe delivery, pick-up, and loading of material. LLNS reserves the right to reject any container deemed unsuitable for safe delivery, pick-up, or loading of material. Each container must have posted tare weights clearly marked on each container. Posted tare weights must be accurate and at LLNS's discretion, the Buyer supplied containers may be weighed to establish accuracy of posted tare weights. Failure to post and maintain accurate tare weights will be grounds for contract termination.

The Buyer shall take all reasonable precautions and assume all liabilities in removal activities to protect the health and safety of all people and to minimize hazards to life and property. The Buyer shall comply with applicable requirements of the latest revisions of the standards set forth by the U.S. Department of Transportation motor carrier safety regulations, Title 49. The Seller shall not be liable to the Buyer for any delays or additional costs incurred by the Buyer in complying with required health and safety regulations. The Buyer accepts all liability for injury or property damage irrespective of such inspection by LLNS health and safety services.

### **INDEMNIFICATION**

The U.S. Government and LLNS make no warranty regarding the material/equipment sold. The Buyer shall defend, indemnify and hold harmless LLNS and the U.S. Government, their officers, employees and agents from and against all losses and expenses (including costs of attorney's fees), damages and liabilities of any kind resulting from or arising out of this Contract and/or the Buyer's performance hereunder (including but not limited to injury or death of any person or damage or loss of property), provided such losses, expenses, damages and liabilities are due or claimed to be due to the negligent or willful acts or omissions of the Buyer, its officers, employees, agents, lower-tier subcontractors, or anyone directly or indirectly employed by them, or any person or persons under the Buyer's direction and control.

### **VEHICLE OPERATION**

Buyer's personnel operating any vehicle on LLNS-controlled sites are required to possess a valid driver's license issued by the State of California or other state, if appropriate. Buyer's personnel must be trained and possess the ability to operate Buyer supplied equipment. In addition, all vehicles shall be operated in a safe manner, in accordance with the California Motor Vehicle Code, and in compliance with the posted traffic regulations of LLNS, including parking restrictions. LLNS reserves the right to stop work if Buyer's personnel exhibit a lack of knowledge in the operation of Buyer supplied equipment. Failure to comply with these requirements may result in LLNS revoking the on-site driving privileges of the offending Buyer personnel.

### **CERTIFICATION REGARDING RESPONSIBILITY MATTERS**

The Buyer certifies, to the best of its knowledge and belief, that the Buyer and/or any of its Principals: Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency; have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property; and are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph of this provision. Have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,000 for which the liability remains unsatisfied. Has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

## **LLNS Special Conditions for Bid Sales**

### **AIR POLLUTION CONTROL DEVICES**

The Buyer of any vehicle from the U.S. Government is responsible for having air pollution control devices installed and obtaining a certificate of compliance from the appropriate state registration official.

Combined Disclosure of Applicability for Truck and Bus, Off-Road, and PERP

When operated in California, any on-road heavy-duty diesel vehicle, alternative-diesel vehicle, off-road diesel vehicle, or portable diesel engine may be subject to the California Air Resources Board's Regulation to Reduce Particulate Matter and Criteria Pollutant Emissions from In-Use Heavy Duty Diesel Vehicles, In-Use Off-Road Diesel Vehicle Regulation, or Airborne Toxic Control Measure for Diesel Particulate Matter from Portable Engines Rated at 50 Horsepower and Greater. It therefore could be subject to retrofit, exhaust retrofit, or accelerated turnover requirements to reduce emissions of air pollutants.

For more information, please visit the California Air Resources Board websites at  
<https://www.arb.ca.gov/dieseltruck>  
<https://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm>  
<https://www.arb.ca.gov/portable/portable.htm>

### **AWARD NOTIFICATION**

#### **VEHICLE TITLE**

Standard Form 97 (United States Government Certificate of Release of a Motor Vehicle) will be issued to the buyer of each motor vehicle sold. It is evidence of title only, to be used by the buyer to obtain a property state motor vehicle registration.

#### **NON-VEHICLE**

Successful Bidders will be notified by LLNS through an award letter.

#### **ANTI-KICKBACK**

The Buyer certifies that it has not provided, attempted to provide, offered to provide, solicited, accepted, or attempted to accept any kickback. "Kickback" means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind that is provided, directly or indirectly, to any Government prime contractor (e.g., the Company), prime contractor employee, subcontractor at any tier, or employee of a subcontractor at any tier, for the purpose of improperly obtaining or rewarding favorable treatment in connection with a Government contract or in connection with a subcontract at any tier relating to a Government prime contract.

## **LLNS Special Conditions for Bid Sales**

### **REMOVAL**

Property must be removed within time period specified in the notice of award. The Buyer must make all arrangements necessary for packing, loading, and transporting of property. LLNS reserves the right to stop work, at any time, if operations or activities are deemed unsafe and/or pose a danger to personnel, equipment, or the environment. LLNS must be notified, in advance, to schedule removal times. Loading will be strictly on a scheduled basis due to the confined loading area.

To obtain an appointment for removal, contact DUS at [sales@listserv.llnl.gov](mailto:sales@listserv.llnl.gov). Buyers are hereby notified that they will be turned away if a removal time has not been previously scheduled. Entrance to this facility is controlled at all times. The Buyer and any accompanying individuals must have a valid driver's license, be 18 years of age and must be a U.S. citizen. Failure to meet these requirements will result in denied entrance. A Buyer designated representative must be authorized, in writing, to take delivery of awarded item(s)/lots(s) and have a copy of the Bidder's paid receipt. Buyer must have made payment to the LLNS Sales Material Handler prior to removal of property.

### **LOADING**

LLNS will load open top conveyance or tail gate only (unless specified in IFB). LLNS is not responsible for securing, any loads. The Buyer assumes full responsibility for the safe loading and compliance with all of the safety regulations in loading and transporting such equipment. The Buyer also agrees to indemnify and hold Seller and its employees harmless for any and all claims, damages, or any other claims arising out of loading operations and subsequent transportation of equipment or property.

### **LOADING TIMES**

LLNS will load between the hours of 8:00 a.m. to 11:30 a.m. and 12:30 p.m. to 2:00 p.m., Monday through Thursday (excluding holidays). Loading times will be strictly followed (see "Removal" section). As a result of the confined loading area, LLNS personnel will load only one Buyer at a time. Other Buyers will await their scheduled times in the parking lot outside of the loading area. Buyers who have not scheduled a pick-up time and show up at LLNS will be denied access.

### **SECONDARY CONTAINMENT**

All equipment requiring secondary containment, as described in the IFB, will be furnished by the Buyer for transport per U.S. Department of Transportation motor carrier safety regulations, Title 49. Secondary containment is the property of LLNS and is not considered part of the item. LLNS will remove all secondary containment before the property is removed from LLNS.

### **DISMANTLING OR MODIFICATION**

The Buyer will be responsible for any dismantling or modification of vehicles, equipment or material required for loading into Buyer-furnished transportation.

## **LLNS Special Conditions for Bid Sales**

### **SELLING AND EXCHANGING AWARDED PROPERTY**

The selling and exchanging of awarded property between Buyers will not be allowed on LLNS.

### **ACCESSING THE FACILITY**

All personnel and vehicles will be subject to search. Site access will be refused if they are: (1) not U.S. citizens, (2) in possession of any prohibited items (alcoholic beverages; illegal drugs; explosives; firearms or other dangerous weapons, instruments or materials; binoculars or telescopes; cameras; recording devices; pepper spray or mace; etc.), or (3) accompanied by companions or pets. Individuals entering LLNS will be required to show a valid driver's license from a jurisdiction that meets the requirements of the REAL ID Act of 2005, identify themselves as U.S. citizens, and provide other identifying information such as a social security number. Information regarding the REAL ID Act, its requirements, and a list of noncompliant states may be found at: <http://www.dhs.gov/real-id-enforcement-brief>. If an individual holds a license from a noncompliant jurisdiction, they will be required to show a secondary form of identification (i.e., U.S. passport, U.S. passport card, or U.S. military ID card) in order to be granted access to LLNS. You will need a badge for admittance to the Laboratory. Be prepared to wait about 15 minutes for your badge to be issued. Non-U.S. citizens must present a Permanent Resident Card or valid passport plus visa documentation and all accompanying documentation. You must wear the badge conspicuously at all times while you are at LLNS. The photo side of the badge must be visible, and it should be worn between your neck and your waist; you should not attach it to a belt. You must turn in your badge at the security checkpoint as you leave the Laboratory. Absolutely no photos are allowed to be taken at any time in any locality while on the LLNS compound.

### **BANNED ARTICLES**

No person entering the LLNS site will be authorized to have in his or her possession any visual or sound recording device. Those items are, but not limited to: still and movie cameras, video recorder cameras, tape recorders, etc. Prohibited articles also include: pets, firearms, ammunition, fireworks, explosives, non-prescribed drugs, alcoholic beverages, knives with blades in excess of three inches, or any other dangerous weapons.

### **INSURANCE REQUIREMENTS**

All buyers will be insured in the following manner based on the applicable criteria outlined below.

- Vehicle insurance relative to the vehicle being utilized will be valid and in accordance with California law, proof of insurance will be available at all times and applies to any person or entity accessing the LLNS site.
- Firms coming on-site should have \$1 million of general, automotive and workmen's compensation liability insurance.
- It is the Buyer's responsibility to ascertain and comply with all applicable Federal, State, Local and multi-jurisdictional laws, ordinances, orders and regulations pertaining to the registration, licensing, handling, possession, transportation, transfer, export, processing, manufacture, sale, use or disposal of the Property, and provide written proof of registration, licensing, or other requirements. Buyers or users of this Property are not excused from any violation of such laws or regulations either because the United States is a party to this sale or has had any interest in the Property at any time.

### **LLNL's FRAUD INQUIRIES**

Fraud inquires involved in the bidding or award cycle will be investigated on a case by case basis to determine if any wrongdoing has occurred. Should an inquiry result in any wrongdoing by LLNS, prompt corrective action will occur. Fraudulent inquiries on the SBS process determined to be unwarranted will result in the removal of the buyer from DUS' Bidders List along with debarment from making any future offers. Baseless inquires result in LLNS's internal audit performance whereby associated rework and redundant costs are incurred.

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

INVITATION FOR BIDS NO.

PAGE

**1. INSPECTION.**

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

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

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

**3. CONSIDERATION OF BIDS.**

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

b. The Bidder agrees that his/her bid will not be withdrawn within the period of time specified for the acceptance thereof following the opening of bids (60 calendar days if no period is specified by the Government or by the Bidder, but not less than 10 calendar days in any case) and that during such period his/her bid will remain firm and irrevocable. The Government reserves the right to reject any or all bids, including bids under which a Bidder would take unfair advantage of the Government or other Bidders, to waive any technical defects in bids, and unless otherwise specified by the Government or by the Bidder, to accept any one item or group of items in the bid, as may be in the best interest of the Government. Unless the Invitation otherwise provides, a bid covering any listed item must be submitted on the basis of the unit specified for that item and must cover the total number of units designated for that time.

**4. FORMS OF BID DEPOSITS AND PAYMENTS.**

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

**5. BID PRICE DETERMINATION.**

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

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

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

**6. PAYMENT.**

The Purchaser agrees to pay for property awarded to him/her in accordance with the prices quoted in his/her bid. Subject to any adjustment made pursuant to other provisions of this contract, payment of the full purchase price, after applying the total bid deposit, if any, must be made within the time specified in the Invitation and prior to delivery of any of the property. If an adjustment is made requiring additional payment, such payment must be made immediately upon notice of such adjustment. In the absence of any debts owed to the selling agency, where the total sum becoming due to the Government from the Purchaser on a contract awarded to him/her under the Invitation is less than the total amount deposited with his/her bid, the difference will be promptly refunded and also, deposits accompanying bids which are not accepted will be promptly refunded to the Bidder. No refund or demands will be made for any amount less than one dollar (\$1).

**7. TITLE.**

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

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

a. Unless otherwise provided in the Invitation, the Purchaser shall be entitled to obtain the property upon full payment therefor with delivery being made only from the exact place where the property is located within the installation. The Purchaser must make all arrangements necessary for packing, removal, and transportation of property. The Government will not act as liaison in any fashion between the Purchaser and carrier, nor will the Government recommend a specific common carrier. Loading will only be performed as set forth in the Invitation, and unless otherwise provided in the Invitation, loading will not be performed on Saturdays, Sundays, Federal holidays, or any date that the installation where the property is located is closed. Where it is provided that the Government will load, the Government will make the initial placement of the property on conveyance(s) furnished by the Purchaser and the initial placement of the Purchaser's conveyance shall be as determined by the Government. Unless otherwise provided in the Invitation, the Government will not block, chock, brace, lash, band, or in any other manner secure the cargo on such conveyance(s) furnished by the Purchaser.

b. Where it is provided in the Invitation that the Government will not load or that the Purchaser will load, the Purchaser will make all arrangements and perform all work necessary to effect removal of the property. The Purchaser shall remove the property at his/her expense within the period of time allowed in the Invitation. If the Contracting Officer determines that the failure to remove the property within the period of time originally allowed arose out of causes beyond the control and without the fault or negligence of the Purchaser, such determination shall be reduced to writing, and a reasonable extension of time for removal shall be allowed.

Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and sever weather. If the Purchaser is permitted to remove the property after the expiration of the time originally allowed for removal or any additional time allowed by the Contracting Officer pursuant to this clause, the Government, without limiting any other rights which it may have, may require the Purchaser to pay a reasonable storage charge. The Purchaser shall reimburse the Government for any damage to Government property caused during the removal operations by the Purchaser or his/her authorized representative.

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

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

## 9. DEFAULT.

If, after the award, the Purchaser breaches the contract by failure to make payment within the time allowed by the contract as required by Condition No. 6, or by failure to remove the property as required by Condition No. 8, then the Government may send the Purchaser a 15-day written notice of default (calculated from date of mailing), and upon Purchaser's failure to cure such default within that period (or such further period as the Contracting Officer may allow) the Purchaser shall lose all right, title, and interest which he/she might otherwise have acquired in and to such property as to which a default has occurred. The Purchaser agrees that in the event he/she fails to pay for the property or remove the same within the prescribed period(s) of time, the Government shall be entitled to retain (or collect) as liquidated damages a sum equal to the greater of (a) 20 percent of the purchase price of the item(s) as to which the default has occurred, or (b) \$25, whichever is greater: Provided, That in the event of multiple awards of items under a single Invitation for Bids, the amount to be charged, if the minimum charge provided for in (b) above is applicable, shall be determined by the total purchase price reflected in the award documents: Provided further, That the maximum sum which may be recovered by the Government as damages for failure of the Purchaser to pay for and remove the property shall be the formula amount. The Government shall specifically apprise the Purchaser, either in its original notice of default (or in separate subsequent written notice), that upon the expiration of the period prescribed for curing the default, the formula amount will be retained (or collected) by the Government as liquidated damages. However, if the property was sold on a "per lot" basis and the Purchaser removes a portion of the lot but fails to remove the balance, no portion of the purchase price will be refunded. If the Purchaser otherwise fails in the performance of his/her obligations, the Government may exercise such rights and may pursue such remedies as are provided by law or under the contract.

## 10. SETOFF OF REFUNDS.

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

## 11. INTEREST.

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

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

Unless otherwise provided in the Invitation, when property is sold by a unit other than "weight", the Government reserves the right to vary the quantity tendered or delivered to the Purchaser by 10 percent; when the property is sold by "weight", the Government reserves the right to vary the weight tendered or delivered to the Purchaser by 25 percent. The purchase price will be adjusted upward or downward in accordance with the unit price and on the basis of the quantity or weight actually delivered. Unless otherwise specifically provided in the Invitation, no adjustment for such variation will be made where property is sold on a "price for the lot" basis.

## 13. WEIGHING, SWITCHING, AND SPOTTING.

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

## 14. RISK OF LOSS.

Unless otherwise provided in the Invitation, the Government will be responsible for the care and protection of the property subsequent to it being available for inspection and prior to its removal. Any loss, damage, or destruction occurring during such period will be adjusted by the Contracting Officer to the extent it was not caused directly or indirectly by the Purchaser, its agents, or employees. At the discretion of the Contracting Officer, the adjustment may consist of rescission. With respect to losses only, in the event the property is offered for sale by the "lot," no adjustment will be authorized under this provision unless the Government is notified of the loss prior to removal from the installation of any portion of the lot with respect to which the loss is claimed.

## 15. LIMITATION ON GOVERNMENTS LIABILITY.

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

## 16. ORAL STATEMENTS AND MODIFICATIONS.

Any oral statement or representation by any representative of the Government, changing or supplementing the Invitation or

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

#### 17. COVENANT AGAINST CONTINGENT FEES.

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

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

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

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

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

#### 18. OFFICIALS NOT TO BENEFIT.

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

#### 19. CERTIFICATE OF INDEPENDENT PRICE DETERMINATION.

a. The Purchaser certifies that--

(1) The prices in this offer have been arrived at independently,

without, for the purpose of restricting competition, any consultation, communication, or agreement with any other Purchaser or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered;

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

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

b. Each signature on the offer is considered to be a certification by the signatory that the signatory--

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

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

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

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

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

#### 20. ASSIGNMENTS OF CONTRACTS.

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

#### 21. CLAIMS LIABILITY.

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

#### 22. WITHDRAWAL OF PROPERTY AFTER AWARD.

The Government reserves the right to withdraw for its use any or all of the property covered by this contract, if a bona fide requirement for the property develops or exists prior to actual removal of the property from Government control. In the event of a withdrawal under this condition, the Government shall be liable only for the refund of the contract price of the withdrawn property or such portion of the contract price as it may have received.

#### 23. ELIGIBILITY OF BIDDERS.

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

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24. REQUIREMENTS TO COMPLY WITH APPLICABLE LAWS AND REGULATIONS.

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

25. DEFINITIONS.

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

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

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

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