

REPRESENTATIONS AND CERTIFICATIONS

The offeror represents and certifies as part of its offer that: *(Check or complete all applicable boxes or blocks.)*

1. **TYPE OF ORGANIZATION.** It operates as an individual, a partnership, a nonprofit organization, a joint venture, or a corporation incorporated in the State of _____.

2. **SMALL BUSINESS.** (a) It is, is not a small business concern and that all, not all end items to be furnished will be manufactured or produced by a small business concern in the United States, its territories or possessions, Puerto Rico, or the Trust Territory of the Pacific Islands.

(b) "Small business concern" means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standards in 13 CFR 121.

(c) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small business concern in paragraph (a) of this clause in order to obtain a contract to be awarded under the preference programs established pursuant to Sections 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references Section 8(d) for a definition of program eligibility, shall (1) be punished by imposition of a fine, imprisonment, or both; (2) be subject to administrative remedies; and (3) be ineligible for participation in programs conducted under the authority of the Act.

3. **SMALL DISADVANTAGED BUSINESS.** (a) Representation. It is, is not a small disadvantaged business concern.

(b) Definitions. "Asian-Pacific Americans" means United States citizens whose origins are in Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territory of the Pacific Islands (Republic of Palau), the Northern Mariana Islands, Laos, Kampuchea (Cambodia), Taiwan, Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Republic of the Marshall Islands, or the Federated States of Micronesia.

"Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native Corporation as defined in 13 CFR 124.100 which is recognized as eligible for the special programs and services provided by the U.S. to Indians because of their status as Indians, or which is recognized as such by the State in which such tribe, band, nation, group, or community resides.

"Native Americans" means American Indians, Eskimos, Aleuts, and Native Hawaiians.

"Native Hawaiian Organization" means any community service organization serving Native Hawaiians in, and chartered as a not-for-profit organization by, the State of Hawaii, which is controlled by Native Hawaiians, and whose business activities will principally benefit such Native Hawaiians.

"Small business concern" means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standards in 13 CFR 121.

"Small disadvantaged business concern" means a small business concern that (a) is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged, or a publicly owned business having at least 51 percent of its stock owned by one or more socially and economically disadvantaged individuals and (b) has its management and daily business controlled by one or more such individuals. This term also means a small business concern that is at least 51 percent unconditionally owned by an economically disadvantaged Indian tribe or Native Hawaiian Organization, or a publicly owned business having at least 51 percent of its stock unconditionally owned by one of these entities which has its management and daily business controlled by members of an economically disadvantaged Indian tribe or Native Hawaiian Organization, and which meets the requirements of 13 CFR 124.

"Subcontinent Asian Americans" means United States citizens whose origins are in India, Pakistan, Bangladesh, Sri Lanka, Bhutan, or Nepal.

(c) Qualified Groups. The offeror shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, and other individuals found to be qualified by SBA under 13 CFR 124. The offeror shall presume that socially and economically disadvantaged entities also include Indian tribes and Native Hawaiian Organizations.

4. **WOMEN-OWNED SMALL BUSINESS.** It is, is not, a women-owned small business concern. A "women-owned small business concern," as used in this provision, means a small business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.

5. **BUY AMERICAN.** *(Applicable if offer exceeds \$2500.)* Each end product, except those listed below, is a domestic end product (as defined in the clause entitled "Buy American Act"); and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United

States.

Excluded End Products

Country of Origin

6. **ANTI-KICKBACK.** (a) Certification. By submission of this offer, the Offeror certifies that it has not provided, attempted to provide, offered to provide, solicited, accepted, or attempted to accept any kickback; and has not included, directly or indirectly, the amount of any kickback in the offer.

(b) Definition. "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 prime contract or in connection with a subcontract at any tier relating to a Government prime contract.

7. **CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS.** (a) (1) The Offeror certifies, to the best of its knowledge and belief, that:

(i) The Offeror and/or any of its Principals:

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

(B) Have have not within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a 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, or receiving stolen property; and

(C) Are are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision.

(ii) The Offeror has has not within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER SECTION 1001, TITLE 18, UNITED STATES CODE.

(b) The Offeror shall provide immediate written notice to the Company if, at any time prior to subcontract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Company may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available, the Company may terminate the subcontract resulting from this solicitation for default.

8. **EQUAL OPPORTUNITY.** *(Applicable if offer exceeds \$10,000.)* It has, has not, participated in a previous contract or subcontract subject to the Equal Opportunity clause herein, the clause originally contained in Section 310 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114; it has, has not, filed all required compliance reports; and

that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained prior to subcontract awards.

9. AFFIRMATIVE ACTION. (Applicable if offer exceeds \$10,000.) (a) It has developed and has on file, has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or (b) it has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

10. CERTIFICATION OF NONSEGREGATED FACILITIES. (Applicable if offer exceeds \$10,000.) (a) "Segregated facilities," as used in this provision, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin because of habit, local custom, or otherwise.

(b) By the submission of this offer, the offeror certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The offeror agrees that a breach of this certification is a violation of the Equal Opportunity clause in the subcontract.

(c) The offeror further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will (1) obtain identical certifications from proposed subcontractors before the award of subcontracts under which the subcontractor will be subject to the Equal Opportunity clause; (2) retain the certifications in the files; and (3) forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES. A Certification of Nonsegregated Facilities must be submitted before the award of a subcontract under which the subcontractor will be subject to the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during the period (i.e., quarterly, semiannually, or annually). NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

11. REGULAR DEALER-MANUFACTURER. (Applicable to supply subcontracts exceeding \$10,000.) It is, or is not, a regular dealer in; or is, or is not, a manufacturer of, the supplies offered.

12. CONTINGENT FEE. (Applicable if offer exceeds \$25,000.) (a) Representation. Except for full-time bona fide employees working solely for the offeror, the offeror: (Note: The offeror must check the appropriate boxes. For interpretation of the representation, including the term "bona fide employee," see Subpart 3.4 of the Federal Acquisition Regulation.)

(1) has, has not, employed or retained any person or company to solicit or obtain this subcontract, and

(2) has, has not, paid or agreed to pay to any person or company employed or retained to solicit or obtain this subcontract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this subcontract.

(b) Agreement. The offeror agrees to provide information relating to the above Representation as requested by the Company and, when subparagraph (a) (1) or (a) (2) is answered affirmatively, to promptly submit to the Company (1) a completed Standard Form 119, Statement of Contingent or Other Fees, (SF 119); or (2) a signed statement indicating that the SF 119 was previously submitted to the Company, including the date and applicable solicitation or subcontract number, and representing that the prior SF 119 applies to this offer.

13. CLEAN AIR AND WATER. (Applicable if offer exceeds \$100,000, or a facility to be used has been the subject of a conviction under the Air Act (42 USC 7413(c)(1)) or the Water Act (33 USC 1319(c)) and is listed by EPA, or is not otherwise exempt.) (a) Any facility to be utilized in the performance of this proposed subcontract is, is not, listed on the Environmental Protection Agency List of Violating Facilities.

(b) The offeror will promptly notify the Company, prior to award, of the receipt of any communication from the Administrator, or a designee, of the Environmental Protection Agency, indicating that any facility that the offeror proposes to use for the performance of the subcontract is under consideration to be listed on the EPA List of Violating Facilities.

(c) The offeror will include substantially this certification, including this paragraph (c), in every nonexempt subcontract.

14. PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS. (Applicable if offer exceeds \$100,000.) (a) The definitions and prohibitions contained in the Limitation on Payments to Influence Certain Federal

Transactions clause, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief as of December 23, 1989, that (1) no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement; (2) if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Company; and (3) he or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this subcontract imposed by Section 1352, Title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

15. INSURANCE--IMMUNITY FROM TORT LIABILITY. (Applicable to solicitations for cost-reimbursement subcontracts.) As a State agency or charitable institution, it is totally or partially immune from tort liability to third persons.

16. SMALL DISADVANTAGED BUSINESS CERTIFICATION - NOTICE

(a) When certifying small disadvantaged business status, the following criteria shall be met:

- (1) the firm is a small business as defined in part 2 above,
- (2) the firm is owned and controlled by a person belonging to one of the groups identified in part 3 above that is presumed to be socially and economically disadvantaged or has been designated as socially and economically disadvantaged pursuant to 12 CFR 124.105(d),
- (3) the person(s) own(s) not less than 51% with the right to exercise that ownership without restriction, whether privately or publicly owned,
- (4) the person(s) exercise(s) day-to-day control of the firm,
- (5) the person(s) each have a personal net worth of not more than \$750,000 as defined by 13 CFR 124.106, and
- (6) the Small Business Administration has not sustained a protest of the firm's small disadvantaged business status.

(b) Anyone who misrepresents the status of a concern as a small disadvantaged business is subject to a fine of not more than \$500,000 or imprisonment for not more than 10 years or both and the other sanctions specified in Sec. 16(d)(2) of the Small Business Act, as amended [15 U.S.C. 645(d)(2)] and any other remedies provided by law or regulation.

Offeror: _____

By: _____

(Signature)

Title: _____

Date: _____