

**Seller:** The following notices and certification and, as applicable, invoice requirements pertain to the Performance-Based Payments Schedule set forth in this Purchase Order or Subcontract which authorizes Performance-Based Payments in accordance with the clause at Federal Acquisition Regulation (FAR) 52.232-32 and, as applicable, the clauses at Defense Federal Acquisition Supplement (DFARS) 252.232-7012 and 252.232-7013.

**Section A: Performance-Based Payments Notices**

1. The FAR clause at 52.232-32, Performance-Based Payments is by this reference incorporated in this Purchase Order or Subcontract as if fully set forth herein. The terms "Government", "Contracting Officer", and "Contractor" are revised to suitably identify the contracting parties (Buyer and Seller) and affect the proper intent of the clause except to the extent of the title transfer provisions in FAR 52.232-32(f) which remains "Government." Buyer, not the Government, awards this Purchase Order or Subcontract and administers the Performance-Based Payment(s) as defined in this Purchase Order or Subcontract.
2. Seller shall provide the certification in FAR 52.232-32(m), on or in each invoice Seller submits to Buyer for a Performance-Based Payment (See Section B. below.)
3. For Purchase Orders or Subcontracts issued under a U.S. Government Department of Defense (DOD) Prime Contract (DOD Subcontracts), Seller shall, in addition to the certification in Section B. below, include the information from Section C. below in each invoice Seller submits to Buyer requesting a Performance-Based Payment.
4. Performance-Based Payments are authorized not more frequently than monthly. No request for a Performance-Based Payment shall be made by Seller prior to Seller's successful accomplishment of the event or performance criterion for which payment is requested. Verification by Buyer of successful performance of each event, according to the criteria outlined in the Performance-Based Payments Schedule, is required prior to payment. For DOD Subcontracts, at no time shall the cumulative Performance-Based Payments requested by Seller and paid to date exceed Seller's cumulative cost incurred under this Purchase Order or Subcontract. Seller shall, at Buyer's request, make accounting books and records available to Buyer or, as negotiated, to a mutually acceptable third party for administration of this requirement.
5. Each Seller invoice requesting Performance-Based Payment(s) shall contain the following:
  - (a) Name and address of Seller;
  - (b) Date of Seller's request for Performance-Based Payment;
  - (c) Purchase Order or Subcontract number (or other identifier) under which Seller's request is made;
  - (d) Sufficient information and/or documentation to demonstrate completion of the event or performance as required by the Purchase Order or Subcontract that justifies the payment request; and
  - (e) Signed Certification by Seller's Authorized Representative in the form specified in FAR 52.232-32(m) (see Section B, below).
  - (f) In addition, for DOD Subcontracts, the information required in Section C below.
6. Performance-Based Payment amounts paid prior to delivery must be liquidated by deducting a percentage of or a designated dollar amount from the delivery payments. Buyer will specify the liquidation rate or designated dollar amount in the Performance-Based Payments Schedule set forth in this Purchase Order or Subcontract. The method of liquidation must ensure complete liquidation no later than final payment.
7. Seller shall ensure that title to delivery items is not compromised by other encumbrances. Buyer, in the absence of reason to believe otherwise, shall rely upon Seller's Certification contained in the Performance-Based Payment request.
8. If Buyer becomes aware of any arrangement or condition that would impair Buyer's or the Government's title to the property affected by the clause at 52.232-32, Performance-Based Payments, Buyer may require additional protective provisions from Seller.

9. The existence of any such encumbrance is a violation of Seller's obligations under the Purchase Order or Subcontract, and Buyer may suspend or reduce payments under the terms of FAR 52.232-32(e) (1) for failure to comply with a material requirement of this Purchase Order or Subcontract. In addition, if Seller fails to disclose an existing encumbrance in the Certification, Seller may be in violation of the False Claims Act at 31 U.S.C. 3729.

**Section B: Seller's Certification for Performance-Based Payments**

**By my signature, below, I certify to the best of my knowledge and belief that:**

- 1. This request for Performance-Based Payment is true and correct; this request (and supporting information and attachments) has been prepared from the books and records of \_\_\_\_\_, in accordance with the Purchase Order or Subcontract and the instructions of the Buyer;
- 2. (Except as reported in writing on \_\_\_\_\_), all payments to Seller's subcontractors and suppliers under this Purchase Order or Subcontract have been paid, or will be paid, currently, when due in the ordinary course of business;
- 3. There are no encumbrances (except as reported in writing on \_\_\_\_\_) against the property acquired or produced for, and allocated or properly chargeable to, the Purchase Order or Subcontract that would affect or impair Buyer's or Government's title;
- 4. There has been no materially adverse change in the financial condition of the Seller since submission by Seller to Buyer of the most recent written information dated \_\_\_\_\_; and
- 5. After the making of this requested Performance-Based Payment, the amount of all payments for each deliverable item for which Performance-Based Payments have been requested will not exceed any limitation in the Purchase Order or Subcontract, and the amount of all payments under the Purchase Order or Subcontract will not exceed any limitation in the Purchase Order or Subcontract.

Description of the event(s) or performance supporting the payment request:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Seller's Authorized Representative

\_\_\_\_\_  
Seller's Firm/Company Name

\_\_\_\_\_  
Printed Name and Title of Seller's Authorized Representative

Address: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Purchase Order/Subcontract Number: \_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

## Section C: Seller's Invoice Requirements for DOD Subcontracts

|  |               |               |
|--|---------------|---------------|
| Current Performance-Based Payment(s) event(s) addressed by this request:<br>Event No.(s) _____           |               |               |
|  | <b>Amount</b> | <b>Totals</b> |
| (1a) Negotiated value of all previously completed Performance-Based Payments events;                     |               |               |
| (1b) Negotiated value of the current Performance-Based Payment event(s);                                 |               |               |
| (1c) Cumulative negotiated value of Performance-Based Payment(s) events completed to date ((1a) + (1b)); |               |               |
| (2) Total costs incurred to date*;   |               |               |
| (3) Enter the amount from (1c) or (2), whichever is less   |               |               |
| (4) Cumulative amount of payments previously requested; and  |               |               |
| (5) Payment amount requested for the current performance-based payment event(s) ((3) – (4))              |               |               |

\* Incurred cost is determined by Seller's accounting books and records, which Seller shall make available to Buyer or, as negotiated, to a mutually acceptable third party for administration of this requirement.

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