ANNUAL REPRESENTATIONS AND CERTIFICATIONS - INTERNATIONAL

This document is to be used if Offeror's performance is outside of the United States and Offeror has or will not recruit employees in the United States to work on this subcontract. (If the Offeror will perform any portion of the subcontract in the United States, Section 6 – Employment Eligibility Verification - must be completed.)

Offeror (Legal Business Name): _____

Doing Business As (must be listed on line 2 of W-8BEN-E): _____

Physical Address: _____

DUNS Number: _____ **DUNS Number+4:** _____

Parent DUNS Number (if applicable): _____

North American Industry Classification System (NAICS) Code for this acquisition is 334516 Analytical Laboratory Instrument Manul _____ **(as indicated in the solicitation/request for proposal (RFP), if applicable).**

1. **TYPE OF ORGANIZATION.** It operates as the following: *(check one)*
   Foreign
   ☐ Individual
   ☐ Sole Proprietorship
   ☐ Partnership
   ☐ Educational Institute / Nonprofit Organization
   ☐ Corporation
   ☐ Limited Liability Company
   ☐ Government

   Organized in the Country of _____

2. **ANTI-KICKBACK.** 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. "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.

3. **BUY AMERICAN.** (*Applicable if offer exceeds $15,000 and the purchased item is to be used in the United States.*)
   (a) Each end product, except those listed in paragraph (b) of this provision, is a domestic (U S made) end product and that for other than COTS items, the Offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The Offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of "domestic end product." The terms "commercially available off-the-shelf (COTS) item," "component," "domestic end product," "end product," foreign end product," and "United States" are defined in the clause of this solicitation entitled "Buy American Act – Supplies."

   (b) Foreign end products:

Item Description:	Country of Origin:

   By not listing any foreign end products in Section 2(b), Offeror represents that only domestic end products will be furnished under any resulting agreement.

(c) The Company will evaluate offers in accordance with the policies and procedures of Part 25 of the Federal Acquisition Regulation.

4. CERTIFICATION REGARDING KNOWLEDGE OF CHILD LABOR FOR LISTED END PRODUCTS. (*Applicable if offer for supplies exceed $15,000; except as provided in paragraph (b) of FAR 22.1503.*)

(a) *Definition: Forced or indentured child labor* means all work or service-

(1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

(b) *Listed end products.* The following end product(s) being acquired under this solicitation is (are) included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, identified by their country of origin. There is a reasonable basis to believe that listed end products from the listed countries of origin may have been mined, produced, or manufactured by forced or indentured child labor.

End Product:	Country of Origin:

(c) *Certification:* The Company will not make award to an offeror unless the offeror, by checking the appropriate block, certifies to either paragraph (c)(1) or paragraph (c)(2) of this provision.

(1) ☐ The offeror will NOT supply any end product listed in paragraph (b) of this provision that was mined, produced, or manufactured in a corresponding country as listed for that end product.

(2) ☐ The offeror MAY supply an end product listed in paragraph (b) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture such end product. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

5. EXPORT CONTROL. *(Applicable to all offers.)*

(a) The Offeror represents that items being furnished under any resulting agreement ☐ are, ☐ are not **Trigger List Items** as defined below:

Trigger List Items: https://www.iaea.org/sites/default/files/publications/documents/infcircs/1978/infcirc254r14p1.pdf
Trigger List items are a listing of equipment, components, or materials especially designed for nuclear applications and are export controlled. These items are on the safeguards list of the International Atomic Energy Agency identified above. The regulatory authority is the US Nuclear Regulatory Commission (10 CFR 110). If the items are Trigger List items, provide the following information:

Manufacturer's Name	
Item Description	
Commodity Category	

(b) The Offeror represents that items being furnished under any resulting agreement ☐ are, ☐ are not **Military/Space Items** as defined below.

Military/Space Items: https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=70e390c181ea17f847fa696c47e3140a&mc=true&r=PART&n=pt22.1.121
Military/Space items/equipment are specially designed, fabricated and configured for military and space applications as listed on the United States Munitions List (22 CFR 120-130). The regulatory authority is the US Department of State. If the items are Military/Space items/equipment, provide the following information:

Manufacturer's Name	
Item Description	
Commodity Category	

(c) The Offeror represents that items being furnished under any resulting agreement ☐ are, ☐ are not **Dual Use Items** 500 or 600 series as defined below.

Dual Use Items: https://www.iaea.org/sites/default/files/publications/documents/infcircs/1978/infcirc254r12p2.pdf
Dual Use Items 500 or 600 series: https://www.bis.gov
Dual Use Military and Space Items that were previously on the Munitions List under the Department of State and have been moved to the Commerce Control List (15 CFR 730-774). If the items are Dual Use Military and Space, provide the following information:

Manufacturer's Name	
Item Description	
Commodity Category	

6. CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS. *(Applicable if offer exceeds $200,000.)*

(a) *Definitions.* As used in this provision – "Lobbying contact" has the meaning provided at 2 U.S.C. 1602(8). The terms "agency," "influencing or attempting to influence," "officer or employee of an agency," "person," "reasonable compensation," and "regularly employed" are defined in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12).

(b) *Prohibition*. The prohibition and exceptions contained in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12) are hereby incorporated by reference in this provision.

(c) *Certification.* The Offeror, by signing its offer, hereby certifies to the best of its knowledge and belief that 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 its behalf in connection with the awarding of this subcontract.

(d) *Disclosure.* If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the Offeror with respect to this subcontract, the Offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The Offeror need not report regularly employed officers or employees of the Offeror to whom payments of reasonable compensation were made.

(e) *Penalty.* Submission of this certification and disclosure is a prerequisite for making or entering into this subcontract imposed by 31 U.S.C. 1352. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required 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.

7. CERTIFICATION REGARDING RESPONSIBILITY MATTERS. *(Applicable to all offers.)*

(a) (1) The Offeror certifies, to the best of its knowledge and believe, that:

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

(A) ☐ Are, ☐ are not presently 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 judgement 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

(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 paragraph (a)(1)(i)(B) of this provision.

(D) ☐ Have, ☐ have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds $15,000 for which the liability remains unsatisfied.

(1) Federal taxes are considered delinquent if both of the following criteria apply:

i. The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

ii. The taxpayer is delinquent in making payment. A taxpayer is delinquent of the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in a case where enforced collection is precluded.

(2) Examples are provided in FAR 52.209-5.

(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) "Principal," for the purposes of this certification, means officer; director; owner; partner; or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a 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, FICTICIOUS, 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 non-responsible.

(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 to the Company, the Company may terminate the subcontract resulting from this solicitation for default.

(f) Subcontractors must flow down FAR 52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Aug 2013) to sub-tiers if the value of any subcontract exceeds $45,000 and is not for commercially available off the shelf items.

8. COMPLIANCE WITH COMBATING TRAFFICKING IN PERSONS REQUIREMENTS. *(Applicable only if any portion of the offer exceeds $700,000 and is for supplies, other than COTS, acquired outside the U.S., or for services to be performed outside the U.S.)* Per FAR clause 52.222-50, Combating Trafficking in Persons, by submission of its offer, the offeror certifies that it shall submit, prior to award and annually thereafter, a certification, as specified in section (c) of FAR clause 52.222-56, Certification Regarding Trafficking in Persons Compliance Plan.

9. PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT. (FAR 52.204-25) *(Applicable to all offers.)*
The offeror represents that items being furnished or being used under any subsequent agreement ☐ are, ☐ are not prohibited covered telecommunication equipment or services and/or video surveillance services or equipment as defined below.

(a) Definitions. As used in this clause—

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).

Covered foreign country means The People's Republic of China.

Covered telecommunications equipment or services means–

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(3) Telecommunications or video surveillance services provided by such entities or using such equipment; or

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Critical technology means–

(1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;

(2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-

i. Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or

ii. For reasons relating to regional stability or surreptitious listening;

(3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);

(4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);

(5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or

(6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

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.

Substantial or essential component means any component necessary for the proper function or performance of a piece of equipment, system, or service.

(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.

10. CONFLICT OF INTEREST CERTIFICATION. *(Applicable if offer is for services and exceeds $15,000.)*

(a)

(1) The subcontractor, or consultant, by signing the form in this clause, certifies that, to the best of its knowledge and belief, there are no relevant facts or circumstances that could give rise to an organizational or personal conflict of interest, for the organization or any of its staff, and that the subcontractor, or consultant, has disclosed all such relevant information if such a conflict of interest exists or appears to exist to a reasonable person with knowledge of the relevant facts. Conflicts may arise in the following situations:

(i) *Unequal access to information.* A potential subcontractor, or consultant has access to non-public information through its performance on a government contract.

(ii) *Biased ground rules.* A potential subcontractor, or consultant has worked, in one government contract, or program, on the basic structure or ground rules of another government contract.

(iii) *Impaired objectivity.* A potential subcontractor, or consultant, or member of their immediate family (spouse, parent, or child) has financial or other interests that would impair, or give the appearance of impairing, impartial judgment in the evaluation of UT-Battelle programs, in offering advice or recommendations to UT-Battelle, or in providing technical assistance or other services to recipients of Federal funds as part of its contractual responsibility.

(2) Offerors must provide the disclosure described above on any actual or potential conflict of interest (or apparent conflict of interest) regardless of their opinion that such a conflict or potential conflict (or apparent conflict of interest) would not impair their objectivity.

(3) In a case in which an actual or potential conflict (or apparent conflict of interest) is disclosed, the subcontractor or consultant shall also include a description of actions that it proposes to take to avoid, mitigate, or neutralize the actual or potential conflict (or apparent conflict of interest). UT-Battelle will make the final determination in writing whether the proposed or alternative mitigation measures will sufficiently mitigate the conflict.

(b) The subcontractor or consultant agrees that if an actual or potential conflict of interest (or apparent conflict of interest) is discovered after the award is made, it will make a full disclosure in writing to the procurement officer. This disclosure shall include a description of actions that the subcontractor or consultant has taken or proposes to take to avoid, mitigate, or neutralize the actual or potential conflict (or apparent conflict of interest). UT-Battelle will make the final determination in writing whether the proposed or alternative mitigation measures will sufficiently mitigate the conflict.

(c) *Remedies.* UT-Battelle may terminate this contract for convenience, in whole or in part, if it deems such termination necessary to avoid the appearance of a conflict of interest. If the subcontractor or consultant was aware of an actual or potential conflict of interest prior to award, or discovered an actual or potential conflict after award and did not disclose or misrepresented relevant information to the procurement officer, UT-Battelle may terminate the contract for default, or pursue such other remedies as may be permitted by law or this contract.

(d) The subcontractor further agrees to insert in any subcontract or consultant agreement hereunder, provisions that conform substantially to the language of this clause.

By: _____
Signature

Name (printed): _____

Title: _____

Date: _____