



Section G: Oshkosh Supplier Annual Representations and Certifications Instructions

Revised: 16 December 2020

These representations and certifications shall apply whenever a quotation, request for quotation, subcontract or purchase order is issued in support of a U.S. Government prime contract or higher-tiered subcontract (collectively, "Government Contract"). To be eligible for award of a Government Contract, Seller must complete all of the Representations and Certifications contained in this Section G. Failure to furnish such Representations and Certifications may serve as a basis for Oshkosh to reject Seller's bid(s) or proposal(s) as non-responsive, resulting in no award.

Seller must respond to the versions of the Federal Acquisition Regulation (FAR) and Department of Defense FAR Supplement (DFARS) clauses listed below that are in effect as of the date Seller is executing these Representations and Certifications.

These Representations and Certifications shall be valid for one (1) year from date of submittal. SELLER SHALL NOTIFY OSHKOSH IMMEDIATELY OF ANY CHANGE OF STATUS OR EXCEPTIONS WITH REGARD TO THESE REPRESENTATIONS AND CERTIFICATIONS. Oshkosh will issue updates to this Section G periodically, as necessary to comply with its contractual obligations and applicable laws and regulations.

**PART I BUSINESS INFORMATION**

**A. COMPANY INFORMATION**

Seller Name \_\_\_\_\_

Seller Address \_\_\_\_\_

(City, State, Zip Code) \_\_\_\_\_

Contractual Point of Contact \_\_\_\_\_

Telephone Number \_\_\_\_\_

Email Address \_\_\_\_\_

Website Address \_\_\_\_\_

DUNS Number \_\_\_\_\_

Cage Code \_\_\_\_\_

NAICS Code(s) \_\_\_\_\_

Tax ID \_\_\_\_\_

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**B. OWNERSHIP**

Seller is:

- U.S. Owned
- U.S. Incorporated with Foreign Parent
- Foreign-Owned, Registered for business in \_\_\_\_\_ (country)

Seller operates as:

- A corporation incorporated under the laws of \_\_\_\_\_ (state)
  - Privately Held Corporation OR  Publicly Traded Corporation
- Limited Liability Partnership
- Joint Venture or Consortium
- Sole Proprietorship
- Partnership
- Non-Profit Organization

**C. RESPONSIBLE SUPPLIER**

Seller’s current Quality Certifications and Standards (Include type and expiration date as applicable)

- ISO \_\_\_\_\_
- AS9100 \_\_\_\_\_
- Others \_\_\_\_\_

**D. SPECIALTY METALS**

Do the Products that Seller proposes to sell to Oshkosh contain specialty metals as defined in DFARS clause 252.225-7009, Restriction on Acquisition of Specialty Metals?

- Yes
- No

If Seller checked “yes,” Seller represents and warrants that all Products containing specialty metals will comply with DFARS clause 252.225-7009 and Seller will provide to Oshkosh upon request, written documentation demonstrating Seller’s compliance with such requirements.

**E. BUY AMERICAN ACT AND TRADE AGREEMENTS ACT**

When applicable, Seller shall provide information relating to its compliance with the Buy American Act and/or Trade Agreements Act to Oshkosh with each quotation or proposal, including any requested certifications. Seller shall provide a certificate of compliance identifying the country of origin of Products and Seller’s compliance with the Buy American Act and/or Trade Agreements Act, as applicable, with each shipment of Products. Upon request by Oshkosh, Seller shall provide Oshkosh with any other information required to support Seller’s compliance with the Buy American Act and/or Trade Agreements Act, as applicable.

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**F. COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES**

As used in this paragraph F, “covered telecommunications equipment or services” has the meaning provided in FAR 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (AUG 2020). Prior to completing this representation, Seller shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for “covered telecommunications equipment or services.”

*Representation.* Seller represents that it  does,  does not provide covered telecommunications equipment or services as a part of its offered products or services to Oshkosh in the performance of any contract, subcontract, or other contractual instrument.

*Disclosure.* If Seller checked “does,” Seller shall provide Oshkosh the following information:

For covered equipment -

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

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

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of FAR 52.204-24, Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (AUG 2020).

For covered services -

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

(B) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of FAR 52.204-24, Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (AUG 2020).

**G. COVERED DEFENSE TELECOMMUNICATIONS EQUIPMENT OR SERVICES**

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As used in this paragraph G, “covered defense telecommunications equipment or services” has the meaning provided in DFARS 252.204-7018, Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services (DEC 2019). Prior to completing this representation, Seller shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded when providing any equipment, system, or service, to carry out covered missions, that uses covered defense telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

*Representation.* Seller represents that it  does,  does not provide covered defense telecommunications equipment or services as a part of its offered products or services to Oshkosh in the performance of any contract, subcontract, or other contractual instrument.

*Disclosure.* If Seller checked “does,” Seller shall provide Oshkosh the following information:

For covered defense equipment -

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

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

(C) Explanation of the proposed use of covered defense telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b) of DFARS 252.204-7018, Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services (DEC 2019).

For covered defense services -

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

(B) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b) of DFARS 252.204-7018, Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services (DEC 2019).

## H. DOD NIST SP 800-171 SELF-ASSESSMENT

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In accordance with DFARS 252.204-7020, Seller must complete one of the following two certifications, as applicable to Seller:

Seller certifies that it has, within the within the last 3 years, conducted a Basic Assessment as described in DFARS 252.204-7020(d)(1) and submitted the summary level scores of such assessments for all contractor information systems covered by Defense Federal Acquisition Regulation System (DFARS) clause 252.204-7020 to the Government for posting to the Supplier Performance Risk System, and that Supplier fully complies with the requirements of DFARS 252.204-7020.

Seller certifies that all parts Seller provides to Oshkosh are documented as commercially available off-the-shelf (COTS) items on a standard Assertion of Commercial Item form that has been approved by Oshkosh.

Seller makes this certification with the understanding that Oshkosh must represent to the United States Government that Supplier complies with DFARS 252.204-7020, and that Oshkosh is relying on this certification in making that representation.

**I. Cybersecurity Maturity Model Certification (CMMC)**

Oshkosh anticipates that its contracts will soon include a CMMC certification requirement. In order to confirm its suppliers will be able to comply with applicable CMMC requirements, provide the following information regarding Seller’s current CMMC certification status. Complete only one section below (a, b, c, or d) as applicable to Seller.

a.  Seller is currently certified by an accredited 3<sup>rd</sup> party CMMC assessor. Please provide:

Name of 3<sup>rd</sup> party CMMC assessor: \_\_\_\_\_

Seller’s CMMC certification level:

Level 1       Level 2       Level 3       Level 4       Level 5

Date of expiration of certification: \_\_\_\_\_

b.  Seller intends to seek CMMC certification but has either not begun or not completed the CMMC certification process. Please provide Seller’s intended minimum CMMC certification level:

Level 1       Level 2       Level 3       Level 4       Level 5

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Our activities are as a manufacture / exporter or broker have not and do not involve the manufacture or export of defense articles, defense services, or related technical data as defined in the ITAR (See 22. C.F.R. §§ 120.6 – 120.10).

We are a non-US company and are not subject to U.S. export regulations (including the ITAR registration requirements placed on foreign persons acting in certain brokering capacities).

We are a consultant to Oshkosh providing other, non-defense related business services. Our products and services are not subject to the ITAR, and none of the aforementioned options apply to our service agreement with Oshkosh.

**B. ITAR AND EAR EXPORT COMPLIANCE REQUIREMENTS**

1. Does your company perform work at non-U.S. facilities, affiliates or subsidiaries with an address in a country other than the country of incorporation of your business?

Yes  No

If yes, identify each country:

\_\_\_\_\_

2. Does your company employ foreign nationals at locations or facilities within the United States (excluding dual-U.S. citizens and Legal Permanent Residents)?

Yes  No

3. Will any third party who is a non-U.S. company (or who will employ non-U.S. facilities or non-U.S. persons) be involved in any way on any Oshkosh transactions?

Yes  No

4. Upon Oshkosh’s request you shall provide copies of your company’s export compliance policies and procedures, including those addressing the ITAR, EAR, and the economic sanctions programs administered by the U.S. Treasury Department’s Office of Foreign Assets Control (OFAC).

Export/Import compliance requirements:

**Control of Export Controlled Information:** Seller hereby acknowledges that certain articles, software, services or technical data to be provided by Oshkosh are subject to U.S. Government export control laws and regulations, e.g., the International Traffic in Arms Regulations (ITAR) or Export Administration Regulations (EAR). Seller agrees to comply with US export control laws and regulations in the course of its work for Oshkosh. Accordingly, it agrees that it shall not export, re-export or otherwise transfer (including engaging in deemed exports with foreign nationals) any export controlled articles, services, or technical data provided to Seller without prior written approval from Oshkosh and either the U.S. Department of Commerce or the U.S. Department of State as may be required. If Seller believes that there is any ambiguity regarding the status of any articles, software, services or technical data provided by Oshkosh, it shall immediately contact Oshkosh for clarification.

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**Name and Address Changes:** Seller certifies that it will notify Oshkosh of any legal name change or address change of the seller, or consignees or intermediate consignees.

**Non-US Person Employees:** If necessary for US export control compliance, licensing or other lawful purposes and upon request from Oshkosh, Seller agrees that it will undertake in a manner consistent with U.S. law to disclose the citizenships of relevant foreign persons employed at U.S. locations and facilities, as well as, the citizenships/nationalities of dual and third country nationals employed at relevant international locations and facilities. Seller agrees to inform Oshkosh if it believes there are any legal issues that might affect such disclosures.

**International Locations and Facilities:** If necessary for export control compliance, licensing or other lawful purposes and upon request from Oshkosh, Seller agrees that it will disclose relevant international locations and facilities, affiliates, or subsidiaries other than the country of incorporation.

**Transfer of Export Controlled Technical Data:** Seller acknowledges that all transmissions of export controlled technical data between authorized parties must only occur via mail, courier, hand carriage, encrypted mail, secure internal mail, secure FTP site, or other secure electronic means. Hardcopy export controlled technical data must be locked in a desk, file cabinet, office, or elsewhere to preclude unauthorized access when not in use. No export controlled technical data may be stored on a personally-owned computer.

**Restricted Party Screening:** Seller certifies that it shall notify Oshkosh if the seller, its employees or representatives are or become debarred or otherwise restricted from participation in government contracting or international transactions, as a result of seller, its employees or representatives being placed on a Department of Commerce, Department of State, or Department of Treasury restricted party list or on the US Government's "System on Award Management".

**Compliance Program:** Seller certifies that to the extent it engages in activities subject to US export controls, it has developed, implemented, and effectively maintains policies and procedures to ensure compliance with the ITAR, EAR, and Office of Foreign Assets Control (OFAC) regulations.

**Payments of Fees, Commissions and Political Contributions:** Seller certifies that it will provide information on certain payments in accordance with Part 130 of the ITAR (22 CFR 130) as requested by Oshkosh. Specifically, if Seller provides over \$500,000 of defense articles or defense services, it may be requested to provide such information. Seller further certifies that it will not make direct or indirect political contributions incident to its work for Oshkosh.

**PART III FEDERAL ACQUISITION REGULATION (FAR) AND****DEPARTMENT OF DEFENSE FAR SUPPLEMENT (DFARS) CERTIFICATIONS**

Complete **Section A** below if you **have** completed the annual representations and certifications electronically at <https://www.sam.gov>.

Complete **Section B** below if you **have not** completed the annual representations and certifications referenced below electronically at the SAM website.

**A. SAM CERTIFICATION**

Seller has completed the annual representations and certifications electronically via the Online Representations and Certifications located on the System for Award Management (SAM) website at <https://www.sam.gov>. Seller must email to [subcontract@defense.oshkoshcorp.com](mailto:subcontract@defense.oshkoshcorp.com) a current version of its completed SAM representations and certifications. After reviewing the SAM database information, Seller verifies that the representations and certifications currently posted electronically have been entered or updated within the last twelve (12) months, are current, accurate, complete, and applicable to Seller's proposed work for Oshkosh as of the date of these Representations and Certifications.

**B. ANNUAL REPRESENTATIONS AND CERTIFICATIONS**

*Definitions.* For purposes of this Part IV, Section B, the following clauses shall operate, impose the obligations and responsibilities of the parties and be interpreted as if:

- i. "Contracting Officer" means an authorized representative of Oshkosh's purchasing department;
- ii. "Contract" means the subcontract or purchase order that Oshkosh issues to Seller;
- iii. "Offer" means the quote or proposal that Seller provides to Oshkosh;
- iv. "Offeror" means "Seller";
- v. "Contractor" means "Seller"; and
- vi. "Subcontractor" shall mean Seller's lower-tier subcontractors.

**Federal Acquisition Regulation****52.209-2 Prohibition on Contracting with Inverted Domestic Corporations-Representation**

(a) Representation. The Offeror represents that—

- (1) It  is,  is not an inverted domestic corporation as defined in FAR 52.209-2; and

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(2) It  is,  is not a subsidiary of an inverted domestic corporation as defined in FAR 52.209-2.

(b) *Representation.* By submission of its offer, the offeror represents that it is not an inverted domestic corporation and is not a subsidiary of one.

**52.209-5 Certification Regarding Responsibility Matters (Modified)**

(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  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 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 (if offeror checks “have”, the offeror shall also see 52.209-7, if included in this solicitation);

(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 \$3,500 for which the liability remains unsatisfied. See FAR 52.209-5 for a description of when Federal taxes are considered delinquent.

(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 an 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, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.***

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**52.209-11 Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law**

(a) The Offeror represents that—

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

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

**52.215-6 Place of Performance**

The offeror, in the performance of any Government Contract with Oshkosh,  intends,  does not intend to use one or more plants or facilities located at a different address from the address of the offeror or respondent as indicated in this proposal or response to request for information.

**52.222-18 Certification Regarding Knowledge of Child Labor for Listed End Products (Modified)**

Oshkosh 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 FAR 52.222-18 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 FAR 52.222-18 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.

**52.222-22 Previous Contracts and Compliance Reports (Modified)**

The offeror represents that—

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(a) It  has,  has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;

(b) It  has,  has not filed all required compliance reports; and

#### **52.222-25 Affirmative Action Compliance**

The offeror represents that—

(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.

#### **52.223-9 Estimate of Percentage of Recovered Material Content for EPA-Designated Items (Modified)**

(a) The Contractor, on completion of this contract and at the request of Oshkosh, shall—

(1) Estimate the percentage of the total recovered material content for EPA-designated item(s) delivered and/or used in contract performance, including, if applicable, the percentage of post-consumer material content; and

(2) Submit this estimate to Oshkosh.

#### **52.223-22 Public Disclosure of Greenhouse Gas Emissions and Reduction Goals-Representation**

(a) This representation shall be completed if the Offeror received \$7.5 million or more in Federal contract awards in the prior Federal fiscal year. The representation is optional if the Offeror received less than \$7.5 million in Federal contract awards in the prior Federal fiscal year.

(b) Representation. [Offeror is to check applicable blocks in paragraphs (1) and (2).]

(1) The Offeror (itself or through its immediate owner or highest-level owner)  does,  does not publicly disclose greenhouse gas emissions, i.e., make available on a publicly accessible website the results of a greenhouse gas inventory, performed in accordance with an accounting standard with publicly available and consistently applied criteria, such as the Greenhouse Gas Protocol Corporate Standard.

(2) The Offeror (itself or through its immediate owner or highest-level owner)  does,  does not publicly disclose a quantitative greenhouse gas emissions reduction goal, i.e., make available on a

publicly available website a target to reduce absolute emissions or emissions intensity by a specific quantity or percentage.

(3) A publicly accessible website includes the Offeror's own website or a recognized, third-party greenhouse gas emissions reporting program.

(c) If the Offeror checked "does" in paragraphs (b)(1) or (b)(2) of this provision, respectively, the Offeror shall provide upon Oshkosh's request the publicly accessible website(s) where greenhouse gas emissions and/or reduction goals are reported:\_\_\_\_\_.

### **Department of Defense FAR Supplement**

#### **252.247-7022 Representation of Extent of Transportation by Sea**

(a) The Offeror shall indicate by checking the appropriate blank in paragraph (b) of this provision whether transportation of supplies by sea is anticipated under the resultant contract. The term "supplies" is defined in the Transportation of Supplies by Sea clause of this solicitation.

(b) *Representation.* The Offeror represents that it—

- Does anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.
- Does **not** anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

(c) Any contract resulting from this solicitation will include the Transportation of Supplies by Sea clause. If the Offeror represents that it will not use ocean transportation, the resulting contract will also include the Defense FAR Supplement clause at 252.247-7024, Notification of Transportation of Supplies by Sea.

**READ ONLY PROVISIONS** - The following FAR and DFARS provisions are provided for Seller to read. They do not require completion of any data. The full text of the FAR provisions can be found at [www.aquisition.gov/browsefar](http://www.aquisition.gov/browsefar) and the full text of the DFARS provisions can be found at <https://www.acq.osd.mil/dpap/dars/dfarspgi/current/>. When certifying to the information on this page, you are also certifying that you have read and will comply with each one of these provisions.

- FAR 52.203-2, Certificate of Independent Price Determination
- FAR 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions
- FAR 52.203-18, Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements – Representation
- FAR 52.222-38, Compliance with Veterans' Employment Reporting Requirements

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- FAR 52.222-56, Certification Regarding Trafficking in Persons Compliance Plan
- FAR 52.223-4, Recovered Material Certification
- FAR 52.225-20, Prohibition on Conducting Restricted Business Operations in Sudan – Certification
- FAR 52.225-25, Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran – Representation and Certifications
- FAR 52.227-6, Royalty Information
- DFARS 252.204-7008, Compliance with Safeguarding Covered Defense Information Controls
- DFARS 252.222-7007, Representation Regarding Combating Trafficking in Persons
- DFARS 252.225-7031, Secondary Arab Boycott of Israel
- DFARS 252.225-7042, Authorization to Perform
- DFARS 252.225-7050, Disclosure of Ownership or Control by the Government of a Country that is a State Sponsor of Terrorism

**CERTIFICATION**

I hereby certify on behalf of Seller that the Representations and Certifications included above are current, accurate, and complete and that Seller will comply with all of the requirements contained herein. Seller agrees to immediately notify Oshkosh of any changes in the Representations and Certifications contained herein.

**SELLER:** \_\_\_\_\_

**AUTHORIZED REPRESENTATIVE OF SELLER:**

\_\_\_\_\_  
NAME (print)

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

**Effective Period:** Certificates executed shall remain in effect for one (1) year from the date of signature.

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