



**Request for Quotations No. 2023-03-008**

**Education Development Center, Inc.  
(Hereafter referred to as "EDC")**

**Procurement of Mini desktop computer (Full Set), 19" Rack cabinet, Display  
Monitors, and other IT Accessories**

**Date of Issuance: March 15, 2023**

Education Development Center (EDC) is a global nonprofit that advances lasting solutions to improve education, promote health, and expand economic opportunity, with a focus on vulnerable and underserved populations.

The USAID Youth Empowerment Activity (USAID YEA) will reach 25,000 South Sudanese youth in 13 counties across five States (Eastern Equatoria, Jonglei, Unity, Upper Nile, and Western Bahr el Ghazal) over a four-year period. This community-based intervention will establish a vibrant Youth Corps and support local organizations enhance youth-friendly service offerings. USAID YEA will tailor its intervention to meet the realities of each implementation area and to best support a diverse group of youth with varied capacities and aspirations to reach their full potential.

## ***1. Purpose and Eligibility***

### **1.1 Purpose**

The purpose of the RFQ is to invite prospective offerors to submit quotations for the supply of **19” Rack cabinet, Display Monitors, printers and other IT Accessories.**

### **1.2 Eligibility**

This procurement is open to offers from organizations incorporated or legally registered under the laws of South Sudan.

## ***2. General Information***

### **2.1 Original RFQ Document**

EDC shall retain the RFQ, and all related terms and conditions, exhibits and other attachments, in original form in an archival copy. Any modification of these, in the offeror’s submission or subsequent contract, is grounds for immediate disqualification.

### **2.2 RFQ Provisions**

1. All information provided by EDC in this RFQ is offered in good faith. EDC makes no certification that any item is without error. EDC is not responsible or liable for any use of the information or for any claims asserted therefrom.
2. This RFQ under any circumstances does not commit EDC to pay any costs incurred by the offeror in the submission of a quotation. This is the offeror’s responsibility.
3. All materials submitted in response to this RFQ shall become the property of EDC upon delivery to EDC.
4. Additional documentation may be required prior to selection.
5. All Quotations in response to this RFQ and other communication must be received in English.

### **2.3 Schedule of Events**

The following schedule applies to this RFQ but may change in accordance with EDC’s needs or unforeseen circumstances. Changes in this timeline will be announced as formal modifications to the RFQ.

LINE	TIME	DATE	STEP
A	4:00 PM South Sudan time	March 20 2023	Deadline for request for any clarifications from the EDC. Questions must be submitted in via email to <a href="mailto:YEAprocurement@edc.org">YEAprocurement@edc.org</a>
B	4:00 PM South Sudan time	March 23 2023	Estimated date for issuance of any clarifications by EDC. All questions will be answered in one document and sent directly to all Offerors receiving this Request for Quotation
C	4:00 PM South Sudan time	March 27 2023	Deadline for submission of Quotations. Submissions must be submitted via email to <a href="mailto:YEAprocurement@edc.org">YEAprocurement@edc.org</a>

### **2.4 Inspection and Acceptance**

Under any contract awarded in response to this RFQ, EDC may inspect and test the commodities to determine whether such commodities conform to the terms of the contract and its attachments. Unless otherwise agreed to in writing by EDC, EDC shall have a right to inspect commodities for conformity before payment or acceptance of such commodities, in accordance with Section 2-513(1) of the UCC. Payment for commodities made before inspection for conformity shall not constitute an acceptance of such commodities or impair EDC's right to inspect such commodities or any of EDC's remedies, in accordance with Section 2-512(2) of the UCC. Commodities rejected or commodities more than the quantities ordered may be returned to the selected offeror at the selected offeror's expense.

### **3. Quotation Submission and Selection**

#### **3.1 Offeror's Understanding of the RFQ**

In responding to this RFQ, the Offeror fully understands the RFQ in its entirety and in details, including making any inquiries to EDC as necessary to gain such understanding. Clarification questions must be submitted by potential offerors—in writing—by the date and time designated in Line A of the Chart in Section 2.3. Responses will be sent in writing in accordance with Line B of the Chart in Section 2.3. EDC reserves the right to disqualify at its sole discretion any offeror who submits a quotation that is not responsive or that demonstrates less than such understanding. That right extends to cancellation of the contract if a contract has been made. Such disqualification and/or cancellation shall be at no fault, cost, or liability whatsoever to EDC.

#### **3.2 Communication**

Verbal communication shall not be effective. In no case shall verbal communication govern over written communications.

Offerors' inquiries, questions, and requests for clarification related to this RFQ are to be directed in writing in English before the date and time designated in Line A of the Chart in Section 2.3 to: Education Development Center, Inc.

Attention: Procurement Manager  
E-mail: YEAprcurement@edc.org  
Email subject: Questions regarding RFQ No. 2023-03-008

### **3.3 Quotation Submission**

Quotations must be provided on the Offeror's letterhead or stationery and sent by email to:

Education Development Center, Inc.  
Attention: Procurement Manager  
E-mail: YEAprcurement@edc.org  
Email: subject: Quotation in response to RFQ No. 2022-03-008

Quotations must have the subject line of "Quotations in response to RFQ No. 2023-03-008" and must include the number of emails (for example, Email 1 of 2, Email 2 of 2, etc.) in the subject line. The quotation itself must include all documents required by this RFQ in Word, Excel, or pdf format and those documents must be attached to the email message(s); all attachments must be clearly labeled and must be numbered sequentially in order for EDC to review the quotation. If the quotation is sent in more than one email message, the offeror should send all the email messages with the quotation submission on the same day and time and send the emails as closely together as practicable.

It is the responsibility of the offeror to ensure timely delivery of the Quotation to EDC by the date and time designated in Line C of the Chart in Section 2.3.

### **3.4 Eligibility of Quotations**

#### **3.4.1 Complete Quotations**

Offerors must submit all components required by this RFQ, including its annexes, in order for their Quotations to be complete. Before evaluating Quotations, EDC will determine which Quotations include the components required by the RFQ, see **Annex B**, to be considered complete Quotations. Please note that although EDC will determine certain Quotations to be complete, this determination does not signify that an award will be made to one or any of the Offerors with complete Quotations. Only complete quotations will be evaluated and considered for an award.

#### **3.4.2 Past Performance**

Offerors may be disqualified if a check of past performance demonstrates that the offeror has not been able to deliver similar services on time and in a satisfactory manner.

#### **3.4.3 Compliance with Technical Specifications & Requirements**

Offerors may be disqualified if the quotation does not demonstrate compliance with Section 4, *Technical Specifications & Requirements*.

### **3.5 Evaluation Criteria**

EDC shall evaluate all complete quotations based on price, quality and warranty.

### 3.6 Selection

EDC may award one or more contracts resulting from this RFQ to the Offeror(s) whose quotation(s) conforming to this RFQ offer(s) the greatest value. EDC may also (a) reject any or all quotations, (b) accept other than the lowest quotation, or (c) accept more than one quotation. Contracts may be issued for some or all of the lots. EDC, at its sole discretion, may waive informalities and minor irregularities in quotations received.

EDC may award a contract without discussions with Offerors. As such, Offerors are strongly encouraged to submit their best quotations with their original submissions. EDC reserves the right to conduct site visits and/or to conduct discussions, which may result in revisions to quotations, with one or more than one or all Offeror(s) if EDC determines, at its sole discretion, discussions to be necessary. Discussions may include oral presentations provided by the Offeror.

### 4. Technical Specifications & Requirements and Quantity.

Offerors must meet all of the minimum specifications listed in Section 4.1.

#### 4.1 Submit quotations for the following:

No	Description of Goods or Services (Attach Specifications for Equipment/Goods or Terms of Reference for Services)	Unit Type	Quantity
2	27-inch Display Monitor, LED Monitor 2560x1440 HDR400 HDMI DisplayPort up to 144Hz 1ms Height Adjustable, Build-in Speakers, Gunmetal Black 2021 (E275B-QPN168)	Piece	3
3	LaserJet printer (3 in 1), black & white, 21 pages per min (minimum)	Piece	5
4	LaserJet Toner Cartridge Page Yield 1000 pages	Piece	10
5	<p><b>Projector-Input Signal:</b> Auto, RGB, and Component,</p> <p><b>Interfaces:</b></p> <ul style="list-style-type: none"> <li>• 1x HD BaseT</li> <li>• 2x HDMI® (1 in common with MHL®)</li> <li>• Computer: 1x D-sub 15 pin</li> <li>• Video: 1x RCA</li> <li>• Audio-in: 3x Mini stereo</li> <li>• Audio-in: 1x RCA (L &amp; R)</li> <li>• Network: 1x RJ-45, 100</li> <li>• Wireless connectivity</li> <li>• Mbps Serial: 1x RS-232c</li> <li>• Monitor Out: 1x D-sub 15 pin</li> </ul>	Piece	5

	<ul style="list-style-type: none"> <li>Projector is compatible with PC and Mac® computers</li> </ul> <b>Speaker:</b> 16 W (mono)		
6	19 inch 18U Server Rack Cabinet with secure locking door - 4 Post Adjustable Depths (5.5" to 28.7") - 1768 lb capacity - 19-inch Portable Network Equipment Enclosure on wheels/casters and glass door	Piece	1
7	Pro'sKit PK-4028AI Telecom and Network Installation Kit	Set	1
8	SATA to USB Cable - USB 3.0 to 2.5" SATA III Hard Drive Adapter - External Converter for SSD/HDD Data Transfer	PC	1
9	32GB SanDisk Flash drive	PC	2
10	1TB SanDisk External SSD Drive	PC	1

#### 4.1.3 Delivery Schedule and Location

The quotation should be based on the following delivery schedule, taking into account the delivery location specified below:

Item	Quantity (No of Units) Per Delivery	Delivery Schedule	Location
All Items	All Quantities	Within 7 days calendar days of signing the purchase order	AFEX River camp, Juba

Offerors that are not able to provide the items within 7 business days can propose an alternative delivery schedule. Preference will be given to those Offerors that can meet the 7-business day delivery following the award of the contract.

#### 4.1.4 Inspection

EDC reserves the right to inspect and test the items delivered to determine whether they conform to the specifications in Section 4.1.1. Any payments made before inspection for conformity shall not constitute an acceptance of such goods/services or impair EDC's right to inspect the items delivered. The Items may be returned to selected Vendor at the selected Vendor's expense, subject to the following:

EDC may reject any or all of the deliverables or any part thereof that fail to pass any test and/or inspection, or do not conform to EDC's specifications and standards, subject to test

or inspection that shall be carried out by an EDC representative. The decision of the EDC representative will be final with regard to technical specifications as well as the intended purposes and will be binding on the Parties. The selected Vendor shall either rectify or replace such rejected materials or parts thereof or make alterations necessary to meet the specifications at no cost to EDC.

#### **4.1.5 Warranty**

All Offerors must provide a document with proposed or applicable warranty key electronic and IT Equipment. In addition to any other express or implied warranties, Offerors must expressly warrant that:

- All technology delivered under any contract resulting from this RFQ will be merchantable, new, suitable for the uses intended, of the grade and quality specified, free from all defects in design, material and workmanship, conform to all samples, drawings, descriptions and specifications furnished, and be free of liens and encumbrances and that the use, distribution or resale of commodities by EDC will not infringe any third party's patent, trademark, trade secret, copyright, or any other proprietary, intellectual property or other right held by any third party.
- None of the commodities delivered under any contract resulting from this RFQ will be counterfeit.
- The selected Offeror(s) shall replace any defective commodities with new ones without charge to EDC.
- Selected Offeror(s) will perform the services in accordance with industry standards.
- Selected Offeror(s) will be solely responsible for any loss or damage of the goods during shipping; and
- Selected Offeror(s) will carry reasonable insurance and provide proof of insurance upon request.

The warranties set forth shall not be waived by reason of the acceptance of any items or payment therefore by EDC.

#### **4.1.6 Other specifications**

Offerors may not provide any items which were manufactured or produced in or shipped from countries sanctioned by the US government. Quotations that include items from countries sanctioned by the US government shall not be considered.

#### **4.2 Shipment**

If the selected Offeror will need to air or ocean-ship any items, to AFEX Rivercamp, Juba, South Sudan. Air or ocean shipping must comply with USAID and U.S. Government regulations, which require shipment via US flag carrier. If US flag carrier is not available for all or some of the shipments, the offeror must provide specific information why US flag carrier is not available for which sections of the shipping, what percentage US carrier will ship, and what percentage foreign carrier will ship. The offeror must be able to initiate the shipment of the commodities within 14 business days of written notification from EDC that EDC will purchase the commodities from the selected offeror.

All offerors must provide a timeline for shipment for their quotation to be considered; the timeline should indicate the country of origin of the shipment if known. If the Offeror will not need to ship the item, please state this in the quotation.

## 5. Price Quotation Requirements

The price quotation must include the costs for the Heavy-Duty Sheetfed Scanner and Medium Duty Multifunction Printer (B/W) including any necessary components to meet the specifications in Section 4 including any in-country and (if needed) any ocean or air transport costs. The quotation must include costs on 1) a per unit basis; 2) transportation costs; 3) applicable fees; 4) applicable taxes including VAT; and 5) the total cost. **The country of manufacture** for each item must be specified and included in the price quotation. The price quotation must be in US\$. All offerors must provide a price guarantee that the quotation price remains valid for 90 calendar days. The quotation must follow the format provided in **Annex C**.

## 6. Contract Type and Payment

### 6.1 Payment

The payment schedule for any resultant contract is anticipated to be as follow:

Deliverables	Payment Amount
All items requested in the PO	100% payment within 30 calendar days of delivery/acceptance by EDC authorized representative and receipt of tax invoice

### 6.2 Contract Terms

The anticipated contract terms and conditions for any resultant contract are provided in **Annex D**. EDC reserves the right, at its sole discretion, to revise the contract terms and conditions before issuance of a contract.

## 7. Organizational Information and Certification Form

In order for their quotation to be considered, the offeror must complete and submit the Organizational Information and Certification Form included in **Annex A** to this RFQ and submit all the attachments required by **Annex A** to this RFQ.

## 8. Proof of Business Registration and Up to Date Tax Certification

In order for the Quotations to be considered, the Offeror must complete and submit the proof of their Business Registration and up-to-date Tax Certification as an attachment to this RFQ.

### Annex A—Organizational Information and Certification Form

The Offeror must ensure that this form is duly completed and correctly executed by an authorized officer of the Offeror's company. **Please check each appropriate box and/or fill in ALL applicable lines below.**

### A1. Organizational Information

Full legal name of the Offeror's company: \_\_\_\_\_



Year the Offeror's company was established: \_\_\_\_\_

Contact information regarding the quotation:

- (a) Individual's full name and title: \_\_\_\_\_
- (b) Full office address: \_\_\_\_\_
- (c) Telephone number: \_\_\_\_\_
- (d) Fax number: \_\_\_\_\_
- (e) Email address: \_\_\_\_\_

Offeror's Unique Entity Identifier (UEI) Code<sup>1</sup>:

The Offeror certifies, by checking the applicable box(es), that: The

- Offeror is a **non-U.S. entity** and it operates as:
  - a corporation organized under the laws of\_(country name), an
  - individual, a partnership,
  - a nongovernmental nonprofit organization, a
  - nongovernmental educational institution, a
  - governmental organization, an international
  - organization, or a joint venture.
  - 
  -
- The Offeror is a **U.S. entity** and:
  - 1. it operates as:
    - a corporation incorporated under the laws of the State of (state name),
    - an individual,
    - a partnership,
    - a nongovernmental nonprofit organization,
    - a state or local governmental organization,
    - a private college or university,
    - a public college or university,
    - an international organization, or
    - a joint venture.
  - 2. its status is (check all that apply; the NAICS code for this procurement is Code **XX**):

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<sup>1</sup> Offerors that currently have a UEI Code are requested to provide this information. Offerors who are not registered may do so at <https://sam.gov/content/entity-registration>. There is no charge for this registration. A UEI Code is not required for submission of a quotation but may be required before a contract is issued. Whether or not an Offeror currently has a UEI code will not affect the evaluation of the Offeror's quotation.

- Small Business (SB) (self-certification)<sup>2</sup>
- Small Disadvantaged Business (SDB) (self-certification)
- HUBZone Small Business (self-certification not available), certification issued by
- Woman-Owned Small Business (WOSB) (self-certification)
- Veteran Owned Small Business (VOSB) (self-certification)
- Service-Disabled Veteran-Owned Small Business Concern (SDVOSP) (self-certification)
- Large Business (LB)
- Other Certification, certifications:

In addition to the above, the Offeror complies with the Small Business Administration's Table of Size Standards. (See [www.sba.gov](http://www.sba.gov) for additional information.)

## A2. References

Names, email addresses, telephone numbers and contact people at three organizations to which the Offeror has provided IT Equipment of a similar or larger size and scope during the **last 24 months**, whom EDC can call on as references, and a description of the services provided to each organization. It is recommended that the Offeror alert the contacts that their names have been submitted and that they are authorized to provide performance information if requested by EDC.

### **Reference #1:**

Organization Name: \_\_\_\_\_ Email \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_  
 Type of IT equipment Provided: \_\_\_\_\_  
 Value of the IT equipment Provided: \_\_\_\_\_  
 Month and Year During Which IT equipment were Provided: \_\_\_\_\_

### **Reference #2:**

Organization Name: \_\_\_\_\_  
 Contact Person: \_\_\_\_\_  
 Email Address: \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_  
 Type of IT equipment Provided: \_\_\_\_\_  
 Value of the IT equipment Provided: \_\_\_\_\_  
 Month and Year During Which IT equipment were Provided: \_\_\_\_\_

### **Reference #3:**

Organization Name: \_\_\_\_\_  
 Contact Person: \_\_\_\_\_  
 Email Address: \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_  
 Type of IT equipment Provided: \_\_\_\_\_  
 Value of the IT equipment Provided: \_\_\_\_\_

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<sup>2</sup> Please refer to Annex D for standard definitions of "small business," "small, disadvantaged business," etc. Notification: Under 15 U.S.C. 645(d), any person who misrepresents its firm's size status shall (1) be punished by 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 Small Business Act. If you are certified or a member of one of the qualifying groups, please register with UEI at <https://sam.gov/content/entity-registration>. There is no charge for this registration.

Month and Year During Which IT equipment were Provided: \_\_\_\_\_

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### **A3. Incorporation, Registration, Litigation, and Taxes**

The following documents must be included in your quotation.

Documentation showing the Offeror's current legal incorporation in the country in which it is incorporated:

Attached

A copy of the Offeror's currently active registration in South Sudan, demonstrating that the organization can legally operate in South Sudan, *if the Offeror will complete any work under a contract resulting from this RFQ in South Sudan.*  Attached

Information regarding any current lawsuits, legal proceedings, court cases, or other litigation in which the Offeror, or any of the entities in the collaboration, are involved, regardless of jurisdiction where the litigation resides.

Attached

Offeror certifies that it is not currently involved in any lawsuits, legal proceedings, court cases, or other litigation.

### **A4. Key Individuals**

The names and titles of the Offeror's key individuals are:

(a) the principal officers of the organization's governing body (e.g., chairman, vice chairman, treasurer and secretary of the board of directors or board of trustees):  
\_\_\_\_\_

(b) the principal officer and deputy principal officer of the organization (e.g., executive director, deputy director, president, vice president):

(c) the program manager(s) for the proposed contract:

(d) any other person who will have significant responsibilities for administration of the US Government-financed activities or resources under the proposed delivery of the services:

### **A5. Awareness and Agreement to the Content of this RFQ**

By signing this form, the Offeror attests to its awareness and agreement to the content of this RFQ and all accompanying calendar schedules and terms and provisions contained herein, including but not limited to the payment terms in Section 6.

### **A6. Compliance With Applicable Laws and Regulations**

By signing this form, the Offeror agrees to comply with all applicable U.S. federal laws and regulations including those governing affirmative action, E-Verify, equal employment opportunity, use of human participants in research, disabilities, prohibitions against supporting terrorism, prohibitions on human trafficking and prohibitions against discrimination, and, if the value of the contract resulting from this RFQ is \$10,000 or more, Executive Order 13496, Notification of Employee Rights Under Federal Labor Laws, see 29 CFR Part 471, Appendix A to Subpart A. Offeror hereby certifies that it is not delinquent on any State or Federal tax. Offeror

will cooperate with EDC in its efforts to comply with all laws, regulations and any award terms and conditions imposed by EDC by the sponsor(s) of this project.

**A7. Debarment and Suspension**

The Offeror further certifies that their firm (check one):

- IS
- IS NOT

currently debarred, suspended, or proposed for debarment by any United States federal entity. The undersigned agree to notify EDC of any change in this status, should one occur, until such time as an award has been made under this procurement action.

**A8. Quotation Validity**

This quotation is submitted in response to an RFQ issued by EDC. The undersigned is a duly authorized officer and hereby certifies that:

\_\_\_\_\_

Offeror's Name

agrees to be bound by the content of this Quotation and agrees to comply with the terms, conditions and provisions of the referenced RFQ. The Quotation shall remain in effect for a period of **90** calendar days as of the Due Date of the RFQ.

**A9. Authorized Negotiators**

Person[s] authorized to negotiate on behalf of this firm for purposes of this RFQ are:

Name: \_\_\_\_\_ Title: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**A10. Signature**

**Signature of Authorized Officer:** \_\_\_\_\_  
Name: \_\_\_\_\_ Title: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Annex B—RFQ Checklist**

Please include this checklist with your Quotation

Name of Vendor: \_\_\_\_\_

<i>Items to be included with Quotation</i>	<i>Submitted (Yes/No)</i>
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1. Quotation on Letterhead	
2. Price guarantee valid for <b>90</b> days	
3. Technical specifications that describe the Heavy-Duty Sheetfed Scanner and Medium Duty Multifunction Printer (B/W) the Offeror intends to supply in response to the Specifications in Section 4.	
4. Annex A–Organizational Information & Certification ( <b>completed and signed</b> )	
a. Certificate of Incorporation in South Sudan	
b. Authorized Manufacturer/ Distributor Certificate	
c. Referees (3) of a similar or larger size and scope during the last 24 months	
5. A copy of a valid Tax Clearance Certificate	
6. Price Quotation	
7. Delivery Schedule	
8. Warranty Information (Reference Section 4.1.5)-Vendor must provide name, address and contact information of warranty, repairs and maintenance providers in South Sudan	
9. Annex B- RFQ Checklist	

### Annex C. Price Template

No	Description	Quantity	Item Unit Price including applicable fees  US\$ (B)	Total Price for Items  US\$ (A*B)=C	VAT  US\$ (D)	International Shipping or Transportation to South Sudan, <i>(if applicable)</i> US\$ (E)	Total  US\$ (C+D+E) = F
		(A)					
1							
2							
3							
4							
5							
6							
<b>Grand Total:</b>							

Country of Manufacture: \_\_\_\_\_

Delivery timeframe (after signing the contract): \_\_\_\_\_

business days

Length of warranty: \_\_\_\_\_ Years.

Authorized Signature:

Name: \_\_\_\_\_

## ANNEX D: GENERAL TERMS AND CONDITIONS

- 1. Offer and Contract:** The following terms, conditions, and certifications, in addition to any terms set forth on the face of an individual EDC Purchase Order (the "Order"), and any plans, specifications or other documents attached or incorporated by reference therein, shall apply with respect to the Order for goods described therein ("Goods"). Orders are valid only as written. If price, terms, shipping date or any other expressed condition of the Order is not acceptable, EDC must be notified and must accept in writing any variation prior to shipment or delivery. The Order shall be deemed to have been accepted upon (i) timely delivery, Delivery Duty Paid ("DDP") in accordance with International Commercial Terms 2020 (Incoterms 2020), of Goods to the shipping address specified on the Order, or as otherwise specified in writing by EDC, and (ii) verification that Goods are undamaged, conform to the specifications of the Order and are in good working condition. The Order and each attached or incorporated document, including these terms, conditions, and certifications, shall be interpreted together as one agreement (the "Agreement"). In the event of an irreconcilable conflict among provisions of the Order and provisions of these terms, conditions, and certifications, then the provisions of the Order shall be controlling. EDC hereby gives notice of its objection to any different or additional terms absent EDC's prior written consent. The Agreement shall be construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, excluding conflict of law principles.
- 2. Changes:** Unless otherwise specified in the Order, EDC may make changes to the Order at any time, and Seller shall accept such changes. If a change causes an increase or decrease in price and/or time required for performance, an equitable adjustment shall be made, and the Order modified in writing accordingly. Any claim by Seller for adjustment under this provision may be deemed to be waived unless asserted in writing (including the amount of the claim) and delivered to EDC within 10 days from the date of the receipt by Seller of the EDC directed change to the Order.
- 3. Termination for Convenience or Cause:** EDC may terminate the Order or any part thereof (i) for its sole convenience prior to delivery or (ii) for cause at any time. Cause under the Agreement shall include, without limitation, Seller's breach of any provision of the Agreement, insolvency of Seller, voluntary or involuntary bankruptcy proceedings by or against Seller, the appointment, with or without Seller's consent, of any trustee or receiver for any substantial portion of Seller's assets, any assignment for the benefit of Seller's creditors, or the delivery of defective or nonconforming Goods. In the event of partial termination, Seller shall continue performance of the non-terminated part of the Order. Upon notice of termination, Seller shall immediately stop all work and/or shipment of Goods and cause its suppliers and/or subcontractors to cease their work against the Order unless such notice of termination specifies otherwise. Seller shall not be paid for work performed or costs incurred after receipt of notice of termination, nor for costs incurred by Seller's suppliers that Seller reasonably could have avoided. In the event EDC terminates the Order, or part thereof, for convenience, Seller shall be paid a reasonable termination charge consisting of a pro rata percentage of the Order price reflecting the percentage of acceptable work performed prior to notice of termination, plus actual documented direct costs resulting from termination. In the event EDC terminates the Order, or part thereof, for cause, EDC will not be liable to Seller for any amounts and Seller will be liable to EDC for all losses, damages, and expenses incurred, including any additional expenses incurred by EDC to purchase substitute goods.
- 4. Delivery:** Time and place of delivery is of the essence of the Order. Delivery of Goods shall be completed within the time specified and to the specified place of delivery. Acceptance of any part of the Order shall not bind EDC to accept any future shipments nor deprive EDC of any of its rights, including but not limited to the right to return Goods already accepted pursuant to Section 2-326 of the Uniform Commercial Code (the "UCC"). Furthermore, Seller is responsible for ensuring that all formalities and requirements related to customs and importation will be performed properly.
- 5. Notice of Delay:** Seller must immediately notify EDC in writing with all relevant information relating to any delay or threatened delay of the timely performance of the Order.
- 6. Prices:** The prices set forth in the Order are firm fixed prices, DDP to the specified place of delivery, and are not subject to escalation during the term of the Order.
- 7. Force Majeure:** EDC may delay delivery, performance, or acceptance of Goods ordered hereunder in the event of causes beyond its control. Seller shall hold such Goods at the direction of EDC, and Seller shall deliver Goods when the cause effecting the delay is eliminated. EDC shall be responsible only for Seller's direct additional costs incurred by holding Goods under this agreement at EDC's request. Causes beyond EDC's control shall include, without limitation, government action or failure to act where required, strike or other labor trouble, fire or similar catastrophe, and severe weather or other acts of God.

- 8. Warranties:** In addition to any other express or implied warranties, Seller expressly warrants that all Goods delivered under the Order will be merchantable, new, suitable for the uses intended, of the grade and quality specified, free from all defects in design, material and workmanship, conform to all samples, drawings, descriptions and specifications furnished, and be free of liens and encumbrances and that the use, distribution or resale of Goods by EDC will not infringe any third party's patent, trademark, trade secret, copyright, or any other proprietary, intellectual property or other right held by any third party. The warranties set forth in this section shall not be waived by reason of the acceptance of Goods or payment therefore by EDC.
- 9. Compliance:** Seller certifies that all Goods, software and/or technology (the "Items") furnished under the Order, including materials and incident thereto, shall comply with all applicable federal, state and local laws and regulations concerning health, safety and environmental standards and requirements. Compliance with all applicable provisions of EDC Additional Terms and Conditions is required. Seller agrees to obtain all licenses, permits, and other authorization as may be required (by any government) to sell, export, and deliver the Items to EDC including (but not limited to) export and re-export licenses and permits. Furthermore, Seller confirms that none of Items originates from (or incorporates any items originating from) countries targeted by United States sanctions programs. Seller also warrants that the parties and counterparties to this transaction (including (without limitation) insurers, agents, and financiers) are not targeted by United States sanctions programs.
- 10. Risk of Loss:** Seller assumes all risk of loss or of damage to all Goods ordered and all other items related to the Order until the same are finally received by EDC, in accordance with the terms and conditions set forth herein. Seller also assumes all risk of loss of or damage to any Goods, work in progress, materials, and other items rejected by EDC for nonconformity.
- 11. Inspection:** EDC may inspect and test Goods to determine whether such Goods conform to the terms of the Order and its attachments. Unless otherwise agreed to in writing by EDC, EDC shall have a right to inspect Goods for conformity before payment or acceptance of such Goods, in accordance with Section 2-513(1) of the UCC. Payment for Goods made before inspection for conformity shall not constitute an acceptance of such Goods or impair EDC's right to inspect such Goods or any of EDC's remedies, in accordance with Section 2512(2) of the UCC. Goods rejected or supplies in excess of quantities ordered may be returned to Seller at Seller's expense.
- 12. Hold Harmless:** Seller shall defend and hold harmless EDC, its directors, overseers, officers, trustees, agents and employees against and from any and all claims, liabilities, losses, damages, expenses, and legal fees whatsoever, without limitation, arising in connection with any Goods purchased under the Order or from any act, omission, operation, product or service of Seller, its employees, agents, suppliers, and subcontractors.
- 13. Insurance:** Seller shall maintain adequate insurance in any and all forms necessary to protect both Seller and EDC against all liabilities, losses, damages, claims, settlements, expenses, and legal fees arising out of or resulting from performance of this agreement. Nothing contained herein shall abridge, diminish or affect Seller's responsibility for the consequences of any accidents, occurrences, damages, losses, and associated costs arising out of or resulting from performance of this agreement.
- 14. Limitations:** EDC shall not be liable to Seller, its employees, representatives, agents, subcontractors or suppliers for any incidental or consequential damages. EDC's liability on any claim for loss, damage or expense arising in connection with this agreement shall not exceed the price of Goods which give rise to the claim. EDC shall not be liable for penalties of any kind. Any action caused by any alleged breach of this agreement by EDC must be commenced within one year after the cause of action has accrued.
- 15. Indemnification-Patents/Copyright:** The Seller agrees to indemnify EDC and to hold EDC harmless from and against all claims, liability, loss, damage, and expenses including legal fees, arising from or due to any actual or claimed trademark, patent, or copyright infringement and any litigation based thereon, with respect to any part of Goods and work covered by the Order. The Seller shall defend any such litigation brought against EDC. The Seller's obligations hereunder shall survive acceptance of Goods and payment therefor by EDC.
- 16. Use of the Name of Education Development Center:** The Seller shall not use the name of Education Development Center or of any EDC employee, or any EDC trademark in its sales promotion, advertising, or any other publication without EDC's prior written permission.
- 17. Assignment:** No part of the Order may be assigned, transferred, or subcontracted by Seller without EDC's prior written approval.
- 18. Waiver:** EDC's failure to insist on performance of the terms and conditions herein or to exercise any right or privilege, or EDC's waiver of any breach hereunder shall not thereafter waive the same or other terms, conditions, rights or privileges or affect any subsequent breach.



- 19. Set-Off.** Any amount EDC owes to Seller shall be subject to deduction for any set-off, recoupment, counterclaim or indemnification right arising out of this Order or otherwise.
- 20. Severability:** If any part of this agreement is found to be illegal or unenforceable, that part shall be severed from the contract and the rest of the agreement shall be enforceable as written.
- 21. Tax Exemption:** EDC is a Massachusetts nonprofit, tax-exempt corporation and is exempt from paying Massachusetts sales taxes (Cert. 042-241-718 Expires on 1/4/2029), District of Columbia sales taxes (Cert. 350000037579), and New York local and state sales tax (Cert. EX-107586), and federal excise taxes. Seller shall not charge EDC for such taxes. Proof of exemption is available upon request.
- 22. Disputes:** Any controversy, claim, or dispute otherwise arising out of or in connection with this Order or breach thereof, will be resolved under the rules for expedited arbitration of the American Arbitration Association or similar dispute resolution organizations. Arbitration proceedings will be held in a mutually agreeable location. The award in any arbitration proceeding will be final and binding upon all Parties and judgment thereon may be entered in any court of competent jurisdiction upon application of either of the Parties. Each party will bear its own costs and fees, including attorney's fees, incurred in the dispute resolution process or arbitration. EDC will advise Seller whether the performance of this Order should continue during the resolution of any dispute.
- 23. Examination of Records:** The Contractor agrees that EDC or any of its duly authorized representatives shall, until the expiration of three years after final payment under this contract, have access to and the right to examine any directly pertinent books, documents, papers, and records of the provider involving transactions related to this Purchase Order. This paragraph applies only to contracts exceeding \$100,000.
- 24. Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR 200.216).** Provider agrees to comply with Section 889 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Public Law 115-232) and Federal Acquisition Regulation subpart 4.21, and 52.204-25 "Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment" (AUG 2020) which prohibits procuring or obtaining covered telecommunications equipment, services, or systems produced by Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company or any subsidiary or affiliate of those companies. Provider will not provide any prohibited services or equipment to EDC. If Provider discovers any covered equipment or services are being provided during the contract performance, then within one business day of such discovery the Provider must notify EDC and provide any information required for compliance purposes.

#### **EDC Additional Terms and Conditions for Federally funded orders**

The following Additional Terms and Conditions below apply when it is indicated in the comments section on the front page of this PO that the order is being funded by a Federal Grant or Contract. The Seller (sometimes hereinafter referred to as the "Contractor", "Provider", or the "Subcontractor") agrees, with respect to this purchase order (sometimes hereinafter also referred to as an "order", "contract", or "subcontract"), to be bound by the following additional provisions:

- a. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. Provider agrees to comply with all applicable standards for contracts in excess of \$150,000.
- b. Debarment and Suspension (Executive Orders 12549 and 12689). Provider hereby certifies that neither he/she, nor any principal of the organization, is presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency, and is not delinquent on any State or Federal tax.
- c. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Provider certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Provider must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. This provision must be included in all contracts, subcontracts or subawards exceeding \$100,000 awarded hereunder.
- d. Procurement of recovered materials (2 CFR 200.323). For Providers that are a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

- e. Domestic Preference for Procurements 2 CFR 200. 322. To the greatest extent practicable, Provider shall provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).
- f. Provider will comply with applicable prohibitions against discrimination on the basis of: race, color, or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et seq.); race, color, religion, sex, or national origin, in Executive Order 11246 [3 CFR, 1964-1965 Comp., p. 339], as implemented by Department of Labor regulations at 41 CFR Part 60; sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.); age, in the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90; handicap, in: Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR Part 41, The Architectural Barriers Act of 1968 (42 U.S.C. 4151, et seq.), and Americans with Disabilities Act 42 USC 12101 et. Seq.; religion, in Executive Order 13798 and the Attorney General's Memorandum of October 6, 2017, as implemented at 2 CFR 200.300; disability 41 CFR 60-741.5(a), which prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities; veterans 41 CFR 60-300.5(a), which prohibits discrimination against qualified protected veterans and requires affirmative action by covered prime contractor and subcontractors to employ and advance in employment qualified protected veterans.
- g. Employment Eligibility Verification E-Verify (48 CFR 52.222-54). For contracts for commercial or noncommercial services or construction, has a value more than \$3500, and includes work performed in the United States, Provider will enroll in e-Verify and verify new employees.
- h. Common Federal Policy for the Protection of Human Subjects as codified by 45 CFR 46. Provider will comply with requirements on the use of human participants in research.
- i. Executive Order 13224, Blocking Property and Prohibiting Transactions with Persons who Commit, Threaten to Commit, or Support Terrorism, dated September 23, 2001.
- j. Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)) as implemented by 2 CFR 175.
- k. Notification of Employee Rights Under Federal Labor Laws, see 29 CFR Part 471, Appendix A to Subpart A, Executive Order 13496. If the value of this Agreement is \$10,000 or more.
- l. Prohibition on Contracting for hardware, software, and services developed or provided by Kaspersky lab and other covered entities (FAR 52.204-23). Provider is prohibited from contracting for hardware, software, and services developed or provided by Kaspersky Lab, and successor entity to Kaspersky Lab; any entity that controls, is controlled by, or is under common control with Kaspersky Lab; or any entity of which Kaspersky Lab has majority ownership.
- m. Construction Contracts (applies to U.S. contractors only):
  - i. For all construction contracts, the provisions set forth in the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." are incorporated herein by reference and are binding on the Seller with the same force and effect as if fully set forth herein.
  - ii. Davis Bacon Act (40 U.S.C. 3141-3148 supplemented by 29 CFR Part 5) –For all construction contracts in excess of \$2,000, contractors are required to pay wages to laborers and mechanics at a rate of not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors are required to pay wages not less than once a week.
  - iii. Copeland Anti-Kickback Act (40 U.S.C. 3145 supplemented by 29 CFR Part 3). Provider is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.
  - iv. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708 supplemented by 29 CFR Part 5). For contracts in excess of \$100,000 that involve the employment of mechanics or laborers, Provider is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. No laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous.

Provider is obligated to understand the rules and regulations that govern this Agreement. Provider will cooperate with EDC in its efforts to comply with all laws, regulations and any award terms and conditions imposed on EDC by the sponsor(s) of this project.