552.238-114 USE OF FEDERAL SUPPLY SCHEDULE CONTRACTS
BY NON-FEDERAL ENTITIES (MAY 2019)

(a) If an entity identified in paragraph (d) of the clause at 552.238-113, Scope of Contract (Eligible
Ordering Activities), elects to place an order under this contract, the entity agrees that the order shall be
subject to the following conditions:

(1) When the Contractor accepts an order from such an entity, a separate contract is formed which
incorporates by reference all the terms and conditions of the Schedule contract except the
Disputes clause, the patent indemnity clause, and the portion of the Commercial Item Contract
Terms and Conditions that specifies “Compliance with laws unique to Government contracts”
(which applies only to contracts with entities of the Executive branch of the U.S. Government).
The parties to this new contract which incorporates the terms and conditions of the Schedule
contract are the individual ordering activity and the Contractor. The U.S. Government shall not be
liable for the performance or nonperformance of the new contract. Disputes which cannot be
resolved by the parties to the new contract may be litigated in any State or Federal court with
jurisdiction over the parties, applying Federal procurement law, including statutes, regulations
and case law, and, if pertinent, the Uniform Commercial Code. To the extent authorized by law,
parties to this new contract are encouraged to resolve disputes through Alternative Dispute
Resolution. Likewise, a Blanket Purchase Agreement (BPA), although not a contract, is an
agreement that may be entered into by the Contractor with such an entity and the Federal
Government is not a party.

(2) Where contract clauses refer to action by a Contracting Officer or a Contracting Officer of
GSA, that shall mean the individual responsible for placing the order for the ordering activity
(e.g., FAR 52.212-4 at paragraph (f) and FSS clause I-FSS-249 B.)

(3) As a condition of using this contract, eligible ordering activities agree to abide by all terms
and conditions of the Schedule contract, except for those deleted clauses or portions of clauses
mentioned in paragraph (a)(1) of this clause. Ordering activities may include terms and conditions
required by statute, ordinance, regulation, order, or as otherwise allowed by State and local
government entities as a part of a statement of work (SOW) or statement of objective (SOO) to
the extent that these terms and conditions do not conflict with the terms and conditions of the
Schedule contract. The ordering activity and the Contractor expressly acknowledge that, in
entering into an agreement for the ordering activity to purchase goods or services from the
Contractor, neither the ordering activity nor the Contractor will look to, primarily or in any
secondary capacity, or file any claim against the United States or any of its agencies with respect
to any failure of performance by the other party.

(4) The ordering activity is responsible for all payments due the Contractor under the contract
formed by acceptance of the ordering activity’s order, without recourse to the agency of the U.S.
Government, which awarded the Schedule contract.

(5) The Contractor is encouraged, but not obligated, to accept orders from such entities. The
Contractor may, within 5 days of receipt of the order, decline to accept any order, for any reason.
The Contractor shall fulfill orders placed by such entities, which are not declined within the 5-day
period.

(6) The supplies or services purchased will be used for governmental purposes only and will not
be resold for personal use. Disposal of property acquired will be in accordance with the
established procedures of the ordering activity for the disposal of personal property.

(b) If the Schedule Contractor accepts an order from an entity identified in paragraph (d) of the clause
at 552.238-113, Scope of Contract (Eligible Ordering Activities), the Contractor agrees to the following
conditions:

(1) The ordering activity is responsible for all payments due the Contractor for the contract
formed by acceptance of the order, without recourse to the agency of the U.S. Government, which
awarded the Schedule contract.

(2) The Contractor is encouraged, but not obligated, to accept orders from such entities. The
Contractor may, within 5 days of receipt of the order, decline to accept any order, for any reason.
The Contractor shall decline the order using the same means as those used to place the order. The Contractor shall fulfill orders placed by such entities, which are not declined within the 5-day period.

(c) In accordance with clause 552.238-80, Industrial Funding Fee and Sales Reporting, the Contractor must report the quarterly dollar value of all sales under this contract. When submitting sales reports, the Contractor must report two dollar values for each Special Item Number:

(1) The dollar value for sales to entities identified in paragraph (a) of the clause at 552.238-113, Scope of Contract (Eligible Ordering Activities), and

(2) The dollar value for sales to entities identified in paragraph (d) of clause 552.238-113 Scope of Contract (Eligible Ordering Activities).