

GEAR Software, Inc.

AUTHORIZED FEDERAL SUPPLY SERVICE
INFORMATION TECHNOLOGY SCHEDULE PRICELIST
GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY
EQUIPMENT, SOFTWARE AND SERVICES

SIN 132-33 — Perpetual Software Licenses

FSC Class 7030 - Information Technology Software.
Application Software. Large scale computers and Microcomputers.

SIN 132-34 — Software Maintenance

GEAR Software, Inc.

1 Main Street, Suite 205, Tequesta, FL 33469

Phone: (561) 575-4327

FAX: (561) 575-9315

E-mail: splummer@gearsoftware.com

Internet: <http://www.gearsoftware.com>

Contract Number: GS35F0622U

Period Covered by Contract: 9/30/2008 thru 9/29/2013

General Services Administration

Federal Supply Service

Products and ordering information in this Authorized FSS Information Technology Schedule Pricelist are also available on the GSA Advantage! System. Agencies can browse GSA Advantage! by accessing the Federal Supply Service's Home Page via the Internet at <http://www.fss.gsa.gov/>

**GSA SCHEDULE OF GEAR Software Inc.
PRICE LIST
TABLE OF CONTENTS**

INFORMATION FOR ORDERING ACTIVITIES APPLICABLE TO ALL SPECIAL ITEM NUMBERS	PAGE
Geographic Scope of Contract	3
Contractor's Ordering Address and Payment Information	4
Liability For Injury Or Damage	4
Statistical Data for Government Ordering Office Completion of Standard Form 279	4
FOB Destination	4
Delivery Schedule	5
Discounts	5
Trade Agreements Act of 1979, as amended	5
Statement Concerning Availability of Export Packing	5
Small Requirements and maximum orders	6
Use Of Federal Supply Service Information Technology Schedule Contracts	6
Federal Information Technology/Telecommunication Standards Requirements	8
Contractor Tasks / Special Requirements (C-Fss-370)	9
Contract Administration For Ordering Activities	10
GSA Advantage!	10
Purchase Of Open Market Items	10
Contractor Commitments, Warranties And Representations	11
Overseas Activities	11
Blanket Purchase Agreements	11
Contractor Team Arrangements	12
Installation, Deinstallation, Reinstallation	12
Section 508 Compliance	13
Prime Contractor Ordering From Federal Supply Schedules	13
Insurance—Work On A Government Installation (Jan 1997)(Far 52.228-5)	13
 TERMS AND CONDITIONS Applicable to SIN#132-33 and 132- 34	
Inspection/Acceptance	14
Guarantee/Warranty	14
Technical Services	15
Software Maintenance (Upgrades Protection and Support)	15
Periods of Term Licenses (N/A) and Maintenance (132-34)	15
Conversion from Term Licenses to Perpetual Licenses (N/A)	16
Term License Cessation (N/A)	17
Utilization Limitations - (132-33, And 132-34)	17
Software Conversions	18
Descriptions And Equipment Compatibility	18
Right-To-Copy Pricing	18

SMALL BUSINESS PARTICIPATION

USA Commitment To Promote Small Business Participation	19
--	----

BLANKET PURCHASE ORDERS

Best Value Blanket Purchase Agreement	20
---------------------------------------	----

Blanket Purchase Agreement	20
----------------------------	----

Basic Guidelines For Using "Contractor Team Arrangements"	22
---	----

GEAR Software Price List

GEAR Software Price List — Perpetual Software Licenses Prices	23
---	----

GEAR Software Price List — Annual Maintenance Prices for perpetual licenses	24
---	----

**INFORMATION FOR ORDERING ACTIVITIES
APPLICABLE TO ALL SPECIAL ITEM NUMBERS**

SPECIAL NOTICE TO AGENCIES: Small Business Participation

SBA strongly supports the participation of small business concerns in the Federal Supply Schedules Program. To enhance Small Business Participation SBA policy allows agencies to include in their procurement base and goals, the dollar value of orders expected to be placed against the Federal Supply Schedules, and to report accomplishments against these goals.

For orders exceeding the micropurchase threshold, FAR 8.404 requires agencies to consider the catalogs/pricelists of at least three schedule contractors or consider reasonably available information by using the GSA Advantage!® on-line shopping service (www.fss.gsa.gov). The catalogs/pricelists, GSA Advantage! and the Federal Supply Service Home Page (www.fss.gsa.gov) contain information on a broad array of products and services offered by small business concerns.

This information should be used as a tool to assist ordering activities in meeting or exceeding established small business goals. It should also be used as a tool to assist in including small, small disadvantaged, and women-owned small businesses among those considered when selecting pricelists for a best value determination.

For orders exceeding the micropurchase threshold, customers are to give preference to small business concerns when two or more items at the same delivered price will satisfy their requirement.

1. Geographic Scope of Contract:

Geographic scope of contract for GEAR Software products is worldwide, except those countries that are on the list of embargoed countries.

2. Contractor's Ordering Address and Payment Information:

GEAR Software, Inc.

1 Main Street, Suite 205

Tequesta, FL 33469

Contractors are required to accept credit cards for payments equal to or less than the micro-purchase threshold for oral or written delivery orders. Credit cards **will** be acceptable for payment above the micro-purchase threshold. In addition, bank account information for wire transfer payments will be shown on the invoice.

The following telephone number(s) can be used by ordering activities to obtain technical and/or ordering assistance:

Phone: (561)575-4327 (EST USA)

Fax: (561) 575-9315

3. Liability for Injury or Damage

The Contractor shall not be liable for any injury to ordering activity personnel or damage to ordering activity property arising from the use of equipment maintained by the Contractor, unless such injury or damage is due to the sole fault or negligence of the Contractor.

4. Statistical Data for Government Ordering Office Completion of Standard Form 279:

Block 9: G. Order/Modification Under Federal Schedule

Block 16: Data Universal Numbering System (DUNS) Number: **12-552-0697**

Block 30: Type of Contractor – **B. Other Small Business**

- A. Small Disadvantaged Business
- B. Other Small Business
- C. Large Business
- G. Other Nonprofit Organization
- L. Foreign Contractor

Block 31: Woman-Owned Small Business - **No**

Block 36: Contractor's Taxpayer Identification Number (TIN): **94-3303934**

4a. CAGE Code: **3C029**

4b. Contractor has registered with the Central Contractor Registration Database.

5. FOB Destination

6. Delivery Schedule

a. Time Of Delivery: The Contractor shall deliver to destination within the number of calendar days after receipt of order (ARO), as set forth below:

SPECIAL ITEM NUMBER DELIVERY TIME (Days ARO)

132-33

7 Days

132-34

Maintenance service starts on the expiration date of the warranty period (60-days) and continues thereafter for one-year or 14 months following purchase date.

b. Urgent Requirements: When the Federal Supply Schedule contract delivery period does not meet the bona fide urgent delivery requirements of an ordering activity, ordering activities are encouraged, if time permits, to contact the Contractor for the purpose of obtaining accelerated delivery. The Contractor shall reply to the inquiry within 3 workdays after receipt. (Telephonic replies shall be confirmed by the Contractor in writing.) If the Contractor offers an accelerated delivery time acceptable to the ordering activity, any order(s) placed pursuant to the agreed upon accelerated delivery time frame shall be delivered within this shorter delivery time and in accordance with all other terms and conditions of the contract.

7. Discounts:

For GSA Contracts, please see the GEAR pricelist for more detailed discount information.

- a. Prompt Payment: No discount for prompt payment.
- b. Quantity: Additional 5% on orders of 10 or more copies of software
- c. Dollar Volume: None.
- d. Government Educational Institutions: Government Educational Institutions are offered the same discounts as all other Government customers.
- e. Other

8. Trade Agreements Act of 1979, as amended:

All items are U.S. made end products, designated country end products, Caribbean Basin country end products, Canadian end products, or Mexican end products as defined in the Trade Agreements Act of 1979, as amended.

9. Statement Concerning Availability of Export Packing

None

10. Small Requirements The minimum dollar value of orders to be issued is \$100.00.

11. Maximum Order: The Maximum Order value for the following Special Item Numbers (SINs) is \$500,000:

SIN 132-33

SIN 132-34

12. Use of Federal Supply Service Information Technology Schedule Contracts.

In accordance with FAR 8.404: orders placed pursuant to a Multiple Award Schedule (MAS), using the procedures in FAR 8.404, are considered to be issued pursuant to full and open competition. Therefore, when placing orders under Federal Supply Schedules, ordering activities need not seek further competition, synopsise the requirement, make a separate determination of fair and reasonable pricing, or consider small business set-asides in accordance with subpart 19.5. GSA has already determined the prices of items under schedule contracts to be fair and reasonable. By placing an order against a schedule using the procedures outlined below, the ordering activity has concluded that the order represents the best value and results in the lowest overall cost alternative (considering price, special features, administrative costs, etc.) to meet the ordering activity's needs.

a. Orders placed at or below the micro-purchase threshold. Ordering activities can place orders at or below the micro-purchase threshold with any Federal Supply Schedule. (Replace answer to (a) with: FAR 8.405-1 Ordering procedures for supplies, and services not requiring a statement of work.)

b. Orders exceeding the micro-purchase threshold but not exceeding the maximum order threshold. Orders should be placed with the Schedule Contractor that can provide the supply or service that represents the best value. Before placing an order, ordering activities should consider reasonably available information about the supply or service offered under MAS contracts by using the "GSA Advantage!" on-line shopping service, or by reviewing the catalogs/pricelists of at least three Schedule Contractors and selecting the delivery and other options available under the schedule that meets the ordering activity's needs. In selecting the supply or service representing the best value, the ordering activity may consider--

(1) Special features of the supply or service that are required in effective program performance and that are not provided by a comparable supply or service;

(2) Trade-in considerations;

(3) Probable life of the item selected as compared with that of a comparable item;

(4) Warranty considerations;

- (5) Maintenance availability;
- (6) Past performance; and
- (7) Environmental and energy efficiency considerations.

c. Orders exceeding the maximum order threshold. Each schedule contract has an established maximum order threshold. This threshold represents the point where it is advantageous for the ordering activity to seek a price reduction. In addition to following the procedures in paragraph b, above, and before placing an order that exceeds the maximum order threshold, ordering activities shall—

Review additional Schedule Contractors'

- (1) catalogs/pricelists or use the "GSA Advantage!" on-line shopping service;
- (2) Based upon the initial evaluation, generally seek price reductions from the Schedule Contractor(s) appearing to provide the best value (considering price and other factors); and
- (3) After price reductions have been sought, place the order with the Schedule Contractor that provides the best value and results in the lowest overall cost alternative. If further price reductions are not offered, an order may still be placed, if the ordering activity determines that it is appropriate.

NOTE: For orders exceeding the maximum order threshold, the Contractor may:

- (1) Offer a new lower price for this requirement (the Price Reductions clause is not applicable to orders placed over the maximum order in FAR 52.216-19 Order Limitations);
- (2) Offer the lowest price available under the contract; or
- (3) Decline the order (orders must be returned in accordance with FAR 52.216-19).

d. Blanket purchase agreements (BPAs). The establishment of Federal Supply Schedule BPAs is permitted when following the ordering procedures in FAR 8.404. All schedule contracts contain BPA provisions. Ordering activities may use BPAs to establish accounts with Contractors to fill recurring requirements. BPAs should address the frequency of ordering and invoicing, discounts, and delivery locations and times.

e. Price reductions. In addition to the circumstances outlined in paragraph c, above, there may be instances when ordering activities will find it advantageous to request a price reduction. For example, when the ordering activity finds a schedule supply or service elsewhere at a lower price or when a BPA is being established to fill recurring requirements, requesting a price reduction could be advantageous. The potential volume of orders under these agreements, regardless of the size of the individual order, may offer the ordering activity the opportunity to secure greater

discounts. Schedule Contractors are not required to pass on to all schedule users a price reduction extended only to an individual ordering activity for a specific order.

f. Small business. For orders exceeding the micro-purchase threshold, ordering activities should give preference to the items of small business concerns when two or more items at the same delivered price will satisfy the requirement.

g. Documentation. Orders should be documented, at a minimum, by identifying the Contractor the item was purchased from, the item purchased, and the amount paid. If an ordering activity requirement, in excess of the micro-purchase threshold, is defined so as to require a particular brand name, product, or feature of a product peculiar to one manufacturer, thereby precluding consideration of a product manufactured by another company, the ordering activity shall include an explanation in the file as to why the particular brand name, product, or feature is essential to satisfy the ordering activity's needs.

13. Federal Information Technology/Telecommunication Standards Requirements:

Ordering activities acquiring products from this Schedule must comply with the provisions of the Federal Standards Program, as appropriate (reference: NIST Federal Standards Index). Inquiries to determine whether or not specific products listed herein comply with Federal Information Processing Standards (FIPS) or Federal Telecommunication Standards (FED-STDS), which are cited by ordering activities, shall be responded to promptly by the Contractor.

13.1 Federal Information Processing Standards Publications (FIPS PUBS):

Information Technology products under this Schedule that do not conform to Federal Information Processing Standards (FIPS) should not be acquired unless a waiver has been granted in accordance with the applicable "FIPS Publication." Federal Information Processing Standards Publications (FIPS PUBS) are issued by the U.S. Department of Commerce, National Institute of Standards and Technology (NIST), pursuant to National Security Act. Information concerning their availability and applicability should be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161. FIPS PUBS include voluntary standards when these are adopted for Federal use. Individual orders for FIPS PUBS should be referred to the NTIS Sales Office, and orders for subscription service should be referred to the NTIS Subscription Officer, both at the above address, or telephone number (703) 487-4650.

13.2 Federal Telecommunication Standards (Fed-Stds):

Telecommunication products under this Schedule that do not conform to Federal Telecommunication Standards (FED-STDS) should not be acquired unless a waiver has been granted in accordance with the applicable "FED-STD." Federal Telecommunication Standards are issued by the U.S. Department of Commerce, National Institute of Standards and Technology (NIST), pursuant to National Security Act. Ordering information and information concerning the availability of FED-STDS should be obtained from the GSA, Federal Supply Service, Specification Section, 470 East L'Enfant Plaza, Suite 8100, SW, Washington, DC 20407, telephone number (202)619-8925. Please include a self-addressed mailing label when requesting information by mail. Information concerning their applicability can be obtained by writing or calling the U.S.

Department of Commerce, National Institute of Standards and Technology,
Gaithersburg, MD 20899, telephone number (301)975-2833.

14. Contractor Tasks / Special Requirements (C-FSS-370) (Nov 2001)

- (a) Security Clearances: The Contractor may be required to obtain/possess varying levels of security clearances in the performance of orders issued under this contract. All costs associated with obtaining/possessing such security clearances should be factored into the price offered under the Multiple Award Schedule.
- (b) Travel: The Contractor may be required to travel in performance of orders issued under this contract. Allowable travel and per diem charges are governed by Pub .L. 99-234 and FAR Part 31, and are reimbursable by the ordering agency or can be priced as a fixed price item on orders placed under the Multiple Award Schedule. The Industrial Funding Fee does NOT apply to travel and per diem charges.
- (c) Certifications, Licenses and Accreditations: As a commercial practice, the Contractor may be required to obtain/possess any variety of certifications, licenses and accreditations for specific FSC/service code classifications offered. All costs associated with obtaining/ possessing such certifications, licenses and accreditations should be factored into the price offered under the Multiple Award Schedule program.
- (d) Insurance: As a commercial practice, the Contractor may be required to obtain/possess insurance coverage for specific FSC/service code classifications offered. All costs associated with obtaining/possessing such insurance should be factored into the price offered under the Multiple Award Schedule program.
- (e) Personnel: The Contractor may be required to provide key personnel, resumes or skill category descriptions in the performance of orders issued under this contract. Ordering activities may require agency approval of additions or replacements to key personnel.
- (f) Organizational Conflicts of Interest: Where there may be an organizational conflict of interest as determined by the ordering agency, the Contractor's participation in such order may be restricted in accordance with FAR Part 9.5.
- (g) Documentation/Standards: The Contractor may be requested to provide products or services in accordance with rules, regulations, OMB orders, standards and documentation as specified by the agency's order.
- (h) Data/Deliverable Requirements: Any required data/deliverables at the ordering level will be as specified or negotiated in the agency's order.
- (i) Government-Furnished Property: As specified by the agency's order, the Government may provide property, equipment, materials or resources as necessary.

(j) Availability of Funds: Many Government agencies' operating funds are appropriated for a specific fiscal year. Funds may not be presently available for any orders placed under the contract or any option year. The Government's obligation on orders placed under this contract is contingent upon the availability of appropriated funds from which payment for ordering purposes can be made. No legal liability on the part of the Government for any payment may arise until funds are available to the ordering Contracting Officer.

15. Contract Administration for Ordering Activities:

Any ordering activity, with respect to any one or more delivery orders placed by it under this contract, may exercise the same rights of termination as might the GSA Contracting Officer under provisions of FAR 52.212-4, paragraphs (l) Termination for the ordering activity's convenience, and (m) Termination for Cause (See C.1.)

16. GSA Advantage!

GSA Advantage! is an on-line, interactive electronic information and ordering system that provides on-line access to vendors' schedule prices with ordering information. GSA Advantage! will allow the user to perform various searches across all contracts including, but not limited to:

- (1) Manufacturer;
- (2) Manufacturer's Part Number; and
- (3) Product categories.

Agencies can browse GSA Advantage! by accessing the Internet World Wide Web utilizing a browser (ex.:NetScape). The Internet address is <http://www.fss.gsa.gov/>.

17. Purchase of Open Market Items

NOTE: Open Market Items are also known as incidental items, non-contract items, non-Schedule items, and items not on a Federal Supply Schedule contract.

For administrative convenience, an ordering activity contracting officer may add items not on the Federal Supply Multiple Award Schedule (MAS) -- referred to as open market items -- to a Federal Supply Schedule blanket purchase agreement (BPA) or an individual task or delivery order, only if-

- (1) All applicable acquisition regulations pertaining to the purchase of the items not on the Federal Supply Schedule have been followed (e.g., publicizing (Part 5), competition requirements (Part 6), acquisition of commercial items (Part 12), contracting methods (Parts 13, 14, and 15), and small business programs (Part 19));
- (2) The ordering activity contracting officer has determined the price for the items not on the Federal Supply Schedule is fair and reasonable;

(3) The items are clearly labeled on the order as items not on the Federal Supply Schedule; and

(4) All clauses applicable to items not on the Federal Supply Schedule are included in the order.

18. Contractor Commitments, Warranties and Representations

a. For the purpose of this contract, commitments, warranties and representations include, in addition to those agreed to for the entire schedule contract:

(1) Time of delivery/installation quotations for individual orders;

(2) Technical representations and/or warranties of products concerning performance, total system performance and/or configuration, physical, design and/or functional characteristics and capabilities of a product/equipment/service/software package submitted in response to requirements which result in orders under this schedule contract.

(3) Any representations and/or warranties concerning the products made in any literature, description, drawings and/or specifications furnished by the Contractor.

b. The above is not intended to encompass items not currently covered by the GSA Schedule contract.

19. Overseas Activities

The terms and conditions of this contract shall apply to all orders for installation, maintenance and repair of equipment in areas listed in the pricelist outside the 48 contiguous states and the District of Columbia, except as indicated below:

NONE

Upon request of the Contractor, the ordering activity may provide the Contractor with logistics support, as available, in accordance with all applicable ordering activity regulations. Such ordering activity support will be provided on a reimbursable basis, and will only be provided to the Contractor's technical personnel whose services are exclusively required for the fulfillment of the terms and conditions of this contract.

20. Blanket Purchase Agreements (BPAs)

Federal Acquisition Regulation (FAR) 13.303-1(a) defines Blanket Purchase Agreements (BPAs) as "...a simplified method of filling anticipated repetitive needs for supplies or services by establishing 'charge accounts' with qualified sources of supply." The use of Blanket Purchase Agreements under the Federal Supply Schedule Program is authorized in accordance with FAR 13.303-2(c)(3), which reads, in part, as follows:

"BPAs may be established with Federal Supply Schedule Contractors, if not inconsistent with the terms of the applicable schedule contract."

Federal Supply Schedule contracts contain BPA provisions to enable schedule users to maximize their administrative and purchasing savings. This feature permits schedule users to set up "accounts" with Schedule Contractors to fill recurring requirements. These accounts establish a period for the BPA and generally address issues such as the frequency of ordering and invoicing, authorized callers, discounts, delivery locations and times. Agencies may qualify for the best quantity/volume discounts available under the contract, based on the potential volume of business that may be generated through such an agreement, regardless of the size of the individual orders. In addition, agencies may be able to secure a discount higher than that available in the contract based on the aggregate volume of business possible under a BPA. Finally, Contractors may be open to a progressive type of discounting where the discount would increase once the sales accumulated under the BPA reach certain prescribed levels. Use of a BPA may be particularly useful with the new Maximum Order feature. See the Suggested Format, contained in this Schedule Pricelist, for customers to consider when using this purchasing tool.

21. Contractor Team Arrangements

Contractors participating in contractor team arrangements must abide by all terms and conditions of their respective contracts. This includes compliance with Clauses 552.238-74, Contractor's Reports of Sales and 552.238-76, Industrial Funding Fee, i.e., each contractor (team member) must report sales and remit the IFF for all products and services provided under its individual contract.

22. Installation, Deinstallation, Reinstallation

GEAR Software is self-installable.

The Davis-Bacon Act (40 U.S.C. 276a-276a-7) provides that contracts in excess of \$2,000 to which the United States or the District of Columbia is a party for construction, alteration, or repair (including painting and decorating) of public buildings or public works with the United States, shall contain a clause that no laborer or mechanic employed directly upon the site of the work shall received less than the prevailing wage rates as determined by the Secretary of Labor. The requirements of the Davis-Bacon Act do not apply if the construction work is incidental to the furnishing of supplies, equipment, or services. For example, the requirements do not apply to simple installation or alteration of a public building or public work that is incidental to furnishing supplies or equipment under a supply contract. However, if the construction, alteration or repair is segregable and exceeds \$2,000, then the requirements of the Davis-Bacon Act applies.

The ordering activity issuing the task order against this contract will be responsible for proper administration and enforcement of the Federal labor standards covered by the Davis-Bacon Act. The proper Davis-Bacon wage determination will be issued by the ordering activity at the time a request for quotations is made for applicable construction classified installation, deinstallation, and reinstallation services under SIN 132-8.

23. Section 508 Compliance.

GEAR Software is in compliance with Section 508. Compliance information on the supplies and services in this contract are available by contacting GEAR Software. The EIT standard can be found at: www.Section508.gov/.

24. Prime Contractor Ordering From Federal Supply Schedules.

Prime Contractors (on cost reimbursement contracts) placing orders under Federal Supply Schedules, on behalf of an ordering activity, shall follow the terms of the applicable schedule and authorization and include with each order –

(a) A copy of the authorization from the ordering activity with whom the contractor has the prime contract (unless a copy was previously furnished to the Federal Supply Schedule contractor); and

(b) The following statement:

This order is placed under written authorization from _____ dated _____. In the event of any inconsistency between the terms and conditions of this order and those of your Federal Supply Schedule contract, the latter will govern.

25. Insurance — Work On A Government Installation (Jan 1997) (FAR 52.228-5)

(a) The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.

(b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective—

(1) For such period as the laws of the State in which this contract is to be performed prescribe; or

(2) Until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

TERMS AND CONDITIONS APPLICABLE TO PERPETUAL SOFTWARE LICENSES (SPECIAL ITEM NUMBER 132-33) AND MAINTENANCE (SPECIAL ITEM NUMBER 132-34) OF GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY SOFTWARE

1. INSPECTION/ACCEPTANCE

The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The ordering activity reserves the right to inspect or test any software that has been tendered for acceptance. The ordering activity may require repair or replacement of nonconforming software at no increase in contract price. The ordering activity must exercise its post acceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the software, unless the change is due to the defect in the software.

2. GUARANTEE/WARRANTY

a. Unless specified otherwise in this contract, the Contractor's standard commercial guarantee/warranty as stated in the contract's commercial pricelist will apply to this contract.

WARRANTY

GEAR (Contractor) warranties the storage media on which the software is delivered. GEAR shall replace the storage media if it is defective and ensure successful delivery of the purchased software, based upon the type of license purchased. For a period of sixty (60) days after the date of purchase of the software, Contractor shall ensure the following: that the software will install provided there is nothing in the set up of the computer that prevents installation; that the end-user may obtain assistance with installation via telephone and/or Internet; that the software will run provided there is nothing in the setup of the machine that prevents it from doing so; that the end-user shall have free bug fixes on any problems found that are actual bugs in the software; and for licenses that are locked to a single-computer, a new copy of the license if CPU-ID changes during the sixty-day period.

b. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract, with the modification below.

c. Limitation of Liability. Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the ordering activity for consequential, incidental, or special damages resulting from any defect or deficiencies in accepted items. Terms, conditions, limitations, warranty limitations and restrictions regarding GEAR software licenses are stipulated in the GEAR Software end user (EULA) license agreement.

3. TECHNICAL SERVICES

The Contractor, without additional charge to the ordering activity, shall provide a technical support number at (561) 575.4327 for the purpose of providing user assistance and guidance in the implementation of the software. The technical support number is available from 8:00AM to 5:00PM Eastern time Monday through Friday, excluding holidays.

4. SOFTWARE MAINTENANCE

a. Software Maintenance (GEAR Upgrade Protection and Support Plan), shall include the following: 1) Free product upgrades. 2) Unlimited telephone technical support. 3) Bug fixes and workarounds (if such were ever needed). 4) With regard to licenses that are locked to single machines (single-CPU), a new copy of the license if your CPU-ID changes.

To find out more about the GEAR Software Upgrade Protection and Support Plan visit the following web page:

http://www.gearsoftware.com/support/GSA_support_plan.cfm

b. Invoices for Upgrade Protection and Support Plan shall be submitted by the Contractor on an annual basis (whichever is applicable), after the completion of such period. Maintenance charges must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

5. PERIODS OF TERM LICENSES (132-32) AND MAINTENANCE (132-34)

GEAR has no term licenses therefore this section is only applicable to SIN 132-34.

a. The Contractor shall honor orders for periods for the duration of the contract period or a lesser period of time.

b. Maintenance (Software Upgrade Protection and Support) may be discontinued by the ordering activity on thirty (30) calendar days written notice to the Contractor. No partial refunds are available for terminations prior to the annual renewal date of the software. All fees for Maintenance (Software Upgrade Protection and Support) are paid within 30-days of the original anniversary date of the software purchase, and covers the upcoming twelve-month period.

c. Annual Funding. When annually appropriated funds are cited on an order for Maintenance, the period of the maintenance shall automatically expire on September 30 of the contract period, or at the end of the contract period, whichever occurs first. Renewal of the maintenance orders citing the new appropriation shall be required, if the maintenance is to be continued during any remainder of the contract period. Maintenance is considered renewed when the annual payment for the GEAR Upgrade Protection and Support Plan is received by Contractor. The annual fee is covered in this price list.

d. Cross-Year Funding Within Contract Period. Where an ordering activity's specific appropriation authority provides for funds in excess of a 12 month (fiscal year) period, the ordering activity may place an order under this schedule contract for a

period up to the expiration of the contract period, notwithstanding the intervening fiscal years.

e. Ordering activities should notify the Contractor in writing thirty (30) calendar days prior to the expiration of an order, if the Maintenance (Upgrade Protection and Support Plan) is to be terminated at that time. Orders for the continuation of maintenance will be required if the maintenance is to be continued during the subsequent period.

6. CONVERSION FROM TERM LICENSE TO PERPETUAL LICENSE.

GEAR has no term licenses therefore Section a., b. c. and d. of Section 6 below is not applicable.

a. The ordering activity may convert term licenses to perpetual licenses for any or all software at any time following acceptance of software. At the request of the ordering activity the Contractor shall furnish, within ten (10) calendar days, for each software product that is contemplated for conversion, the total amount of conversion credits which have accrued while the software was on a term license and the date of the last update or enhancement.

b. Conversion credits which are provided shall, within the limits specified, continue to accrue from one contract period to the next, provided the software remains on a term license within the ordering activity.

c. The term license for each software product shall be discontinued on the day immediately preceding the effective date of conversion from a term license to a perpetual license.

d. The price the ordering activity shall pay will be the perpetual license price that prevailed at the time such software was initially ordered under a term license, or the perpetual license price prevailing at the time of conversion from a term license to a perpetual license, whichever is the less, minus an amount equal to (see note below) % of all term license payments during the period that the software was under a term license within the ordering activity.

All site licenses are term licenses. All perpetual licenses are single-computer licenses only. There are no perpetual site licenses. Term licenses may be installed and used on any computer at the physical site of, and owned and controlled by, the ordering activity and at other offices on machines owned and controlled by the ordering activity that are within a one-mile diameter (half-mile radius) of the physical location of the of the ordering activity that made the actual order for the specific license. There is no limitation on the number of computers on which the software may be installed at any given site. An ordering activity with more than one location (site) must purchase a site license for each site where they desire to run the software. Volume discounts are available. Site licenses run annually and must be renewed each year.

Perpetual licenses of the GEAR software are single-computer licenses only. These do not have to be renewed each year but run on only one machine. Multiple single

licenses may be purchased. Ordering activities should call and speak with a GEAR Software sales person to find the best value proposition.

7. TERM LICENSE CESSATION

a. After a software product has been on a continuous term license for a period of (not applicable) months, a fully paid-up, non-exclusive, perpetual license for the software product shall automatically accrue to the ordering activity. The period of continuous term license for automatic accrual of a fully paid-up perpetual license does not have to be achieved during a particular fiscal year; it is a written Contractor commitment which continues to be available for software that is initially ordered under this contract, until a fully paid-up perpetual license accrues to the ordering activity. However, should the term license of the software be discontinued before the specified period of the continuous term license has been satisfied, the perpetual license accrual shall be forfeited.

b. The Contractor agrees to provide updates and maintenance service for the software after a perpetual license has accrued, at the prices and terms of Special Item Number 32-34, if the licensee elects to order such services. Title to the software shall remain with the Contractor.

8. UTILIZATION LIMITATIONS - (132-33, AND 132-34)

a. Software acquisition is limited to commercial computer software defined in FAR Part 2.101.

b. When acquired by the ordering activity, commercial computer software and related documentation so legend shall be subject to the following:

(1) Title to and ownership of the software and documentation shall remain with the Contractor, unless otherwise specified.

(2) Software licenses are by site and by ordering activity. An ordering activity is defined as a cabinet level or independent ordering activity. The software may be used by any subdivision of the ordering activity (service, bureau, division, command, etc.) that has access to the site (as defined in section 6, above) the software is placed at and to the computers the software is placed on, even if the subdivision did not participate in the acquisition of the software. For ordering activity public domain databases, user agencies and third parties may use the computer program to enter, retrieve, analyze and present data. The user ordering activity will take appropriate action by instruction, agreement, or otherwise, to protect the Contractor's proprietary property with any third parties that are permitted access to the computer programs and documentation in connection with the user ordering activity's permitted use of the computer programs and documentation. For purposes of this section, all such permitted third parties shall be deemed agents of the user ordering activity.

(3) Except as is provided in paragraph 8.b(2) above, the ordering activity shall not provide or otherwise make available the software or documentation, or any portion thereof, in any form, to any third party without the prior

written approval of the Contractor. Third parties do not include prime Contractors, subcontractors and agents of the ordering activity when and only when such have the ordering activity's permission to use the licensed software and documentation at the ordering activity's facility, and who have agreed to use the licensed software and documentation only in accordance with these restrictions.

(4) For Single-Computer licenses, the ordering activity shall have the right to use the computer software and documentation with the computer for which it is acquired at any other facility to which that computer may be transferred, or in cases of disaster recovery, the ordering activity has the right to transfer the software to another site if the ordering activity site for which it is acquired is deemed to be physically unsafe for ordering activity personnel; and to make one copy of the software for safekeeping (archives) or backup purposes only.

9. SOFTWARE CONVERSIONS - (132-32 AND 132-33)

Conversion from one version of the software to another as the result of a change in operating system, or from one computer system to another, *is made at no charge provided the ordering activity is on the GEAR Upgrade Protection and Support Plan.* Under a perpetual license (132-33) without an *Upgrade Protection and Support Plan* the software may be transferred to another machine at no charge provided that the operating system of the new system was supported by GEAR at the time that the perpetual licensed software was released. Under a term license (132-32) (*GEAR has no Term Licenses*) conversion credits which accrued while the earlier version was under a term license shall carry forward and remain available as conversion credits which may be applied towards the perpetual license price of the new version.

10. DESCRIPTIONS AND EQUIPMENT COMPATIBILITY

The Contractor shall include, in the schedule pricelist, a complete description of each software product and a list of equipment on which the software can be used. Also, included shall be a brief, introductory explanation of the modules and documentation which are offered.

11. RIGHT-TO-COPY PRICING

The Contractor shall insert the discounted pricing for right-to-copy licenses.

GEAR Software does not have 'right-to-copy' licenses.

Note 1: All non-professional labor categories must be incidental to and used solely to support hardware, software and/or professional services, and cannot be purchased separately.

Note 2: Offerors and Agencies are advised that the Group 70 – Information Technology Schedule is not to be used as a means to procure services which properly fall under the Brooks Act. These services include, but are not limited to, architectural, engineering, mapping, cartographic production, remote sensing, geographic information systems, and related services. FAR 36.6

distinguishes between mapping services of an A/E nature and mapping services which are not connected nor incidental to the traditionally accepted A/E Services.

Note 3: This solicitation is not intended to solicit for the reselling of IT Professional Services, except for the provision of implementation, maintenance, integration, or training services in direct support of a product. Under such circumstances the services must be performance by the publisher or manufacturer or one of their authorized agents.

USA COMMITMENT TO PROMOTE SMALL BUSINESS PARTICIPATION PROCUREMENT PROGRAMS

GEAR Software is a small business.

PREAMBLE

GEAR Software, Inc. provides commercial products and services to ordering activities. We are committed to promoting participation of small, small disadvantaged and women-owned small businesses in our contracts. We pledge to provide opportunities to the small business community through reselling opportunities, mentor-protégé programs, joint ventures, teaming arrangements, and subcontracting.

COMMITMENT

To actively seek and partner with small businesses.

To identify, qualify, mentor and develop small, small disadvantaged and women-owned small businesses by purchasing from these businesses whenever practical.

To develop and promote company policy initiatives that demonstrate our support for awarding contracts and subcontracts to small business concerns.

To undertake significant efforts to determine the potential of small, small disadvantaged and women-owned small business to supply products and services to our company.

To insure procurement opportunities are designed to permit the maximum possible participation of small, small disadvantaged, and women-owned small businesses.

To attend business opportunity workshops, minority business enterprise seminars, trade fairs, procurement conferences, etc., to identify and increase small businesses with whom to partner.

To publicize in our marketing publications our interest in meeting small businesses that may be interested in subcontracting opportunities.

(3) The ordering activity estimates, but does not guarantee, that the volume of purchases through this agreement will be _____.

(4) This BPA does not obligate any funds.

(5) This BPA expires on _____ or at the end of the contract period, whichever is earlier.

(6) The following office(s) is hereby authorized to place orders under this BPA:

OFFICE	POINT OF CONTACT
_____	_____
_____	_____
_____	_____

(7) Orders will be placed against this BPA via Electronic Data Interchange (EDI), FAX, or paper.

(8) Unless otherwise agreed to, all deliveries under this BPA must be accompanied by delivery tickets or sales slips that must contain the following information as a minimum:

- (a) Name of Contractor;
- (b) Contract Number;
- (c) BPA Number;
- (d) Model Number or National Stock Number (NSN);
- (e) Purchase Order Number;
- (f) Date of Purchase;
- (g) Quantity, Unit Price, and Extension of Each Item (unit prices and extensions need not be shown when incompatible with the use of automated systems; provided, that the invoice is itemized to show the information); and
- (h) Date of Shipment.

(9) The requirements of a proper invoice are specified in the Federal Supply Schedule contract. Invoices will be submitted to the address specified within the purchase order transmission issued against this BPA.

(10) The terms and conditions included in this BPA apply to all purchases made pursuant to it. In the event of an inconsistency between the provisions of this BPA and the Contractor's invoice, the provisions of this BPA will take precedence.

BASIC GUIDELINES FOR USING "CONTRACTOR TEAM ARRANGEMENTS"

Federal Supply Schedule Contractors may use "Contractor Team Arrangements" (see FAR 9.6) to provide solutions when responding to ordering activity requirements.

These Team Arrangements can be included under a Blanket Purchase Agreement (BPA). BPAs are permitted under all Federal Supply Schedule contracts.

Orders under a Team Arrangement are subject to terms and conditions of the Federal Supply Schedule Contract.

Participation in a Team Arrangement is limited to Federal Supply Schedule Contractors.

Customers should refer to FAR 9.6 for specific details on Team Arrangements.

Here is a general outline on how it works:

- The customer identifies their requirements.
- Federal Supply Schedule Contractors may individually meet the customers needs, or -
- Federal Supply Schedule Contractors may individually submit a Schedules "Team Solution" to meet the customer's requirement.
- Customers make a best value selection.

GEAR PRICE LIST SOFTWARE LICENSES - Perpetual Software Licenses.

Product	GEAR Part#	GSA Cost	GSA Price Single License
GEAR UNIX & Linux Solutions			
<i>GEAR PRO UNIX for SUN Solaris x86/Sparc, IBM AIX, HP UX</i>	PS 1126-00	975.00	\$1,048.12
<i>GEAR PRO for Trusted Solaris 8 x86</i>	PS 1129-00	1234.35	\$1,326.92
GEAR PRO Linux	PS 1125-00	519.35	\$558.30
GEAR Windows Solutions			
GEAR Desktop Professional Edition	PS 1166-00	67.00	\$72.02
GEAR Video	PS 1121-00	40.16	\$43.17
GEAR DVD	PS 1119-00	40.16	\$43.17

**GEAR PRICE LIST —MAINTENANCE - GEAR ANNUAL UPGRADE
PROTECTION & SUPPORT PLAN (UP&S Plan)**

Annual, single seat, 1-year

Product	GEAR Part#	GSA Cost	GSA Price Single License
<i>GEAR PRO UNIX for SUN Solaris x86/Sparc, IBM AIX, and HP UX</i>	PS 1126-02	367.00	\$394.52
<i>GEAR PRO Linux</i>	PS 1125-02	192.00	\$206.40
<i>GEAR Desktop Professional Edition</i>	PS 1166-02	24.00	\$25.80