



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

Special Item 132-3 Leasing of Product
Special Item 132-8 Purchase of Equipment
Special Item 132-12 Maintenance, Repair Service and Repair Parts/Spare Parts
Special Item 132-32 Term Software Licenses
Special Item 132-33 Perpetual Software Licenses
Special Item 132-34 Maintenance of Software
Special Item 132-50 Training Courses
Special Item 132-51 Information Technology Professional Services

SIN 132-3 LEASING OF PRODUCT

SIN 132-8 PURCHASE OF EQUIPMENT

FSC CLASS 7010 - SYSTEM CONFIGURATION

End User Computers/Desktop Computers

Professional Workstations

Servers

Laptop/Portable/Notebook Computers

Large Scale Computers

Optical and Imaging Systems

Other Systems Configuration Equipment, Not Elsewhere Classified

FSC CLASS 7025 - INPUT/OUTPUT AND STORAGE DEVICES

Printers

Display

Graphics, including Video Graphics, Light Pens, Digitizers, Scanners, and Touch Screens

Network Equipment

Other Communications Equipment

Optical Recognition Input/Output Devices

Storage Devices including Magnetic Storage, Magnetic Tape Storage and Optical Disk Storage

Other Input/Output and Storage Devices, Not Elsewhere Classified

FSC Class 7042 - MINI AND MICRO COMPUTER CONTROL DEVICES

Microcomputer Control Devices

Telephone Answering and Voice Messaging Systems



SIN 132-12 - MAINTENANCE OF EQUIPMENT, REPAIR SERVICE, AND REPAIR PARTS/SPARE PARTS

FSC/PSC Class J070 - Maintenance and Repair Service)(Repair Parts/Spare Parts - See FSC Class for basic equipment)

- Maintenance
- Repair Service
- Repair Parts/Spare Parts
- Third Party Maintenance

SIN 132-32 – TERM SOFTWARE LICENSES

Software maintenance as a product includes the publishing of bug/defect fixes via patches and updates/upgrades in function and technology to maintain the operability and usability of the software product. It may also include other no charge support that is included in the purchase price of the product in the commercial marketplace. No charge support includes items such as user blogs, discussion forums, on-line help libraries and FAQs (Frequently Asked Questions), hosted chat rooms, and limited telephone, email and/or web-based general technical support for user's self-diagnostics.

Software maintenance as a product does NOT include the creation, design, implementation, integration, etc. of a software package. These examples are considered software maintenance as a service – which is categorized under a difference SIN (132-34).

FSC CLASS 7030 - INFORMATION TECHNOLOGY SOFTWARE

Large Scale Computers

- Operating System Software
- Application Software
- Electronic Commerce (EC) Software
- Utility Software
- Communications Software
- Core Financial Management Software
- Ancillary Financial Systems Software
- Special Physical, Visual, Speech, and Hearing Aid Software

Microcomputers

- Operating System Software
- Application Software
- Electronic Commerce (EC) Software
- Utility Software
- Communications Software
- Core Financial Management Software
- Ancillary Financial Systems Software
- Special Physical, Visual, Speech, and Hearing Aid Software

NOTE: Offerors are encouraged to identify within their software items any component interfaces that support open standard interoperability. An item's interfaces may be identified as interoperable on the basis of participation in a Government agency-sponsored program or in an independent organization program. Interfaces may be identified by reference to an interface registered in the component registry database.



SIN 132-33 - PERPETUAL SOFTWARE LICENSES

Software maintenance as a product includes the publishing of bug/defect fixes via patches and updates/upgrades in function and technology to maintain the operability and usability of the software product. It may also include other no charge support that is included in the purchase price of the product in the commercial marketplace. No charge support includes items such as user blogs, discussion forums, on-line help libraries and FAQs (Frequently Asked Questions), hosted chat rooms, and limited telephone, email and/or web-based general technical support for user's self-diagnostics.

Software maintenance as a product does NOT include the creation, design, implementation, integration, etc. of a software package. These examples are considered software maintenance as a service.

FSC CLASS 7030 - INFORMATION TECHNOLOGY SOFTWARE

Large Scale Computers

- Operating System Software
- Application Software
- Electronic Commerce (EC) Software
- Utility Software
- Communications Software
- Core Financial Management Software
- Ancillary Financial Systems Software
- Special Physical, Visual, Speech, and Hearing Aid Software

Microcomputers

- Operating System Software
- Application Software
- Electronic Commerce (EC) Software
- Utility Software
- Communications Software
- Core Financial Management Software
- Ancillary Financial Systems Software
- Special Physical, Visual, Speech, and Hearing Aid Software

SIN 132-34 - MAINTENANCE OF SOFTWARE

Software maintenance as a service creates, designs, implements, and/or integrates customized changes to software that solve one or more problems and is not included with the price of the software. Software maintenance as a service includes person-to-person communications regardless of the medium used to communicate: telephone support, on-line technical support, customized support, and/or technical expertise which are charged commercially.

Software maintenance as a service is billed arrears in accordance with 31 U.S.C. 3324.



SIN 132-50 - TRAINING COURSES FOR INFORMATION TECHNOLOGY EQUIPMENT AND SOFTWARE (FPDS Code U012)

SIN 132-51 - INFORMATION TECHNOLOGY (IT) PROFESSIONAL SERVICES

FPDS Code D301	IT Facility Operation and Maintenance
FPDS Code D302	IT Systems Development Services
FPDS Code D306	IT Systems Analysis Services
FPDS Code D307	Automated Information Systems Design and Integration Services
FPDS Code D308	Programming Services
FPDS Code D310	IT Backup and Security Services
FPDS Code D311	IT Data Conversion Services
FPDS Code D313	Computer Aided Design/Computer Aided Manufacturing (CAD/CAM) Services
FPDS Code D316	IT Network Management Services
FPDS Code D317	Creation/Retrieval of IT Related Automated News Services, Data Services, or Other Information Services (All other information services belong under Schedule 76)
FPDS Code D399	Other Information Technology Services, Not Elsewhere Classified

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 or implementation, maintenance, integration, or training services in direct support of a product. Under such circumstances the services must be performed by the publisher or manufacturer or one of their authorized agents.

Dell Marketing L.P.

One Dell Way
Round Rock, Texas 78682
(800) 727-1100

Internet Address: <http://www.dell.com/fed>

Contract Number: GS-35F-4076D

Contract Period: April 1, 1996 - March 31, 2016
General Services Administration
Federal Acquisition Service

Products and ordering information in this Authorized Information Technology Schedule Price List are also available on GSA Advantage! (<http://www.gsadvantage.gov>)



TABLE OF CONTENTS

Information For Ordering Offices Applicable to all Special Item Numbers	6
Terms and Conditions Applicable to Leasing of Equipment and Software (132-3)	16
Terms and Conditions Applicable to Purchase of Equipment (132-8)	27
Terms and Conditions Applicable to Repair Service and Repair Parts (132-12)	32
Terms And Conditions Applicable To Term Software Licenses (132-32), Perpetual Software Licenses (132-33) And Maintenance Of General Purpose Commercial Information Technology Software (132-34)	35
Terms and Conditions Applicable to Purchase of Classroom Training of General Purpose Automatic Data Processing Equipment and Software (132-50)	39
Terms and Condisitons Applicable to Purchase of Information Technology (IT) Professional Services (132-51)	42
Warranty Codes	51
USA Commitment To Promote Small Business Participation Procurement Programs	52
BPA Sample	53
Teaming Agreement	56
Appendix A Dell Enterprise License Agreement	57
Appendix B Customer Master Services Addendum	58
Appendix C Price List	61
Appendix D Optional Supplemental Lease Terms	62



INFORMATION FOR ORDERING OFFICES

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 micro-purchase threshold, FAR 8.404 requires agencies to consider the catalogs/price lists of at least three schedule contractors or consider reasonably available information by using the GSA Advantage! on-line shopping service (<http://www.gsadvanta.gov>). The catalogs/price lists, GSA Advantage! and the Federal Supply Service Home Page (www.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 offices 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 price lists for a best value determination.

For orders exceeding the micro-purchase 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

The geographic scope of this contract is worldwide.

2. ORDERING AND PAYMENT ADDRESSES

ORDERING ADDRESS

Dell Marketing, L.P.
One Dell Way
Building 8, Box 26
Round Rock, TX 78682

PAYMENT ADDRESS

Standard Remittance Address:

Dell Marketing L.P.
C/O Dell USA L.P.
P.O. Box 676021
Dallas, TX 75267-6021

Overnight Mail Remittance Address:

Dell Marketing L.P.
C/O Dell USA L.P.
Box 676021
1200 East Campbell Rd, Suite 108.
Richardson, TX 75081



Wire Transfer Information

Payee/Company Information

Dell Marketing L.P.
C/O Dell USA L.P.
1 Dell Way Box 8730
Round Rock, TX 78682
Tax ID: 74-2616805

Financial Institution Information

PNC Bank
500 First Avenue
Pittsburgh, PA 15222
Beneficiary Name: Dell Marketing L.P.
c/o Dell USA L.P.
Bank Contact: 800-762-9473

**All Electronic Fund Transfers (EFT) must use the CTX format in order for the invoice to be processed accurately and timely.

Contractors are required to accept the Government purchase card for payments equal to or less than the micro-purchase threshold for oral or written delivery orders. Government purchase cards will be acceptable for payment above the micro-purchase threshold per with paragraph 7.d.

Contact information

Ordering offices may obtain technical and/or ordering assistance at: Voice (800) 456-3355 / Fax (877) 416-4334.

Dell Marketing L.P. is not currently participating in GSA's Cooperative Purchasing Program. However, at any one time there are approximately 15 Schedule 70 contractors who hold Dell GSA Letters of Supply and participate in Cooperative Purchasing. State and local government ordering offices may contact Dell's GSA Schedule Point of Contact listed on the GSA eLibrary email the Dell Federal Reseller mailbox at Fed_Reseller_Admin@dell.com for additional information and a current list of Dell Letter of Supply holders.

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 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: **877936518**
Block 30: Type of Contractor: C. Large Business
Block 31: Woman-Owned Small Business: No
Block 37: Contractor's Tax Identification Number (TIN): **74-2616805**
Block 40: Veteran Owned Small Business (VOSB): No

- a. Cage Code: **3DMD3**
- b. Contractor is registered in SAM (System for Award Management, www.sam.gov).



5. FOB POINT

Within the continental U.S (CONUS) and the District of Columbia: Destination (three to five day ground delivery).

Hawaii and Alaska: Destination (3rd day air).

Outside the U.S. (OCONUS):

Deliveries via APO/FPO - Origin (i.e. the CONUS-located Army or Fleet Post Office)

Other deliveries - as agreed between the ordering office and Dell. Shipping charges will be separately quoted, and agreed upon between the ordering office and Dell.

6. DELIVERY SCHEDULE

a. TIME OF DELIVERY. The contractor shall deliver to CONUS destinations within the number of calendar days after receipt of order (ARO), as set forth below. Offerors shall insert in the "time of Delivery (days ARO)" column in the Schedule of Items a definite number of calendar days within which delivery will be made. In no case shall the offered delivery time exceed the contractor's normal commercial practice, except where commercial Smart Select systems and/or non-Trade Agreement Act compliant products are being delivered. The contractor shall ship orders to destinations OCONUS within the shipping times specified below.

ITEMS OR GROUPS OF ITEMS (SIN)	CONUS DELIVERY TIME (DAYS ARO)	OCONUS SHIPPING TIME (DAYS ARO)
132-3	5 – 120*	5 – 120*
132-8	5 – 120*/**	5 – 120*
132-12	5 – 120*	5 – 120*
132-32	5 – 120*	5 – 120*
132-33	5 – 120*	5 – 120*
132-34	5 – 120*	5 – 120*
132-50	5 – 120*	5 – 120*
132-51	5 – 120*	5 – 120*

*Or as otherwise negotiated between the ordering office and Dell Marketing L.P. Please refer to paragraph 10 in the SIN 132-8 Section below for additional delivery options.

i. EXPEDITED DELIVERY TIMES. For those items that can be delivered quicker than the delivery times in paragraph (a), above, the offeror is requested to insert below, a time (hours/days ARO) that delivery can be made when expedited delivery is requested:

As negotiated at the time of ordering office request.

ii. OVERNIGHT AND 2-DAY DELIVERY TIMES. Ordering offices may require overnight or 2-day delivery, which is available within the U.S. only. Dell generally does not build hardware products to inventory; rather, Dell custom configures products as orders are received. Once the product is built, overnight or 2-day delivery is available for an expedite fee that is negotiated at the time of customer request. Dell is not required to provide, and



the paying office shall not require, documentation to substantiate the fee for expedited delivery that Dell and the ordering office have previously agreed upon.

iii. INSIDE DELIVERY. Ordering offices may require inside delivery. Inside delivery is available within the U.S. only. Additional charges, if any will be negotiated at the time of customer request.

b. URGENT REQUIREMENTS. When the Federal Supply Schedule contract delivery period does not meet the bona fide urgent delivery requirements for an ordering agency, agencies 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 agency, 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 AND PAYMENT TERMS

a. PRICES. Prices listed herein are net; discounts have already been deducted.

b. Unless the ordering office and Dell have agreed to a different discount, Dell's standard pricing policy for Dell-branded systems, which include both hardware and services in one discounted price, allocates the discount off list price applicable to the service portion of the system to be equal to the overall calculated percentage discount off list price on the entire system.

c. SPECIAL PRICING. Ordering offices are encouraged to compete their large requirements among GSA FSS Schedule 70 contractors, and Schedule contractors are encouraged to quote lower "spot prices" for individual opportunities. The resulting competitive price may be included in a Delivery Order without triggering the Price Reduction clause. Special pricing may be available for large requirements. Please call the applicable Agency-specific telephone number listed above to discuss with your Sales Representative.

d. PAYMENT TERMS:

i. Net 30 days from receipt of invoice or completion of acceptance, whichever is later – payment by check or EFT. Net 30 days invoices are payable by credit card upon payment by the customer of a two percent (2%) finance charge, to compensate Dell for the charge Dell must pay the credit card processing financial institution. Notwithstanding the forgoing, if a Net 30 invoice is paid by credit card upon receipt of the hardware, the finance charge does not apply.

ii. Credit card payments are accepted provided billing is authorized at the time of shipment. Dell does not offer my additional discount for their use. No Finance Charge is assessed where Dell is authorized to charge the credit card at the time of shipment.

e. GOVERNMENT EDUCATIONAL INSTITUTIONS: Government Educational Institutions are offered the same discounts as all other Government customers.



8. TRADE AGREEMENTS ACT OF 1979, AS AMENDED

Dell's information technology products (e.g., notebooks, desktops, workstations, servers, and data storage equipment, etc.) comply with the Trade Agreements as specified in FAR §52.225-5. Dell integrates or bundles peripherals, (e.g., monitors, keyboards, mice, etc.) that may not comply with the Trade Agreements, with Dell's information technology products to form information technology systems. Dell also offers replacement parts (i.e., customer kits) and spare parts that may not comply with the Trade Agreements for integration into Dell information technology products and systems. Dell bases its Trade Agreements certification for bundled peripherals and for replacement parts and spare parts on the country of origin of the Dell information technology product within the system. Customer kits (other than monitors, keyboards and mice) sold as items to be installed into or with a Dell system are considered to be part of that system.

9. STATEMENT CONCERNING AVAILABILITY OF EXPORT PACKING

Export packing is available. In the event export requires additional packaging beyond Dell's standard commercial packaging, such packaging may require an additional charge. If such a charge is required, it will be separately quoted on an open market basis and will be listed as an open market line item on the Delivery Order.

10. SMALL REQUIREMENTS

The minimum dollar value of orders to be issued is \$100.

MAXIMUM ORDER (THRESHOLD AT WHICH DELL WILL REVIEW FOR SPECIAL PRICING)

- 132-3 – Leasing of Product
- 132-8 – Purchase of Equipment
- 132-12 – Maintenance of Equipment, Repair Service, and Repair Parts/Spare Parts
- 132-32- Term Software Licenses
- 132-33 – Perpetual Software Licenses
- 132-34 – Maintenance of Software
- 132-51 – Information Technology (IT) Professional Services

- b. The Maximum Order value for the following Special Item Numbers (SINs) is \$25,000:
- 132-50 – Training Courses

11. ORDERING PROCEDURES FOR FEDERAL SUPPLY SCHEDULE CONTRACTS

Ordering activities shall use the ordering procedures of Federal Acquisition Regulation (FAR) 8.405 when placing an order or establishing a BPA for supplies or services. These procedures apply to all schedules.

- a. FAR 8.405-1 Ordering procedures for supplies, and services not requiring a statement of work.
- b. FAR 8.405-2 Ordering procedures for services requiring a statement of work.



13. FEDERAL INFORMATION TECHNOLOGY/TELECOMMUNICATIONS 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.

a. **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.

b. **FEDERAL TELECOMMUNICATIONS 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 Acquisition 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 2003)

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. As Dell Marketing L.P. does not hold a U.S. Government Facility Security Clearance ("FSC"), in event clearances are required, the Contractor will establish a Contractor Teaming Agreement with its affiliate Dell Federal Systems L.P., which holds and FSC (Schedule 70 contract number GS-35F-0884P). All costs associated with providing individuals who possess the appropriated level of security clearance will be negotiated with the ordering office on an individual task/delivery order basis.

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. Travel in performance of a task order will only be reimbursable to the extent authorized by the ordering agency. 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, in the event a mitigation plan is unable to be agreed upon between the order office and the contractor.
- 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. Contractor does not maintain a Government approved property management system.
- 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. It is at the Contractor's sole discretion whether to accept an order(s) where funds are not yet available

15. CONTRACT ADMINISTRATION FOR ORDERING OFFICES.

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 52.212-4).

16. GSA Advantage!

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

- a. Manufacturer;
- b. Manufacturer's Part Number; and
- c. Product Categories.

Agencies may browse GSA Advantage! at <http://www.gsaadvantage.gov>

17. PURCHASE OF INCIDENTAL, NON-SCHEDULE ITEMS

a. NOTE: Open Market Items are also known as incidental items, noncontract items, non-Schedule items, and items not on a Federal Supply Schedule contract. ODCs (Other Direct Costs) are not part of this contract and should be treated as open market purchases. Ordering Activities procuring open market items must follow FAR 8.402(f).

b. 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-

- i. 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));
- ii. The ordering activity contracting officer has determined the price for the items not on the Federal Supply Schedule is fair and reasonable;
- iii. The items are clearly labeled on the order as items not on the Federal Supply Schedule; and
- iv. 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 for the entire schedule contract:

- i. Time of delivery/installation quotations for individual orders;



ii. 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 results in orders under this schedule contract.

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

b. The above is does not 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 delivery and maintenance of equipment in areas listed in the price list outside the 48 contiguous states, Hawaii, Alaska and the District of Columbia except for the following modifications:

a. In place of a delivery date, an estimated shipping date shall be specified on the order.

b. Upon request of the Contractor, the Government, on a reimbursable basis, may provide the Contractor with logistics support, as available, in accordance with all applicable Government regulations. Such Government 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.

c. The Contractor agrees to accept orders for maintenance (On-Site Service) of equipment where Contractor maintains the capability of performing such maintenance. As conditions are subject to change, ordering offices should check with their Dell Sales Representative or review Dell's OCONUS International Service and Support home page at:

<http://www.dell.com/learn/us/en/rc1009777/fed-solutions-oconus>

Transportation of equipment to and from the specified service area and responsibility for loss or damage that occurs during transit is the responsibility of the Government.

20. BLANKET PURCHASE AGREEMENT (BPAs)

The use of BPAs under any schedule contract to fill repetitive needs for supplies or services is allowable. BPAs may be established with one or more schedule contractors. The number of BPAs to be established is within the discretion of the ordering activity establishing the BPA and should be based on a strategy that is expected to maximize the effectiveness of the BPA(s). Ordering activities shall follow FAR 8.405-3 when creating and implementing BPA(s).

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 GSAM Clause 552.238-74, Industrial Funding Fee and Sales Reporting, 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

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 receive 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, de-installation, and reinstallation services under SIN 132-8.

23. SECTION 508 COMPLIANCE

General information regarding Section 508 compliance on the supplies and services in this contract is available in Electronic and Information Technology (EIT) at:

<http://www.section508.gov/>

Dell maintains a library of Section 508 Voluntary Product Accessibility Templates (VPATS) detailing how individual products meet the requirements of Section 508. Please contact your Dell Sales Representative for specific VPATS, or visit Dell's Regulatory Compliance page on Dell.com.

24. ELECTRONIC GSA INFORMATION

Dell's GSA Terms and Conditions, as well as Dell's GSA product and pricing, are available on the Dell Federal Government Home Page. Dell also offers company and product information to any person who has access to the World Wide Web. The Dell Federal Government page may be accessed at: <http://www.dell.com/federal>. On the Federal Home Page is a tool to identify Dell Sales Representatives responsible for individual Federal Agencies. If you know the name of your Sales Representative, address your Internet mail message to: firstname_lastname@dell.com

25. PRODUCT SUBSTITUTIONS

Dell may make product substitutions either to base systems, internal system components, options or external peripherals as long as the substitute item is the same or better technology at the same or lower price. Delivery order modifications will not be required. The invoice will reflect the actual product shipped NOT the product ordered. To affect administrative savings to the Government, paying offices are instructed to make payments in accordance with this paragraph without requiring a delivery order modification. The following note will appear on the invoice.

In accordance with the Product Substitution paragraph in the contract, Dell has substituted a product on this order. The substitution is the same or better technology at the same or lower price.



26. 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 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.”

27. 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—
 - i. For such period as the laws of the State in which this contract is to be performed prescribe; or
 - ii. 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.

28. SOFTWARE INTEROPERABILITY

Offerors are encouraged to identify within their software items any component interfaces that support open standard interoperability. An item's interface may be identified as interoperable on the basis of participation in a Government agency-sponsored program or in an independent organization program. Interfaces may be identified by reference to an interface registered in the component registry

29. ADVANCE PAYMENTS

Advance or pre-payment is not authorized or allowed under this contract. (31 U.S.C. 3324).



**TERMS AND CONDITIONS APPLICABLE TO
LEASING OF GENERAL PURPOSE COMMERCIAL
INFORMATION TECHNOLOGY PRODUCTS
(SPECIAL ITEM NUMBER 132-3)**

***NOTE: Under SIN 132-3 Leasing of Products, there are two sets of terms and conditions. Option 1 does not contain a cancellation clause and all leases automatically expire on September 30th or sooner. Option 2 contains a cancellation clause, in which the fee must be in accordance with applicable legal principles. Contractor is offering both options. ***

LEASE TYPES

The ordering activity will consider proposals for the following lease types:

- a. Lease to Ownership;
- b. Lease with Option to Own, and
- c. Step Lease.

Orders for leased products must specify the leasing type.

OPTION 1:

1. STATEMENT

- a. It is understood by all parties to this contract that orders issued under this SIN shall constitute a lease arrangement. Unless the ordering activity intends to obligate other than annual appropriations to fund the lease, the base period of the lease is from the date of the product acceptance through September 30 of the fiscal year in which the order is placed.
- b. Agencies are advised to follow the guidance provided in Federal Acquisition Regulation (FAR) Subpart 7.4 Product Lease or Purchase and OMB Circular A-11. Agencies are responsible for the obligation of funding consistent with all applicable legal principles when entering into any lease arrangement.

2. FUNDING AND PERIODS OF LEASING ARRANGEMENTS

- a. Annual Funding. When annually appropriated funds are cited on an order for leasing, the following applies:
 - i. The base period of an order for any lease executed by the ordering activity shall be for the duration of the fiscal year. All ordering activity renewal options under the lease shall be specified in the delivery order. All orders for leasing shall remain in effect through September 30 of the fiscal year or the planned expiration date of the lease, whichever is earlier, unless the ordering activity exercises its rights hereunder to acquire title to the product prior to the planned expiration date or unless the ordering activity exercises its right to terminate under FAR 52.212-4. Orders under the lease shall not be deemed to obligate succeeding fiscal year's funds or to otherwise commit the ordering activity to a renewal.



ii. All orders for leasing shall automatically terminate on September 30, unless the ordering activity notifies the Contractor in writing thirty (30) calendar days prior to the expiration of such orders of the ordering activity's intent to renew. Such notice to renew shall not bind the ordering activity. The ordering activity has the option to renew each year at the original rate in effect at the time the order is placed. This rate applies for the duration of the order. If the ordering activity exercises its option to renew, the renewal order, shall be issued within 15 days after funds become available for obligation by the ordering activity, or as specified in the initial order. No termination fees shall apply if the ordering activity does not exercise an option.

b. Crossing Fiscal Years Within Contract Period. Where an ordering activity has specific authority to cross fiscal years with annual appropriations, the ordering activity may place an order under this option to lease product for a period up to the expiration of its period of appropriation availability, or twelve months, whichever occurs later, notwithstanding the intervening fiscal years.

3. DISCONTINUANCE AND TERMINATION

Notwithstanding any other provision relating to this SIN, the ordering activity may terminate products leased under this agreement, at any time during a fiscal year in accordance with the termination provisions contained in FAR 52.212-4. (l) Termination for the ordering activity's convenience, or (m) Termination for cause. Additionally, no termination for cost or fees shall be charged for non-renewal of an option.

OPTION 2

To the extent an Offeror wishes to propose alternative lease terms and conditions that provide for lower discounts/prices based on the ordering activity's stated intent to fulfill the projected term of a lease including option years, while at the same time including separate charges for early end of the lease, the following terms apply. These terms address the timing and extent of the ordering activity's financial obligation including any potential charges for early end of the lease.

1. LEASING PRICE LIST NOTICE

Contractors must include the following notice in their contract price list for SIN 132-3:
"The ordering activity is responsible for the obligation of funds consistent with applicable law. Agencies are advised to review the lease terms and conditions contained in this price list prior to ordering and obligating funding for a lease."

2. STATEMENT OF ORDERING ACTIVITY INTENT

a. The ordering activity and the Contractor understand that a delivery order issued pursuant to this SIN is a lease arrangement and contemplates the use of the product for the term of the lease specified in such delivery order (the "Lease Term"). In that regard, the ordering Activity, as lessee, understands that the lease provisions contained herein and the rate established for the delivery order are premised on the ordering Activity's intent to fulfill that agreement, including acquiring products for the period of time specified in the order. Each lease hereunder shall be initiated by a



delivery order which shall, either through a statement of work or other attachment, specify the product being leased, and the required terms of the transaction.

b. Each ordering activity placing a delivery order under the terms of this option intends to exercise each renewal option and to extend the lease until completion of the Lease Term so long as the need of the ordering activity for the product or functionally similar product continues to exist and funds are appropriated. Contractor may request information from the ordering activity concerning the essential use of the products.

3. LEASE TERM

a. The date on which the ordering activity accepts the products is the Commencement Date of the lease. For acceptance to occur, the products must operate in accordance with the product's published specifications and statement of work. Acceptance shall be in accordance with the terms of the contract or as otherwise negotiated by the ordering activity and the Contractor.

b. Any lease is executed by the ordering activity on the basis that the known requirement for such product exceeds the initial base period of the delivery order, which is typically 12 months, or for the remainder of the fiscal year. Pursuant to FAR 32.703-3(b), delivery orders with options to renew that are funded by annual (fiscal year) appropriations may provide for initial base periods and option periods that cross fiscal years as long as the initial base period or each option period does not exceed a 12 month period. Defense agencies must also consider DOD FAR supplement (DFAR) 232.703-3(b) in determining whether to use cross fiscal year funding. This cross fiscal year authority does not apply to multi-year leases.

c. The total Lease Term will be specified in each delivery order, including any relevant renewal options of the ordering activity. All delivery orders, whether for the initial base period or renewal period, shall remain in effect through September 30 of the fiscal year (unless extended by statute), through any earlier expiration date specified in the delivery order, or until the ordering activity exercises its rights hereunder to acquire title to the product prior to such expiration date. The ordering activity, at its discretion, may exercise each option to extend the term of the lease through the lease term. Renewal delivery orders shall not be issued for less than all of the product and/or software set forth in the original delivery order. Delivery orders under this SIN shall not be deemed to obligate succeeding fiscal year funds. The ordering activity shall provide the Contractor with written notice of exercise of each renewal option as soon as practicable. Notice requirements may be negotiated on an order-by-order basis.

d. Where an ordering activity's specific appropriation or procurement authority provides for contracting beyond the fiscal year period, the ordering activity may place a delivery order for a period up to the expiration of the Lease Term, or to the expiration of the period of availability of the multi-year appropriation, or whatever is appropriate under the applicable circumstance.

4. LEASE TERMINATION

a. The ordering activity must elect the Lease Term of the relevant delivery order. The Contractor (and assignee, if any) will rely on the ordering activity's representation of its intent to fulfill the full Lease Term to determine the monthly lease payments calculated herein.



i. The ordering activity may terminate or not renew leases under this option at no cost, pursuant to a Termination for Non-Appropriation as defined herein (see paragraph (c) below). In any other event, the ordering activity's contracting officer may either terminate the relevant delivery order for cause or Termination for Convenience in accordance with FAR 52.212-4 paragraphs (l) and (m).

ii. The Termination for Convenience at the end of a fiscal year allows for separate charges for the early end of the lease (see paragraph (d) below). In the event of termination for the convenience of the ordering activity, the ordering activity may be liable only up to the amount beyond the order's Termination Ceiling. Any termination charges calculated under the Termination for Convenience clause must be determined or identified in the delivery order or in the lease agreement.

b. Termination for Convenience of the Ordering Activity: Leases entered into under this option may not be terminated except by the ordering activity's contracting office responsible for the delivery order in accordance with FAR 52.212-4, Contract Terms and Conditions-Commercial Items, paragraph (l), *Termination for Convenience of the ordering activity*. The costs charged to the ordering activity as the result of any Termination for Convenience of the ordering activity must be reasonable and may not exceed the sum of the fiscal year's payment obligations less payments made to date of termination plus the Termination Ceiling

c. Termination for Non-Appropriation: The ordering activity reasonably believes that the bona fide need will exist for the entire Lease Term and corresponding funds in an amount sufficient to make all payment for the lease Term will be available to the ordering activity. Therefore, it is unlikely that leases entered into under this option will terminate prior to the full Lease Term. Nevertheless, the ordering activity's contracting officer may terminate or not renew leases at the end of any initial base period or option period under this paragraph if (a) it no longer has a bona fide need for the product or functionally similar product; or (b) there is a continuing need, but adequate funds have not been made available to the ordering activity in an amount sufficient to continue to make the lease payments. If this occurs, the ordering activity will promptly notify the Contractor, and the product lease will be terminated at the end of the last fiscal year for which funds were appropriated. Substantiation to support a termination for non-appropriation shall be provided to the Contractor upon request.

d. Termination Charges: At the initiation of the lease, termination ceilings will be established for each year of the lease term. The termination ceiling is a limit on the amount that a Contractor may be paid by the ordering activity on the Termination for Convenience of a lease. No claim will be accepted for future costs: supplies, maintenance, usage charges or interest expense beyond the date of termination. In accordance with the bona fide needs rule, all termination charges must reasonably represent the value the ordering activity received for the work performed based upon the shorter lease term. No Termination for Convenience costs will be associated with the expiration of the lease term.

e. At the order level, the ordering activity may, consistent with legal principles, negotiate lower monthly payments or rates based upon appropriate changes to the termination conditions in this section.



LEASE PROVISIONS COMMON TO
ALL TYPES OF LEASE AGREEMENTS

***** The following terms and conditions are applicable to any lease awarded under this contract regardless of type or option. *****

1. ORDERING PROCEDURES

a. When an ordering activity expresses an interest in leasing a product(s), the ordering activity will provide the following information to the prospective Contractor:

- i. Which product(s) is (are) required.
- ii. The required delivery date.
- iii. The proposed lease plan and term of the lease.
- iv. Where the product will be located.
- v. Description of the intended use of the product.
- vi. Source and type of appropriations to be used.

b. The Contractor will respond with:

- i. Whether the Contractor can provide the required product.
- ii. The estimated residual value of the product (Lease with Option to Own and Step Lease only).
- iii. The monthly payment based on the rate.
- iv. The estimated cost, if any, of applicable State or local taxes. State and local personal property taxes are to be estimated as separate line items in accordance with FAR 52.229-1, which may be identified and added to the monthly lease payment.
- v. A confirmation of the availability of the product on the required delivery date.
- vi. Extent of warranty coverage, if any, of the leased products.
- vii. The length of time the quote is valid.

c. The ordering activity may issue a delivery order to the Contractor based on the information set forth in the Contractor's quote. In the event that the ordering activity does not issued a delivery order within the validity period stated in the Contractor's quote letter, the quote shall expire.



2. ASSIGNMENT OF CLAIMS

GSAR 552.232-23, Assignment of Claims, is incorporated herein by reference as part of these lease provisions. The ordering activity's contracting officer will acknowledge the assignment of claim for a lease in accordance with FAR 32.804-5. The extent of the assignee's protection is in accordance with FAR 32.804. Any setoff provision must be in accordance with FAR 32.803.

3. PEACEFUL POSSESSION AND UNRESTRICTED USE

In recognition of the types of products available for lease and the potential adverse impact to the ordering activity's mission, the ordering activity's quiet and peaceful possession and unrestricted use of the product shall not be disturbed in the event the product is sold by the Contractor, or in the event of bankruptcy of the Contractor, corporate dissolution of the Contractor, or other event. The product shall remain in the possession of the ordering activity until the expiration of the lease. Any assignment, sale, bankruptcy, or other transfer of the leased product by the Contractor will not relieve the Contractor of its obligations to the ordering activity, and will not change the ordering activity's duties or increase the burdens or risks imposed on the ordering activity.

4. COMMENCEMENT OF LEASE

The date on which the ordering activity accepts the products is the Commencement Date of the lease. Acceptance is as defined elsewhere in the contract, or as further specified in the order.

5. INSTALLATION AND MAINTENANCE

a. Installation and Maintenance, when applicable, normally are not included in the charge for leasing. The Contractor may require the ordering activity to obtain installation and maintenance services from a qualified source. The ordering activity may obtain installation and/or maintenance on the open market, from the Contractor's schedule contract, or from other sources. The ordering activity may also perform installation and/or maintenance in house, if qualified resources exist. In any event, it is the responsibility of the ordering activity to ensure that maintenance is in effect for the Lease term for all products leased.

b. When installation and/or maintenance are ordered under this schedule to be performed by the Contractor, the payments, terms and conditions as stated in this contract apply. The rates and terms and conditions in effect at the time the order is issued shall apply during any subsequent renewal period of the lease. The maintenance rates and terms and conditions may be added to the lease payments with mutual agreement of the parties.

6. MONTHLY PAYMENTS

a. Prior to the placement of an order under this Special Item Number, the ordering activity and the Contractor must agree on a "base value" for the products to be leased. For Lease to Ownership (Capital Lease) the base value will be the contract purchase price (less any discounts). For Lease with Option to Own (Operating Lease), the base value will be the contract purchase price (less any discounts), less a mutually agreed upon residual value (pre-stated purchase option price at the



conclusion of the lease) for the products. The residual value will be used in the calculation of the original lease payment, lease extension payments, and the purchase option price.

b. To determine the initial lease term payment, the Contractor agrees to apply the negotiated lease factor to the agreed upon base value: For delivery orders placed under this SIN 132-3, whether under Option 1 or Option 2, Dell offers the following lease pricing:

Pricing shall be calculated at an interest rate consisting of 400 basis points plus the Treasury constant maturity equal to the original lease term as shown in the Federal Reserve statistical release H.15 as of the preceding date closest to the date of the Lease Quote letter.

For Example: Lease factor one (1) percent over the rate for the three year (or other term) Treasury Bill (T-bill) at the most current U. S. Treasury auction.

The lease payment may be calculated by using a programmed business calculator or by using "rate" functions provided in commercial computer spreadsheets (e.g., Lotus 1-2-3, Excel).

c. For any lease extension, the extension lease payment will be based on the original residual value, in lieu of the purchase price. The ordering activity and the Contractor shall agree on a new residual value based on the estimated fair market price at the end of the extension. The formula to determine the lease payment will be that in 6.b. above.

d. The purchase option price will be the fair market value of the product or payment will be based upon the unamortized principle, as shown on the payment schedule as of the last payment prior to date of transfer of ownership, whichever is less.

NOTE: At the order level, ordering activity may elect to obtain a lower rate for the lease by setting the purchase option price as either, the fair market value of the product or unamortized principle. The methodology for determining lump sum payments may be identified in the pricelist.

e. The point in time when monthly rates are established is subject to negotiation and evaluation at the order level.

In the event the ordering activity desires, at any time, to acquire title to product leased hereunder, the ordering activity may make a one-time lump sum payment.

7. LEASE END/DISCONTINUANCE OPTIONS

a. Upon the expiration of the Lease Term, Termination for Convenience, or Termination for Non-Appropriation, the ordering activity will return the Product to the Contractor unless the ordering activity by 30 days written notice elects either:

i. to purchase the product for the residual value of the product, or

ii. to extend the term of the Lease, as mutually agreed. To compute the lease payment, the residual value from the preceding lease shall be the initial value of the leased



product. A new residual value shall be negotiated for the extended lease and new lease payments shall be computed.

b. Relocation - The ordering activity may relocate products to another location within the ordering activity with prior written notice. No other transfer, including sublease, is permitted. Ordering activity shall not assign, transfer or otherwise dispose of any products, or any interest therein, or create or suffer any levy, lien or encumbrance then except those created for the benefit of Contractor or its assigns.

c. Returns:

i. Within fourteen (14) days after the date of expiration, non-renewal or termination of a lease, the ordering activity shall, at its own risk and expense, have the products packed for shipment in accordance with manufacturer's specifications and return the products to Contractor at the location specified by Contractor in the continental US, in the same condition as when delivered, ordinary wear and tear excepted. Any expenses necessary to return the products to good working order shall be at ordering activity's expense.

ii. The Contractor shall conduct a timely inspection of the returned products and within 45 days of the return, assert a claim if the condition of the product exceeds normal wear and tear.

iii. Product will be returned in accordance with the terms of the contract and in accordance with Contractor instruction.

iv. With respect to software, the ordering activity shall state in writing to the Contractor that it has:

(1) deleted or disabled all files and copies of the software from the equipment on which it was installed;

(2) returned all software documentation, training manuals, and physical media on which the software was delivered; and

(3) has no ability to use the returned software.

8. UPGRADES AND ADDITIONS

a. The ordering activity may affix or install any accessory, addition, upgrade, product or device on the product ("additions") provided that such additions:

i. can be removed without causing material damage to the product;

ii. do not reduce the value of the product; and

iii. are obtained from or approved by the Contractor, and are not subject to the interest of any third party other than the Contractor.



- b. Any other additions may not be installed without the Contractor's prior written consent. At the end of the lease term, the ordering activity shall remove any additions which:
- i. were not leased from the Contractor, and
 - ii. are readily removable without causing material damage or impairment of the intended function, use, or value of the product, and restore the product to its original configuration.
- c. Any additions that are not so removable will become the Contractor's property (lien free).
- d. Leases of additions and upgrades must be co-terminus with that of the product.

9. RISK OF LOSS OR DAMAGE

The ordering activity is relieved from all risk of loss or damage to the product during periods of transportation, installation, and during the entire time the product is in possession of the ordering activity, except when loss or damage is due to the fault or negligence of the ordering activity. The ordering activity shall assume risk of loss or damage to the product during relocation, (i.e., moving the product from one ordering activity location to another ordering activity location), unless the Contractor shall undertake such relocation.

10. TITLE

During the lease term, product shall always remain the property of the Contractor. The ordering activity shall have no property right or interest in the product except as provided in this leasing agreement and shall hold the product subject and subordinate to the rights of the Contractor. Software and software licenses shall be deemed personal property. The ordering activity shall have no right or interest in the software and related documentation except as provided in the license and the lease. Upon the Commencement Date of the Lease Term, the ordering activity shall have an encumbered license to use the software for the Lease Term. The ordering activity's encumbered license rights in the software will be subject to the same rights as provided to a purchaser of a license under the terms of this contract except that the ordering activity will not have an unencumbered, paid-up license until it has made all lease payments for the full Lease Term in the case of an Lease To Ownership or has otherwise paid the applicable purchase option price.

11. TAXES:

The lease payments, purchase option prices, and interest rates identified herein exclude all state and local taxes levied on or measured by the contract or sales price of the product furnished hereunder. The ordering activity will be invoiced for any such taxes as Contractor receives such tax notices or assessments from the applicable local taxing authority. Pursuant to the provisions of FAR 52.229-1 (Deviation – May 2003), State and Local Taxes, the ordering activity agrees to pay tax or provide evidence necessary to support an exemption from the tax.



*** NOTE: Contractor may propose additional terms and conditions (regarding SIN 132-3) for billings, payments, and/or invoices, as long as they are consistent with terms and conditions specified elsewhere. ***

12. OPTION TO PURCHASE EQUIPMENT (FEB 1995) (FAR 52.207-5)

- a. The Government may purchase the equipment provided on a lease or rental basis under this contract. The Contracting Officer may exercise this option only by providing a unilateral modification to the Contractor. The effective date of the purchase will be specified in the unilateral modification and may be any time during the period of the contract, including any extensions thereto.
- b. Except for final payment and transfer of title to the Government, the lease or rental portion of the contract becomes complete and lease or rental charges shall be discontinued on the day immediately preceding the effective date of purchase specified in the unilateral modification required in paragraph (a) of this clause.
- c. The purchase conversion cost of the equipment shall be computed as of the effective date specified in the unilateral modification required in paragraph (a) of this clause, on the basis of the purchase price set forth in the contract, minus the total purchase option credits accumulated during the period of lease or rental, calculated by the formula contained elsewhere in this contract.
- d. The accumulated purchase option credits available to determine the purchase conversion cost will also include any credits accrued during a period of lease or rental of the equipment under any previous Government contract if the equipment has been on continuous lease or rental. The movement of equipment from one site to another site shall be "continuous rental."

OPTIONAL SUPPLEMENTAL LEASE PROVISIONS

Please refer to Appendix D, Optional Supplemental Lease Provisions, for additional optional provisions that, if adopted, may decrease the lease rate.



**TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF
GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY EQUIPMENT
(SPECIAL ITEM NUMBER 132-8)**

1. MATERIAL AND WORKMANSHIP

All equipment furnished hereunder must satisfactorily perform the function for which it is intended.

2. ORDER

Written orders, GSA Advantage! orders, internet orders (via dell.com/federal), credit card orders, and orders placed under blanket purchase agreements (BPA) agreements shall be the basis for purchase in accordance with the provisions of this contract. If time of delivery extends beyond the expiration date of the contract, the Contractor will be obligated to meet the delivery and installation date specified in the original order. Written orders, GSA Advantage! orders, internet orders, credit card orders or, telephone orders are permissible.

3. TRANSPORTATION OF EQUIPMENT

FOB Destination: Prices cover equipment delivery to destinations in the United States, Hawaii, Alaska and the District of Columbia using three to five day ground transportation.

Shipping charges may apply to other OCONUS locations. The Contractor will separately quote OCONUS shipping charges; the agreed upon charges will be included on the delivery order. Contractor's ability to ship a product via APO/FPO is dependent upon the size and weight of the product. Given that product sizes and weights vary with configuration and model, and APO/FPO requirements are subject to change, ordering activities desiring to ship via APO/FPO should contact their Dell Sales Representative to confirm if the product they are interested in purchasing may be shipped via this method. In general, Dell notebook and desktop computers, flat-panel monitors, and software & peripheral products may be shipped via APO/FPO; Dell workstations, servers and data storage products may not be able to be shipped via APO/FPO.

4. INSTALLATION AND TECHNICAL SERVICES

a. **INSTALLATION.** Ordering offices may install ordered equipment themselves or order this service from Dell at the prices listed in the price list. Generally, ordering offices may install Government (i.e. desktop, notebook and workstation systems, as well third-party software and peripheral items) products and certain enterprise (i.e. server and storage products); more complex enterprise products may require Contractor installation. Any Contractor travel required in the performance of Installation Services must comply with the Federal Travel Regulation or Joint Travel Regulations, as applicable, in effect on the date(s) the travel is performed. Established Federal Government per diem rates will apply to all Contractor travel. Contractors cannot use GSA city pair contracts.



b. CUSTOM FACTORY INTEGRATION SERVICES. In addition to services specifically tied to its computer systems (e.g. warranty break fix, installation, asset recovery), Dell offers Custom Factory Intergration Services ("CFI" or "CFS"). These are services directly associated with the IT hardware requested by the customer, that are unique to the customer. Examples of CFI include, but are not limited to customer-specific image loading, non-Dell-standard peripheral/component integration and/or "drop-in-the-box," non-Dell-SKU'd component integration, application of UID/RFID tags, merge center services (e.g. order consolodation), etc. While standard CFI, e.g. an asset tag or a UID tag are on the GSA Price List, customer-unique services are not added (but are available for purchase under the Contract) since only the customer for whom they are for may order them. Customer-specific custom SKUs are developed and exist for the term of the order, then retired. Pricing is negotiated between the ordering activity and Dell, with the Contract discount applied.

c. INSTALLATION, DEINSTALLATION, REINSTALLATION. 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 receive 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 apply.

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, de-installation, and reinstallation services under SIN 132-8.

d. OPERATING AND MAINTENANCE MANUALS. The Contractor shall furnish the ordering activity with one (1) copy of all operating and maintenance manuals which are normally provided, in electronic format, loaded with the equipment being purchased.

5. INSPECTION/ACCEPTANCE AND RETURN POLICY

a. INSPECTION. 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 equipment that has been tendered for acceptance. The ordering activity may require repair or replacement of nonconforming equipment 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 item, unless the change is due to the defect in the item.



b. ACCEPTANCE. Except for shipments via APO/FPO, acceptance shall occur on the first day after delivery of the product to the Government. For shipments via APO/FPO, acceptance shall occur on the first day after delivery to the Army or Fleet Post Officer (i.e. the FOB point).

c. RETURNS POLICY. The Government may return Dell-branded products to Dell up to 30 days from the day they are delivered. **This policy does not apply to certain Dell branded products, as further outlined on the link below.** Software licenses purchased under any type of volume license agreement may be returned only with the express approval of the publisher, which in many circumstances will not be granted. Specific return instructions may be found at:

<http://www.dell.com/Learn/us/en/19/solutions/us-return-policy>

8. WARRANTY FOR DELL PRODUCT

a. For all products, the contractor will furnish all maintenance, machine adjustments, repairs and parts at the Government location for a period of three years from the date of shipment. The on-site guarantee covers the base system and any factory installed options offered under this contract, except consumable items such as notebook batteries, which come with a one year replacement (exchange) service offering. Warranties for other Dell-branded peripheral products, spare parts and customer kits vary. Please refer to the "*How long does this limited hardware warranty last?*" section of Dell's limited warranty which may be found on the link immediately below. Dell reserves the right to replace, as a whole unit, monitors, keyboards and mice if an online technician determines that the unit is defective. Monitors purchased under this contract are also covered under the base system guarantee. The terms and conditions of Dell's limited three-year warranty are loaded on each Dell system and may be found at:

<http://www.dell.com/Learn/us/en/19/terms-of-sale-commercial-and-public-sector-warranties>

If your product fails during the warranty period and the troubleshooting suggestions in the product documentation do not solve the problem, you can receive support by contacting the Contractor via telephone, email or chat. The Support homepage may be found at:

<http://www.dell.com/support/home/us/en/555?c=us&l=en&s=biz>

b. Next business day service listed in the price pages applies to the continental U.S., the District of Columbia, and to Alaska, and Hawaii within the specified service locations. Please refer to the Service Contract provided approximately 30 days after product delivery for a complete description of the services available.

c. OCONUS service SLA's and availability are available online at:

http://www.dell.com/content/topics/global.aspx/services/en/international_support?c=us&cs=RC1009777&l=en&s=fed&~ck=anavml

d. Additional warranty support services for critical infrastructure are available for an additional charge, many of which may be location-dependent, including 2 and 4 hour response time,



ProSupport and ProSupport Flex. Please contact your Dell Inside Sales Representative, Dell Account Executive, or GSA POC for additional information.

- e. All parts replaced during the warranty period shall become the property of the contractor, unless the ordering office has procured an additional service such as "Keep Your Own Hard Drive."
- f. Prior to the expiration of the warranty period, whenever equipment is shipped for repair or mechanical replacement purposes, the contractor shall bear all costs, including, but not limited to, costs of packing, transportation, rigging, drayage, and insurance. This warranty shall apply to the replacement machine from the date of its acceptance.
- g. When equipment is returned to the contractor's establishment for repairs, the contractor shall be responsible for any damage or loss from the time the equipment is removed from the Government installation until the equipment is returned to such installation.
- h. This warranty does not apply if damage to the equipment is occasioned by fault or negligence of the Government.
- i. Inspection and repair of defective equipment under this warranty will generally be performed at the customer location; however it may be performed at a variety of Contractor or the locations, depending on the type of equipment involved. Specific return instructions will be provided by Customer Care as part of the service call. Return shipment of defective equipment, either repaired or replaced, will generally be made within 7-10 days after receipt, contingent upon parts availability.
- j. Software and Peripheral products will be furnished with the standard warranty offered by the manufacturer.

9. PURCHASE PRICE FOR ORDERED EQUIPMENT

The purchase price that the ordering activity will be charged will be the price for the end-item IT system in effect at the time of ordering activity order placement (i.e. the price quoted by Dell) or the price that is in effect at the time the order is entered into Dell's Order Management System, whichever is less. In the event the end-item IT system purchase price is lower than the price in effect at the time of order placement (i.e. the Delivery Order price is higher than the current price), the order will be entered and upon shipment, invoiced at the lower price. The Government is responsible for de-obligation of excess funds remaining on the Delivery Order. If the Delivery Order price at the time of order entry is higher than the price at the time of order placement, the lower price shall be honored. This provision applies to SIN 132-8 hardware products only.

10. ACCELERATED DELIVERY OPTIONS

In addition to the normal accelerated delivery options discussed in paragraph 6 of the Information for Ordering Office section of this ITSP, Dell offers two programs, Readyship and Delivery on Demand. A nominal additional fee to cover Dell's cost in warehousing may be charged for both the service, currently as an "open market" charge, subject to negotiation between the ordering office and Dell, which will be disclosed at the time of quote.



a. Readyship. Dell's Readyship service provides a rapid deployment (shortened delivery SLA) process for a steady volume of Eligible Products (defined below). Readyship is available on certain system models and configurations that vary over time, at Dell's sole discretion ("Eligible Products"). Eligible Products generally include selected standard configurations of Dell PowerEdge, Dell PowerVault, Dell PowerConnect, Dell OptiPlex, and Dell Latitude systems. Dell will build and stock quantities of Eligible Products based on the ordering office's forecast of Eligible Products. The Eligible Products will be warehoused at Dell's contractor's facility until the ordering office submits a purchase order for the Eligible Products. After Dell receives and accepts Customer's purchase order, and subject to availability, the Eligible Products ordered by Customer will be shipped from the Dell's contractor's facility.

b. Delivery on Demand. Delivery on Demand offers ordering offices a convenient and efficient way to manage a fluctuating volume of orders keeping a supply of preconfigured, prebuilt systems in an off-site warehouse and managing such inventory to meet demands. Delivery on Demand is available on certain system models and configurations at Dell's sole discretion and approval ("Eligible Products"), which are subject to change. Currently, Eligible Products include selected, standard configurations of Dell PowerEdge, Dell PowerVault, Dell PowerConnect, Dell OptiPlex, and Dell Latitude systems. Dell will build and stock quantities of Eligible Products based on the ordering office's delivery orders for Eligible Products. If the ordering office's purchase order contains varied shipment quantities to multiple ship-to locations, Dell may break down the purchase order into separate orders in its ordering system according to the ship-to locations. The Eligible Products will be warehoused at Dell's contractor's facility until the ordering office submits a notice of shipment, requesting shipment of the Eligible Products. After Dell receives and accepts ordering office's shipment notification, and subject to availability, the Eligible Products ordered by ordering office will be shipped from Dell's contractor's facility. In the event the ordering office does not accept delivery of all of the warehoused products, Dell reserves the right to submit a change claim to recover costs associated with the undelivered Eligible Products.

11. RESPONSIBILITIES OF THE CONTRACTOR

The Contractor shall comply with all applicable laws, ordinances, and regulations (Federal, State, City or otherwise) covering work of this character, and shall include all costs, if any, of such compliance in the prices quoted in this offer.

12. TRADE-IN OF INFORMATION TECHNOLOGY EQUIPMENT

When an ordering activity determines that Information Technology equipment will be replaced, the ordering activity shall follow the contracting policies and procedures in the FAR, the policies and procedures regarding disposition of information technology excess personal property in the Federal Property Management Regulations (FPMR) (41 CFR 101-43.6), and the policies and procedures on exchange/sale contained in the FPMR (41 CFR part 101-46).

13. REPAIR PARTS/SPARE PARTS PROVISIONS

All parts, furnished as spares or as repair parts in connection with repair of equipment, shall be new or like new (tested equivalent to new) parts manufactured by the equipment manufacturer.



**TERMS AND CONDITIONS APPLICABLE TO MAINTENANCE, REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS FOR GOVERNMENT-OWNED GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY EQUIPMENT
(AFTER EXPIRATION OF GUARANTEE/WARRANTY PROVISIONS AND/OR WHEN REQUIRED SERVICE IS NOT COVERED BY GUARANTEE/WARRANTY PROVISIONS) AND FOR LEASED EQUIPMENT
(SPECIAL ITEM NUMBER 132-12)**

REPAIR SERVICE

NOTE: RETURN TO DEPOT REPAIR SERVICE IS NOT AVAILABLE FOR ALL DELL PRODUCTS. PLEASE CONTACT YOUR SALES REPRESENTATIVE OR DELL CUSTOMER CARE FOR ADDITIONAL INFORMATION.

1. SERVICE AREAS

Repair of defective equipment may be performed at a variety of Contractor locations, depending on the type of equipment involved. Specific return instructions will be provided by Customer Care as part of the service call.

To obtain service, contact Technical Support to obtain a CRA before shipping the product. Service Tag-number specific points of contact available online at:

<http://www.dell.com/support/incidents/us/en/04/Phone/PhoneTagEntry?c=us&l=en&s=bsd>

2. REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS ORDERS

Agencies may use written orders, EDI orders, credit card orders, blanket purchase agreements (BPAs), or small order procedures for ordering repair service and/or repair parts/spare parts under this contract. Orders for repair service shall not extend beyond the end of the contract period. Customer kits (other than monitors, keyboards and mice) sold as items to be installed into or with a Dell system are considered to be part of that system.

3. LOSS OR DAMAGE

When the Government sends equipment to the Contractor's establishment for repairs, the Government shall be responsible for any damage or loss from the time the equipment is shipped from the Government location until it is received by the Contractor. The Contractor shall be responsible for any damage or loss from the time the equipment is shipped from the Contractor's location until it is received at the Government installation.

4. SCOPE

a. The Contractor shall provide maintenance for all equipment listed herein, as requested by the ordering activity during the contract term. Repair service and repair parts/spare parts shall apply exclusively to the equipment types/models within the scope of this Information Technology



Schedule. Repair Parts are generally available up to 5 years from the date of the product EOL (End of Life).

- b. Equipment placed under maintenance service shall be in good operating condition.
 - i. In order to determine that the equipment is in good operating condition, the equipment shall be subject to inspection by the Contractor, without charge to the ordering activity.
 - ii. Costs of any repairs performed for the purpose of placing the equipment in good operating condition shall be borne by the Contractor, if the equipment was under the Contractor's guarantee/warranty or maintenance responsibility prior to the effective date of the maintenance order.
 - iii. If the equipment was not under the Contractor's responsibility, the costs necessary to place the equipment in proper operating condition are to be borne by the ordering activity, in accordance with the provisions of Special Item Number 132-12 (or outside the scope of this contract).

5. RESPONSIBILITIES OF THE ORDERING ACTIVITY

- a. Ordering activity personnel shall not perform maintenance or attempt repairs to equipment while such equipment is under the purview of a maintenance order, unless agreed to by the Contractor.
- b. Subject to security regulations, the ordering activity shall permit access to the equipment which is to be maintained or repaired.
- c. If the Ordering Activity desires a factory authorized/certified service personnel then this should be clearly stated in the task or delivery order.

6. RESPONSIBILITIES OF THE CONTRACTOR

- a. The Contractor shall always be responsive to the Government's repair service needs. The Contractor shall perform all repair services which are ordered by the Government during the contract term.
- b. If products are returned to the Contractor for repair, the turnaround time shipment of the repaired product is 7 - 10 days after receipt of the equipment at the Contractor's repair service facility, contingent upon parts availability.
- c. Only new and tested equivalent to new standard parts shall be used in effecting repairs. Parts which have been replaced shall remain the property of the Contractor.

7. REPAIR SERVICE RATE PROVISIONS

- a. CHARGES.

Charges for repair service be computed on a per incident charge that will vary, based upon the type of system being repaired. Parts will be billed separately. De-installation, relocation and re-



installation are available under Special Item Number 132-8. Contact Dell Support at the link listed below for further information:

<http://www.dell.com/support/incidents/us/en/04/Phone/PhoneTagEntry?c=us&l=en&s=bsd>

b. TRAVEL OR TRANSPORTATION AT THE CONTRACTORS SHOP

i. When equipment is returned to the contractor's shop for adjustment or repairs which are not covered by the guarantee provision, the cost of transportation, packing, etc., from the ordering activity location to the Contractor's plant, and return to the ordering activity location, shall be borne by the ordering activity.

ii. The ordering activity should not return defective equipment to the Contractor for adjustments and repairs or replacement without its prior consultation and instruction,

c. LABOR RATES. The repair service rates agreed upon between the Ordering Office and the Contractor shall entitle the ordering activity to repair service during the period 8:00 a.m. to 5:00 p.m., Monday through Friday, exclusive of holidays observed at, or as otherwise mutually agreed by the Government and the Contractor

8. REPAIR PARTS/SPARE PARTS RATE PROVISIONS

All parts, furnished as spare parts, or as repair parts in connection with repair of equipment either by the Contractor or the end-user, shall be new or like new (tested equivalent to new) parts manufactured by the equipment manufacturer. All parts shall be furnished at prices discounted 15% (exclusive of IFF) from the Contractor's commercial price list and are not required to be individually listed on the Contractor's ITSP. Repair parts/spare parts shall apply exclusively to the equipment types/models within the scope of this ITSP, such scope including equipment types/models that have been replaced by follow-on products are no longer available for sale.

9. GUARANTEE REPAIR SERVICE AND REPAIR/SPARE PARTS

a. Repair Service. All repair work will be unconditionally guaranteed for a period of ninety (90) calendar days.

b. Repair/Spare Parts. All parts, furnished either as spares or repair parts in connection with repair of equipment, will be unconditionally guaranteed for the longer of 1) ninety (90) days or 2) the remainder of the Dell system warranty in the system in which the parts are being installed.

10. INVOICES AND PAYMENTS

Invoices for repair service and parts shall be submitted by the contractor as soon as possible after completion of the work. Payment under blanket purchase orders for repair parts will be made monthly except where cash payment procedures are used. Invoices shall be submitted separately to each ordering activity office ordering services under the contract. The cost of repair parts shall be shown as a separate item on the invoice.



**TERMS AND CONDITIONS APPLICABLE TO TERM SOFTWARE
LICENSES (SPECIAL ITEM NUMBER 132-32),
PERPETUAL SOFTWARE LICENSES (SPECIAL ITEM NUMBER 132-33)
AND MAINTENANCE AS A SERVICE (SPECIAL ITEM NUMBER 132-34) OF GENERAL PURPOSE
COMMERCIAL INFORMATION TECHNOLOGY SOFTWARE**

1. INSPECTION/ACCEPTANCE

The Contractor shall only tender those items that conform to the requirements of this contract. Acceptance shall occur on the day of proof of delivery of the product to the ordering activity.

2. GUARANTEE/WARRANTY

a. Warranty/License

i. Dell Software. This subparagraph covers all software that is distributed with the Dell product, for which there is no separate license agreement between the buyer and the manufacturer or owner of the software. The warranty and license agreement is available at www.dell.com (click on the "Terms and Conditions of Sale" link, followed by the "Dell Software License Agreement" link). Included as Appendix A is the Dell Enterprise License Agreement ("ELA"). The ELA covers Dell-branded software (as listed on Exhibit A thereto) and is normalized to eliminate conflicts with U.S. law as set forth on Exhibit B thereto.

ii. Third-party software products.

(1) Dell does not warrant third-party software products. Any warranty provided on third-party software is provided by the publisher or original manufacturer and may vary from product to product. All software furnished pursuant to the terms of this contract will be unconditionally guaranteed for defects in the media the software is provided on for a period of one (1) year, beginning on the first day of acceptance.

(2) License Agreement. All software, including Microsoft software, is provided subject to the license agreement provided with the software, either pre-loading on the system or as part of the software package. Ordering Office agrees that it will be bound by the license agreement

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 damages resulting from any defect or deficiencies in accepted items.

d. Return Policy. The ordering activity may return products to Dell up to 30 days from the day they are delivered. To return products, you must call Dell Customer Service (800) 284-1200 to receive a Credit Return Authorization Number. You must ship the products to Dell in their original packaging or equivalent, prepay the shipping charges, and you must insure the shipment or accept



the risk of loss or damage during shipment. Software is returnable only if the sealed package containing the diskettes is unopened. Returned products must be in as new condition, and all of the manuals, diskettes, power cords and other items included with a product must be returned with it.

3. SOFTWARE MAINTENANCE

a. Software maintenance as it is defined: (select software maintenance type):

i. Software Maintenance as a Product (SIN 132-32 or SIN 132-33)

Software maintenance as a product includes the publishing of bug/defect fixes via patches and updates/upgrades in function and technology to maintain the operability and usability of the software product. It may also include other no charge support that is included in the purchase price of the product in the commercial marketplace. No charge support includes items such as user blogs, discussion forums, on-line help libraries and FAQs (Frequently Asked Questions), hosted chat rooms, and limited telephone, email and/or web-based general technical support for user's self-diagnostics.

Software maintenance as a product does NOT include the creation, design, implementation, integration, etc. of a software package. These examples are considered software maintenance as a service.

Software Maintenance as a product is billed at the time of purchase.

ii. Software Maintenance as a Service (SIN 132-34)

Software maintenance as a service creates, designs, implements, and/or integrates customized changes to software that solve one or more problems and is not included with the price of the software. Software maintenance as a service includes person-to-person communications regardless of the medium used to communicate: telephone support, on-line technical support, customized support, and/or technical expertise which are charged commercially. Software maintenance as a service is billed arrears in accordance with 31 U.S.C. 3324.

Software maintenance as a service is billed in arrears in accordance with 31 U.S.C. 3324. Invoices for maintenance service shall be submitted by the Contractor on a quarterly or monthly basis, 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.

4. TECHNICAL SERVICES

The contractor, without additional charge to the Government, shall provide a point of contact the purpose of which is to provide user assistance and guidance in the implementation of the operating system software for the first 30 days from the date of acceptance. User assistance may be provided by Dell or the software manufacturer. Assistance is available through Dell Technical



Support; the Technical Support telephone numbers may vary by product type and are available online (as is support via chat and email) on the "Call Technical Support" page at:

http://support.dell.com/support/topics/global.aspx/support/dellcare/contact_technical_support?c=us&cs=RC1009777&l=en&s=fed&~ck=anavml&DoNotRedirect=y

On that site, click on the "Telephone" button, you will then be asked for your Dell Service Tag, after which the appropriate telephone number will be provided. Assistance is available from 6:00 a.m. Central Time to 9:00 p.m. Central Time, Monday through Friday, and 8:00 a.m. Central Time to 4:00 p.m. Central Time, Saturday, Contractor's scheduled holidays; and may be available 24x7 depending on system type. Application software support can be purchased optionally from the software manufacturer.

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

- a. The Contractor shall honor orders for periods for the duration of the contract period or a lesser period of time.
- b. Term Licenses and/or maintenance may be discontinued by the ordering activity on thirty (30) calendar day's written notice to the Contractor.
- c. Annual Funding. When annually appropriated funds are cited on an order for maintenance, the period of 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.
- 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 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. UTILIZATION LIMITATIONS - (132-32, 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:
 - i. Title to and ownership of the software and documentation shall remain with the Contractor, unless otherwise specified.



ii. 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 the software is placed at, even if the subdivision did not participate in the acquisition of the software. Further, the software may be used on a sharing basis where multiple agencies have joint projects that can be satisfied by the use of the software placed at one ordering activity's site. This would allow other agencies access to one ordering activity's database. 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.

iii. 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 who have the ordering activity's permission to use the licensed software and documentation at the facility, and who have agreed to use the licensed software and documentation only in accordance with these restrictions. This provision does not limit the right of the ordering activity to use software, documentation, or information therein, which the ordering activity may already have or obtains without restrictions.

iv. 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 unsafe for ordering activity personnel; to use the computer software and documentation with a backup computer when the primary computer is inoperative; to copy computer programs for safekeeping (archives) or backup purposes; to transfer a copy of the software to another site for purposes of benchmarking new hardware and/or software; and to modify the software and documentation or combine it with other software, provided that the unmodified portions shall remain subject to these restrictions.

v. "Commercial Computer Software" may be marked with the Contractor's standard commercial restricted rights legend, but the schedule contract and schedule pricelist, including this clause, "Utilization Limitations" are the only governing terms and conditions, and shall take precedence and supersede any different or additional terms and conditions included in the standard commercial legend.



**TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF
TRAINING COURSES FOR GENERAL PURPOSE COMMERCIAL
INFORMATION TECHNOLOGY EQUIPMENT AND SOFTWARE
(SPECIAL ITEM NUMBER 132-50)**

1. SCOPE

- a. The Contractor shall provide training courses normally available to commercial customers, which will permit ordering activity users to make full, efficient use of general purpose commercial IT products. Training is restricted to training courses for those products within the scope of this solicitation.
- b. The Contractor shall provide training at the Contractor's facility and/or at the ordering activity's location or via an online medium, as agreed to by the Contractor and the ordering activity.

2. ORDER

A written order, GSA Advantage!, credit card orders, and orders placed under blanket purchase agreements (BPAs) shall be the basis for the purchase of training courses in accordance with the terms of this contract. Orders shall include the student's name, course title, course date and time, and contracted dollar amount of the course.

3. TIME OF DELIVERY

The Contractor shall conduct training on the date (time, day, month, and year) agreed to by the Contractor and the ordering activity.

4. CANCELLATION AND RESCHEDULING

- a. The ordering activity will notify the Contractor at least seventy-two (72) hours before the scheduled training date, if a student will be unable to attend. The Contractor will then permit the ordering activity to either cancel the order or reschedule the training at no additional charge. In the event the training class is rescheduled, the ordering activity will modify its original training order to specify the time and date of the rescheduled training class.
- b. In the event the ordering activity fails to cancel or reschedule a training course within the time frame specified in paragraph a, above, the ordering activity will be liable for the contracted dollar amount of the training course. The Contractor agrees to permit the ordering activity to reschedule a student who fails to attend a training class within ninety (90) days from the original course date, at no additional charge.
- c. The ordering activity reserves the right to substitute one student for another up to the first day of class.



d. In the event the Contractor is unable to conduct training on the date agreed to by the Contractor and the ordering activity, the Contractor must notify the ordering activity at least seventy-two (72) hours before the scheduled training date.

5. FOLLOW-UP SUPPORT

The Contractor agrees to provide each student with unlimited telephone support for a period of one (1) year from the completion of the training course. During this period, the student may contact 512-728-4852 for refresher assistance and answers to related course curriculum questions.

6. LIABILITY FOR INJURY OR DAMAGE

The Contractor shall not be liable for any injury to the students, or damage to Government property arising from Contractor-provided classroom training, unless such injury or damage is due to the fault or negligence of the Contractor.

7. PURCHASE PRICE FOR TRAINING

a. The price that the ordering activity will be charged will be the ordering activity training price in effect at the time of order placement, or the ordering activity price in effect at the time the training course is conducted, whichever is less.

b. Any Contractor travel required in the performance of Classroom Training must comply with the Federal Travel Regulation or Joint Travel Regulations, as applicable, in effect on the date(s) the travel is performed. Established Federal Government per diem rates will apply to all Contractor travel. Contractors cannot use GSA city pair contracts.

8. INVOICES AND PAYMENT

Invoices for training shall be submitted by the Contractor after ordering activity completion of the training course. Charges for training must be paid in arrears (31 U.S.C. 3324).

9. FORMAT AND CONTENT OF TRAINING

a. The Contractor shall provide written materials (i.e., manuals, handbooks, texts, etc.) normally provided with course offerings. Such documentation will become the property of the student upon completion of the training class.

b. For hands-on training courses, there must be a one-to-one assignment of IT equipment to students.

c. The Contractor shall provide each student with a Certificate of Training at the completion of each training course.

d. The Contractor shall provide the following information for each training course offered:



- i. The course title and a brief description of the course content, to include the course format (e.g., lecture, discussion, hands-on training);
- ii. The length of the course;
- iii. Mandatory and desirable prerequisites for student enrollment;
- iv. The minimum and maximum number of students per class;
- v. The locations where the course is offered;
- vi. Class schedules; and
- vii. Price (per student, per class (if applicable)).

e. For those courses conducted at the ordering activity's location, instructor travel charges (if applicable), including mileage and daily living expenses (e.g., per diem charges) are governed by Pub. L. 99-234 and FAR Part 31.205-46, and are reimbursable by the ordering activity on orders placed under the Multiple Award Schedule, as applicable, in effect on the date(s) the travel is performed. Contractors cannot use GSA city pair contracts. The Industrial Funding Fee does NOT apply to travel and per diem charges.

10. "NO CHARGE" TRAINING

From time to time, the Contractor may offer training associated with with equipment and/or software provided under this contract, free of charge. Please contact your Dell Sales Representative or Account Executive for additional information.



**TERMS AND CONDITIONS APPLICABLE TO INFORMATION TECHNOLOGY (IT)
PROFESSIONAL SERVICES (SPECIAL ITEM NUMBER 132-51)**

1. SCOPE

- a. The prices, terms and conditions stated under Special Item Number 132-51 Information Technology Professional Services apply exclusively to IT Services within the scope of this Information Technology Schedule.
- b. The Contractor shall provide services at the Contractor's facility or at the ordering activity location, as agreed to by the Contractor and the ordering activity.
- c. Availability of IT Professional Services in certain OCONUS locations may vary. Ordering offices are encouraged to check availability with Contractor Services Sales Representatives.

2. PERFORMANCE INCENTIVES

- a. Performance incentives may be agreed upon between the Contractor and the ordering activity on individual fixed price orders or Blanket Purchase Agreements, for fixed price tasks, under this contract in accordance with this clause.
- b. The ordering activity must establish a maximum performance incentive price for these services and/or total solutions on individual orders or Blanket Purchase Agreements.
- c. Incentives should be designed to relate results achieved by the contractor to specified targets. To the maximum extent practicable, ordering activities shall consider establishing incentives where performance is critical to the ordering activity's mission and incentives are likely to motivate the contractor. Incentives shall be based on objectively measurable tasks.

3. ORDER

- a. Agencies may use written orders, EDI orders, blanket purchase agreements, individual purchase orders, or task orders for ordering services under this contract. Blanket Purchase Agreements shall not extend beyond the end of the contract period; all services and delivery shall be made and the contract terms and conditions shall continue in effect until the completion of the order. Orders for tasks which extend beyond the fiscal year for which funds are available shall include FAR 52.232-19 (Deviation – May 2003) Availability of Funds for the Next Fiscal Year. The purchase order shall specify the availability of funds and the period for which funds are available.
- b. All task orders are subject to the terms and conditions of the contract. In the event of conflict between a task order and the contract, the contract will take precedence. In the event of a conflict between the terms of the task order and a Service Agreement (as defined in section 3.c below) the contract will take precedence
- c. Task order services will be described in one or more of the following: (i) "Service Descriptions" as generally described in this SIN 132-51 and available at:

<http://www.dell.com/learn/us/en/uscorp1/terms-of-sale-commercial-and-public-sector-service-contracts>



The Statement of Work includes, for example:

- Dell's responsibilities
- The Government's responsibilities
- The specific conditions (Completion Criteria), if any, that Dell is required to meet to fulfill its obligations
- A performance period for Services and an estimated schedule for planning purposes
- Applicable charges (not including taxes) and any other terms
- Resumes shall be provided by Dell upon request.
- Services Agreement similar to those found at the url in 3.c above.

4. PERFORMANCE OF SERVICES

a. The Contractor shall commence performance of services on the date agreed to by the Contractor and the ordering activity.

b. The Contractor agrees to render services only during normal working hours, unless otherwise agreed to by the Contractor and the ordering activity.

c. The ordering activity should include the criteria for satisfactory completion for each task in the Statement of Work or Delivery Order. Services shall be completed in a good and workmanlike manner.

d. Any Contractor travel required in the performance of IT Services must comply with the Federal Travel Regulation or Joint Travel Regulations, as applicable, in effect on the date(s) the travel is performed. Established Federal Government per diem rates will apply to all Contractor travel. Contractors cannot use GSA city pair contracts.

e. Technical personnel shall remain under the supervision, management, and control of Dell, which shall include their assignment and evaluation. The tasks on which assigned personnel assist shall remain the responsibility of the Government. Therefore, Dell does not guarantee that the Government's task will be accomplished under this contract, only that assistance shall be provided. No estimate made by Dell of the assistance to be provided to the ordering activity is guaranteed to any extent or in any way.

f. Support Services may be performed by both Dell personnel and subcontracted non-Dell personnel. Dell will provide Support Service personnel with the necessary technical skills.

g. "Third Party Products" means any third-party hardware, services or software. Some manufacturers' warranties or service contract terms and conditions for Third Party Products may become void if Dell or anyone else, other than the manufacturer or its authorized representative, provides services for or works on the hardware or software (such as providing maintenance and repair services). DELL DOES NOT TAKE RESPONSIBILITY FOR THIRD PARTY WARRANTIES OR FOR ANY EFFECT THAT THE DELL SERVICES MAY HAVE ON THOSE WARRANTIES. Except as agreed to in writing between the ordering activity and Dell, Third Party Products shall be exclusively subject to terms and conditions between the third party and the ordering activity. Dell shall have no liability for Third Party Products and the ordering activity shall look exclusively to the third party provider for any damages or liability with respect to the provision of such Third Party Products.



Except as otherwise specifically agreed to in a Service Agreement, the ordering activity authorizes Dell (or otherwise obtains the rights for Dell) to copy, install and modify, when necessary and as required by the Service Agreement, all Third Party Products, including software, to be used in the Services or to be copied or stored for subsequent re-installation of a backup system or data. The ordering activity warrants to Dell that it has obtained any licenses, consents, regulatory certifications or approvals required to give Dell and its subcontractors or employees such rights or licenses to access, copy, distribute, use and/or modify (including creating derivative works) or install any Third Party Products to be used in the Services, without infringing the ownership or license rights (including patent and copyright) of the providers or owners of such products

5. STOP-WORK ORDER (FAR 52.242-15) (AUG 1989)

a. The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either-

- (1) Cancel the stop-work order; or
- (2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

b. If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if-

- (1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and
- (2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.

c. If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

d. If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

6. INSPECTION OF SERVICES

The Inspection of Services–Fixed Price (AUG 1996) (Deviation – May 2003) clause at FAR 52.246-4 applies to firm-fixed price orders placed under this contract. The Inspection–Time-and-Materials



and Labor-Hour (JAN 1986) (Deviation – May 2003) clause at FAR 52.246-6 applies to time-and-materials and labor-hour orders placed under this contract. Contractor's ISO 9001:2000 certification constitutes an inspection system that is acceptable to the Government.

7. RESPONSIBILITIES OF THE CONTRACTOR

The Contractor shall comply with all applicable laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character.

8. PROPRIETARY RIGHTS

a. Except as otherwise specifically agreed to in a task order/Service Agreement, Dell will retain exclusive ownership in all Deliverables created by Dell hereunder and will own all intellectual property rights, title and interest in any ideas, concepts, know how, documentation or techniques developed by Dell thereunder. Dell grants the ordering activity a non-exclusive, non-transferable, royalty-free right to use the Deliverables solely ordering activity's internal use. "Deliverables" means the tangible and intangible materials, including reports, studies, base cases, drawings, findings, manuals, procedures and recommendations that are prepared by Dell or its subcontractors in the course of performing the Services.

b. Notwithstanding the provisions of section 8.a above, right, title and interest in all Deliverables shall vest in the ordering activity in accordance with FAR 52.227-14 Rights in Data – General, where such Deliverables are specifically identified by a separately priced CLIN on the task order or delivery order as deliverable data or restricted computer software. Ordering activity rights in data and restricted computer software not separately called out under a Delivery Order CLIN, if any, shall be in accordance with section 8.a above.

c. Tools & Software. Dell will retain all intellectual property rights with respect to the processes, tools and software related to the Services. Any use by ordering activity, including the execution, reverse engineering, decompilation, reproduction, modification, distribution, transmission, republication, display, transfer or performance, except as specifically permitted by Dell during the term of Services is prohibited.

9. RESPONSIBILITIES OF THE ORDERING ACTIVITY

a. Subject to security regulations, the ordering activity shall permit Contractor access to all facilities necessary to perform the requisite IT Services.

b. It is the ordering activity's responsibility to backup data on its systems. CONTRACTOR IS NOT RESPONSIBLE FOR LOSS OF OR DAMAGE TO DATA OR LOSS OF USE OF ANY OF THE ORDERING ACTIVITY'S COMPUTER OR NETWORK SYSTEMS. The ordering activity acknowledges that Contractor's performance and delivery of the Services are contingent upon: (i) subject to security regulations, ordering activity providing access to its personnel, facilities, equipment, hardware, software, network and information and (ii) ordering activity's timely decision-making, notification of relevant issues or information and granting of approvals and/or permission. Ordering Activity will promptly obtain and provide to Contractor any required consents necessary for Contractor's performance of the Services described in the applicable Service Description, SOW or Technical Specification Form.



c. Order activity agrees that any information or data disclosed or sent to Contractor, over the telephone, electronically or otherwise, is not confidential or proprietary to ordering activity, unless disclosed pursuant to a mutual non-disclosure agreement executed by the Parties.

d. Some Services may require Dell to access hardware or software that is not manufactured by Dell. Some manufacturers' warranties may become void if Dell or anyone else, other than the manufacturer or its authorized representative, works on the hardware or software. DELL DOES NOT TAKE RESPONSIBILITY FOR THIRD PARTY WARRANTIES OR FOR ANY EFFECT THAT THE DELL SERVICES MAY HAVE ON THOSE WARRANTIES.

10. EXPORT; REGULATORY REQUIREMENTS

a. Export. The ordering activity warrants that any software provided by the ordering activity and used as part of the Services contains no encryption or, to the extent that it contains encryption, such software is approved for export without an export license, or if such a license is required, the software is eligible for export under Bureau of Export Administration export license exception GOV.

b. Regulatory Requirements. Dell shall not be under any obligation to perform any Service Description, SOW or Technical Specification Form or to install any Third Party Products as part of the Services or proceed with Services if such Third Party Products, or the resulting software, do not satisfy the local regulatory requirements of the country to which the Products are to be shipped.

11. INDEMNIFICATION

a. The ordering activity accepts responsibility for, and agrees to indemnify and hold Dell harmless from, any and all liability, damages, claims or proceedings arising out of (i) the failure of ordering activity to obtain the appropriate license, intellectual property rights, or any other permissions required to support any Service Agreement or Dell's performance of the Services, including the right to make any copies or reproductions of any ordering activity provided software, or (ii) any inaccurate representations regarding the existence of an export license or the eligibility for export of software without a license.

b. Dell shall defend, indemnify and hold harmless ordering activity from any third-party claim or action that the Services or any Deliverables (excluding Third-Party Products) prepared or produced by Dell and delivered pursuant to the Service Agreement infringe or misappropriate that third party's patent, copyright, trade secret, or other intellectual property rights enforceable in the country(ies) in which the Services or Deliverables are sold to ordering activity by Dell ("Indemnified Claims"). In addition, if Dell receives notice of a claim that, in Dell's reasonable opinion, is likely to result in an adverse ruling, then Dell shall at its option, (A) obtain a right for ordering activity to continue using such Service or Deliverable; (B) modify such Service or Deliverable to make it non-infringing; (C) replace such Service or Deliverable with a non-infringing equivalent; or (D) refund any pre-paid fees for the allegedly infringing Services that have not been performed or provide a reasonable depreciated refund for the allegedly infringing Deliverable. Notwithstanding the foregoing, Dell shall have no obligation under this Section for any claim resulting or arising from (A) Ordering activity's modifications of the Service or Deliverable that were not approved by Dell; (B) the combination, operation or use of the Service or Deliverable in connection with a third-party product or service (the combination of which causes the infringement); or (C) Dell's compliance



with Ordering activity 's written specifications or directions, including the incorporation of any software or other materials or process provided by or requested by Ordering activity .

12. INDEPENDENT CONTRACTOR

All IT Services performed by the Contractor under the terms of this contract shall be as an independent Contractor, and not as an agent or employee of the ordering activity.

13. ORGANIZATIONAL CONFLICTS OF INTEREST

a. Definitions.

"Contractor" means the person, firm, unincorporated association, joint venture, partnership, or corporation that is a party to this contract.

"Contractor and its affiliates" and "Contractor or its affiliates" refers to the Contractor, its chief executives, directors, officers, subsidiaries, affiliates, subcontractors at any tier, and consultants and any joint venture involving the Contractor, any entity into or with which the Contractor subsequently merges or affiliates, or any other successor or assignee of the Contractor.

An "Organizational conflict of interest" exists when the nature of the work to be performed under a proposed ordering activity contract, without some restriction on ordering activities by the Contractor and its affiliates, may either (i) result in an unfair competitive advantage to the Contractor or its affiliates or (ii) impair the Contractor's or its affiliates' objectivity in performing contract work.

b. To avoid an organizational or financial conflict of interest and to avoid prejudicing the best interests of the ordering activity, ordering activities may place restrictions on the Contractors, its affiliates, chief executives, directors, subsidiaries and subcontractors at any tier when placing orders against schedule contracts. Such restrictions shall be consistent with FAR 9.505 and shall be designed to avoid, neutralize, or mitigate organizational conflicts of interest that might otherwise exist in situations related to individual orders placed against the schedule contract. Examples of situations, which may require restrictions, are provided at FAR 9.508.

14. INVOICES

a. The Contractor, upon completion of the work ordered, shall submit invoices for IT services. Progress payments may be authorized by the ordering activity on individual orders if appropriate. Progress payments shall be based upon completion of defined milestones or interim products. Invoices shall be submitted monthly for recurring services performed during the preceding month. Such invoices may include generic, dollar value denominational skus – as listed on the applicable hardware/services GSA price list – to facilitate ease of invoicing. The value of the denominational skus shall tie back to the task order/Service Agreement pricing.

15. PAYMENTS

a. Charges will be invoiced monthly for services rendered. The ordering activity on individual orders may authorize progress payments. Progress payments shall be based upon completion of defined milestones.



b. For firm-fixed price orders the ordering activity shall pay the Contractor, upon submission of proper invoices or vouchers, the prices stipulated in this contract for services rendered and accepted. Progress payments shall be made only when authorized by the order. For time-and-materials orders, the Payments under Time-and-Materials and Labor-Hour Contracts at FAR 52.212-4 (OCT 2008) (ALTERNATE I – OCT 2008) (DEVIATION I – FEB 2007) applies to time-and-materials orders placed under this contract. For labor-hour orders, the Payment under Time-and-Materials and Labor-Hour Contracts at FAR 52.212-4 (OCT 2008) (ALTERNATE I – OCT 2008) (DEVIATION I – FEB 2007) applies to labor-hour orders placed under this contract. For time-and-materials/labor-hour orders applicable under FAR 52.216-31 (Feb 2007) Time-and-Materials/Labor-Hour Proposal Requirements—Commercial Item Acquisition. As prescribed in 16.601(e)(3), insert the following provision:

(1) The ordering activity contemplates award of a Time-and-Materials or Labor-Hour type of contract resulting from this solicitation.

(2) The offeror must specify fixed hourly rates in its offer that include wages, overhead, general and administrative expenses, and profit. The offeror must specify whether the fixed hourly rate for each labor category applies to labor performed by—

- (a) The offeror;
- (b) Subcontractors; and/or
- (c) Divisions, subsidiaries, or affiliates of the offeror under a common control.

c. If the Services are being performed on a time and materials or labor hour basis, any estimates provided by Dell are for planning purposes only.

16. RESUMES

Resumes shall be provided to the GSA Contracting Officer or the user ordering activity upon request. Please note that during the proposal phase of task order procurement, given the uncertainty of awardee and contractor labor resource utilization requirements, sample resumes may be submitted. Upon award resumes of the individual(s) who will perform the service(s) will be provided to the ordering activity upon request.

17. INCIDENTAL SUPPORT COSTS

Incidental support costs are available outside the scope of this contract, and will be considered a non-schedule item for purposes of including the cost on the delivery order. The costs will be negotiated separately with the ordering activity in accordance with the guidelines set forth in the FAR.

18. APPROVAL OF SUBCONTRACTS

The ordering activity may require that the Contractor receive, from the ordering activity's Contracting Officer, written consent before placing any subcontract for furnishing any of the work called for in a task order, which consent will not be unreasonably withheld.

19. WARRANTY FOR DELL SERVICES

a. **Limited Warranty.** DELL WARRANTS THAT SERVICES WILL BE PERFORMED IN A GOOD AND WORKMANLIKE MANNER. EXCEPT AS EXPRESSLY STATED IN THE PRECEDING SENTENCE, DELL (INCLUDING ITS AFFILIATES, SUBCONTRACTORS AND AGENTS) AND EACH OF THEIR



RESPECTIVE EMPLOYEES, DIRECTORS AND OFFICERS (COLLECTIVELY, THE "DELL PARTY(IES)") MAKES NO EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO ANY OF THE SERVICES OR DELIVERABLES, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, SUITABILITY OR NON-INFRINGEMENT; ANY WARRANTY RELATING TO THIRD-PARTY PRODUCTS OR THIRD-PARTY SERVICES; ANY WARRANTY WITH RESPECT TO THE PERFORMANCE OF ANY HARDWARE OR SOFTWARE USED IN CONDUCTING SERVICES; OR ANY WARRANTY CONCERNING THE RESULTS TO BE OBTAINED FROM THE SERVICES OR THE RESULTS OF ANY RECOMMENDATION THE DELL PARTIES MAY MAKE.

b. Limitation of Liability. NEITHER THE DELL PARTIES NOR CUSTOMER WILL BE LIABLE FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THE SERVICES PROVIDED BY DELL. WHETHER DIRECT OR INDIRECT, NEITHER PARTY SHALL HAVE LIABILITY FOR THE FOLLOWING, (A) LOSS OF REVENUE, INCOME, PROFIT, OR SAVINGS, (B) LOST OR CORRUPTED DATA OR SOFTWARE, LOSS OF USE OF SYSTEM(S) OR NETWORK, OR THE RECOVERY OF SUCH, (C) LOSS OF BUSINESS OPPORTUNITY, (D) BUSINESS INTERRUPTION OR DOWNTIME, OR (E) SERVICES, DELL PRODUCTS OR THIRD-PARTY PRODUCTS NOT BEING AVAILABLE FOR USE BY CUSTOMER. THE DELL PARTIES' AGGREGATE LIABILITY (WHETHER IN CONTRACT, TORT OR OTHERWISE) FOR ANY CLAIM OF LIABILITY ARISING OUT OF, OR IN CONNECTION WITH ANY SERVICE PROVIDED PURSUANT TO THIS MSA SHALL NOT EXCEED THE AMOUNTS PAID BY CUSTOMER FOR THE SPECIFIC SERVICE(S) GIVING RISE TO SUCH CLAIM DURING THE PRIOR TWELVE (12) MONTH PERIOD. EACH PARTY ACKNOWLEDGES THAT THESE LIMITATIONS APPLY EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR THE REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE AND THAT, WITHOUT THESE LIMITATIONS, THE FEE FOR THE SERVICES PROVIDED HEREUNDER WOULD BE HIGHER.

c. High-Risk Application Disclaimer. The Services are not fault-tolerant and are not designed or intended for use in hazardous environments requiring fail-safe performance, including without limitation, in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, weapons systems, life-support machines, or any other application in which the failure of the Services could lead directly to death, personal injury, or severe physical or property damage (collectively, "**High-Risk Activities**"). Dell expressly disclaims any express or implied warranty of fitness for High-Risk Activities.

20. SUPPORT SERVICES.

Except as stated below, when Services consist of repair of Dell systems, such Services shall be those repair services that are necessary because of any existing defect or a defect occurs in materials or workmanship in the system or in any system component covered by this Agreement. Preventive maintenance is not included. Repairs necessitated by software problems, or as a result of alteration, adjustment, or repair by anyone other than Dell (or its representatives) are not included. Unless otherwise provided in the Service Agreement, Services do not include repair of any system or system component which has been damaged as a result of: (i) accident, misuse, or abuse of the system or component (such as, but not limited to, use of incorrect line voltages, use of incorrect fuses, use of incompatible devices or accessories, improper or insufficient ventilation, or failure to follow operating instructions) by anyone other than Dell (or its representatives), (ii) an act of God such as, but not limited to, lightning, flooding, tornado, earthquakes, and hurricanes, or



(iii) the moving of the system from one geographic location to another or from one entity to another.

21. AVAILABLE IT PROFESSIONAL SERVICES

a. Dell Services leverages expertise in a wide range of IT services solutions, including but not limited to project management, infrastructure design, application development, and storage architecture to deliver end-to end technology solutions addressing the government's critical information technology needs. These solutions help solve critical IT challenges, maximize the value of information technology investments, and create an efficient, effective and scalable enterprise, while minimizing expense and complexity.

b. Descriptions, by category, of Dell Services' portfolio are available on the link below. Additional, detailed information is available either from your Dell Services Account Executive or Sales Representative. Many of the services are available under the Contract through utilization of its labor categories; others are available through GSA teaming with Dell Marketing L.P.'s Schedule, with the Contractor as the Team Lead providing cleared personnel, and selectively as open market items consistent with ordering activity regulations.

<http://www.dell.com/learn/us/en/rc1009777/by-service-type?c=us&l=en&s=fed&cs=rc1009777>

Service practice areas include:

- Support Services
- Application Modernization
- Application Services
- Business Process Outsourcing
- Cloud-Based Services
- Deployment Services
- Information Security Services
- Financing & Leasing
- IT Consulting
- Managed Services
- Training Services

22. PRICING

Selected Dell Services offerings are available only on a fixed price basis (using the Contract's approved labor categories/rates as the basis for the statement of work); other services are available on a time and materials or labor hour basis. Please contact your Dell Services Account Executive for additional information on pricing.



WARRANTY CODES

CA0	Production point is Canada. No warranty.
CAE	Production point is Canada. One year warranty.
CAJ	Production point is Canada. Three year limited warranty.
GMO	Production point is Germany. No warranty.
GME	Production point is Germany. One year warranty.
IE0	Production point is Ireland. No warranty.
IEC	Production point is Ireland. 90 day warranty
IEE	Production point is Ireland. One year warranty.
IEJ	Production point is Ireland. Three year limited warranty.
JA0	Production point is Japan. No warranty.
JAC	Production point is Japan. 90 Day warranty.
JAE	Production point is Japan. One year warranty.
JAJ	Production point is Japan. Three year limited warranty.
JAM	Production point is Japan. Lifetime warranty.
KP0	Production point is Korea. No warranty.
KPE	Production point is Korea One year warranty
KPJ	Production point is Korea. Three year limited warranty.
MX0	Production point is Mexico. No warranty.
MXE	Production point is Mexico. One year warranty.
MXJ	Production point is Mexico. Three year limited warranty.
SN0	Production point is Singapore. No warranty.
SNC	Production point is Singapore. 90 day warranty.
SNE	Production point is Singapore. One year warranty.
SNJ	Production point is Singapore. Three year limited warranty.
SP0	Production point is Spain. No warranty.
SPE	Production point is Spain. One year warranty.
UK0	Production point is United Kingdom. No warranty.
UKE	Production point is United Kingdom. One year warranty.
UKJ	Production point is United Kingdom. Three year limited warranty.
US0	Production point is U.S. No warranty.
USC	Production point is U.S. 90 Day warranty.
USE	Production point is U.S. One year warranty.
USG	Production point is U.S. Two year warranty.
USJ	Production point is U.S. Three year limited warranty.
USK	Production point is U.S. 5 year warranty.
USM	Production point is U.S. Lifetime warranty.



**USA COMMITMENT TO PROMOTE
SMALL BUSINESS PARTICIPATION
PROCUREMENT PROGRAMS
PREAMBLE**

Dell 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.

We signify our commitment to work in partnership with small, small disadvantaged and women-owned small businesses to promote and increase their participation in ordering activity contracts. To accelerate potential opportunities please contact Dell's Supplier Diversity team. Their website is:

<http://content.dell.com/us/en/corp/d/corp-comm/cr-supplier-diversity-stds.aspx>



**BEST VALUE
BLANKET PURCHASE AGREEMENT
FEDERAL SUPPLY SCHEDULE**

(Insert Customer Name)

In the spirit of the Federal Acquisition Streamlining Act (ordering activity) and (Contractor) enter into a cooperative agreement to further reduce the administrative costs of acquiring commercial items from the General Services Administration (GSA) Federal Supply Schedule Contract(s)_____.

Federal Supply Schedule contract BPAs eliminate contracting and open market costs such as: search for sources; the development of technical documents, solicitations and the evaluation of offers. Teaming Arrangements are permitted with Federal Supply Schedule Contractors in accordance with Federal Acquisition Regulation (FAR) 9.6.

This BPA will further decrease costs, reduce paperwork, and save time by eliminating the need for repetitive, individual purchases from the schedule contract. The end result is to create a purchasing mechanism for the ordering activity that works better and costs less.

Signatures

AGENCY DATE

CONTRACTOR DATE

BPA NUMBER_____



(CUSTOMER NAME)
BLANKET PURCHASE AGREEMENT

Pursuant to GSA Federal Supply Schedule Contract Number(s) Agreements, the Contractor agrees to the following terms of a Blanket Purchase Agreement (BPA) EXCLUSIVELY WITH (Ordering Agency):

1. The following contract items can be ordered under this BPA. All orders placed against this BPA are subject to the terms and conditions of the contract, except as noted below:

MODEL NUMBER/PART NUMBER	*SPECIAL BPA DISCOUNT/PRICE
-----	-----
-----	-----

2. Delivery:

DESTINATION	DELIVERY SCHEDULE/DATES
-----	-----
-----	-----

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 a customer agency 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 customer's 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.



**APPENDIX A
DELL ENTERPRISE LICENSE AGREEMENT**



10107_dell(fed)_201
2-09_elans_usg_v1.c



APPENDIX B MASTER SERVICES ADDENDUM

This MASTER SERVICES ADDENDUM (the "**Addendum**"), to Dell Marketing L.P. GSA Federal Acquisition Service Schedule 70 Contract GS-35F-4076D ("GSA Schedule"), is incorporated into Delivery Orders for Professional, Government Managed, and Factory Integration Services procured by the Government ("**Government**") under Dell's GSA Schedule. "Dell" shall include any affiliate of Dell with whom a Delivery Order is placed. Dell and the Government agree to the following terms and conditions, supplementing the terms of Dell's GSA Schedule:

1. SERVICES. This Addendum shall apply each time Government engages Dell to provide services. All services provided will be described in one or more of the following: (i) "**Service Descriptions**" in the GSA Schedule; (ii) any mutually agreed "**Statement of Work**" ("**SOW**"); or (iii) "**Technical Specification Form**" as applicable (the "**Services**"). In the event of a conflict between the terms of this Agreement and a Service Description, SOW, or Technical Specification Form, the terms of these documents will be followed according to the following order of preference: (1) Dell's GSA Contract, (2) the SOW or Technical Specification Form; and (3) Service Descriptions. Please refer to the Electronic Commerce Supplement to the Master Services Addendum for information and additional terms and conditions specific to EC services.

2. TERMS

a. Terms and Conditions. These Services are being provided in accordance with Dell's GSA Schedule. Specific provisions relating thereto are found at Special Item Numbers (SIN) 132-8 and 51.

b. Requests for Service; Quotes and Delivery Orders. All Delivery Orders for Services must specify Dell's quotation (if any), and reference the Service(s) requested and invoice address. The Government may place Delivery Orders in writing, by telephone or by facsimile transmission. Telephone Delivery Orders must be confirmed in writing or by facsimile. All Delivery Orders are subject to acceptance by Dell, which will not be unreasonably withheld.

c. Prices. The prices charged for Services purchased under this Addendum will be Dell's then current GSA price for such Services or as otherwise negotiated between Dell and Government. If the Services are being performed on a time and materials basis, any estimates provided by Dell are for planning purposes only.

3. PURCHASE OF THIRD PARTY PRODUCTS, SOFTWARE INSTALLATION. "Third Party Products" means any hardware or software, other than parts that are Dell branded and originally listed on Dell's standard parts lists ("**Dell Standard Products**"), that are used in the Services, whether provided by Government or procured for Government by Dell. Government shall be responsible for procuring any Third Party Products used in the Services; however Government may request that Dell procure the Third Party Products. In the event the Third Party Products procured by Dell are not used for the Services within a reasonable time following purchase of the parts by Dell, the Third Party Products will be shipped and invoiced to Government and Government will pay for these parts within thirty (30) days after the date of invoice. Dell is not responsible for any revision or engineering changes in any Third Party Products used in the



Services. For software provided by Government, Government authorizes Dell (or otherwise obtains the rights for Dell) to copy, install and modify, if necessary (and required by the Technical Specification Form), all software to be used in the Services or to be recorded in electronic media for subsequent re-installation of backup. Government warrants to Dell that it has obtained any licenses, consents, or approvals required to give Dell and its subcontractors or employees the right or license to access, copy, distribute, use and/or modify (including creating derivative works) any Third Party Products and custom software to be used in the Services, without infringing the ownership or license rights (including patent and copyright) of the providers or owners of such products

4. PROPRIETARY RIGHTS

a. Subject to b. below, right, title and interest in and to any programs, systems, data or materials first created or prepared by Dell under this Agreement including, without limitation, any copyrights, patents, and other intellectual property rights therein, shall vest in the Government in accordance with FAR 52.227-14 Rights in Data – General, where such work is specifically identified by CLIN on the Delivery Order as deliverable data or restricted computer software. Government rights in data and restricted computer software not separately called out under a Delivery Order CLIN, if any, shall be in accordance with FAR Part 12.

b. The Government acknowledges that from time-to-time Dell develops certain reusable computer software, techniques, information, training material and documentation ("Utilities"). Utilities are Dell's proprietary information and intellectual property. To the extent consistent with FAR 52.227-14, Dell grants the Government Purpose Limited Rights to use those Utilities incorporated into the products developed for the Government. Subject to the foregoing, Dell retains all rights to the Utilities for any future use. The Government shall protect the Utilities according to the policies and procedures it uses for its own similar proprietary information and intellectual property.

5. EXPORT; REGULATORY REQUIREMENTS.

a. Export. Government warrants that any software provided by Government and used as part of the Services contains no encryption or, to the extent that it contains encryption, such software is approved for export without an export license, or if such a license is required, the software is eligible for export under Bureau of Export Administration export license exception GOV.

b. Regulatory Requirements. Dell shall not be under any obligation to perform any Service Description, SOW or Technical Specification Form or to install any Third Party Products as part of the Services or proceed with Services if such Third Party Products, or the resulting software, do not satisfy the local regulatory requirements of the country to which the Products are to be shipped.

6. GOVERNMENT RESPONSIBILITIES. It is the Government's responsibility to backup data on its systems. DELL IS NOT RESPONSIBLE FOR LOSS OF OR DAMAGE TO DATA OR LOSS OF USE OF ANY OF THE GOVERNMENT'S COMPUTER OR NETWORK SYSTEMS. Government acknowledges that Dell's performance and delivery of the Services are contingent upon: (i) Government providing access to its personnel, facilities, equipment, hardware, software, network and information and (ii) Government's timely decision-making, notification of relevant issues or



information and granting of approvals and/or permission. Government will promptly obtain and provide to Dell any required consents necessary for Dell's performance of the Services described in the applicable Service Description, SOW or Technical Specification Form.

Government agrees that any information or data disclosed or sent to Dell, over the telephone, electronically or otherwise, is not confidential or proprietary to Government, unless disclosed pursuant to a mutual NDA executed by the Parties.

Some Services may require Dell to access hardware or software that is not manufactured by Dell. Some manufacturers' warranties may become void if Dell or anyone else, other than the manufacturer or its authorized representative, works on the hardware or software. **DELL DOES NOT TAKE RESPONSIBILITY FOR THIRD PARTY WARRANTIES OR FOR ANY EFFECT THAT THE DELL SERVICES MAY HAVE ON THOSE WARRANTIES.**

7. LIMITATION OF SERVICES. Except as stated below, when Services consist of repair of Dell systems, such Services shall be those repair services that are necessary because of any existing defect or a defect occurs in materials or workmanship in the system or in any system component covered by this Agreement. Preventive maintenance is not included. **Repairs necessitated by software problems, or as a result of alteration, adjustment, or repair by anyone other than Dell (or its representatives) are not included.** Unless otherwise provided in the SOW, Services do not include repair of any system or system component which has been damaged as a result of: (i) accident, misuse, or abuse of the system or component (such as, but not limited to, use of incorrect line voltages, use of incorrect fuses, use of incompatible devices or accessories, improper or insufficient ventilation, or failure to follow operating instructions) by anyone other than Dell (or its representatives), (ii) an act of God such as, but not limited to, lightning, flooding, tornado, earthquakes, and hurricanes, or (iii) the moving of the system from one geographic location to another or from one entity to another.

8. INDEMNIFICATION. Government accepts responsibility for, and agrees to indemnify and hold Dell harmless from, any and all liability, damages, claims or proceedings arising out of (i) the failure of Government to obtain the appropriate license, intellectual property rights, or any other permissions required to support any Service Description, SOW, or Technical Specification Form signed by the parties or Dell's performance of the Services, including the right to make any copies or reproductions of any Government provided software, or (ii) any inaccurate representations regarding the existence of an export license or the eligibility for export of software without a license.



APPENDIX C PRICE LIST

1. Price List. Dell's Price list is a SKU-based list, consisting of over 200,000 SKUs. Dell's products are available on GSA Advantage ®, however due to the volume of SKU's it is sometimes difficult to find a particular SKU; and Advantage may be slightly out of date at times as a result of occasional issues with the EDI upload.

b. Dell's Price List consists of the separate Excel files listed below. Given the size of the files and the rapidity in which pricing changes, Dell no longer publishes a hard copy price list. All or part of the price list is available electronic form on CDROM, and if the ordering office is capable of receiving a file in excess of 18www MB, available via email. Please contact the Dell GSA Point of Contact listed on GSA's *e-schedule library* site to request a copy.

- Dell-Branded Products / After Point of Sale (APOS) Warranty Services
- Professional Services (fixed price SKU-based)
- Third Party Products (aka Software and Peripherals)



APPENDIX D
OPTIONAL SUPPLEMENTAL LEASE TERMS

As authorized by Option 2 of SIN 132-3, Dell proposes the following Supplemental Lease Terms for Ordering Office consideration:

Supplemental Terms and Conditions

There are in addition to the terms and conditions included in Dell's GSA Contract # GS-35F-4076D

The ordering office is responsible for the obligation of funds consistent with applicable law. Agencies are advised to review the lease terms and conditions contained in this quote prior to ordering and obligating funding for a lease.

1. Base Interest Rates in the GSA Leasing Terms and Conditions are indexed to Treasury constant maturities as quoted in the Federal Statistical Release H.15 (519) as of the preceding date closest to the date of the Lease Quote.
2. This Lease quote is valid for thirty (30) days from the date of the Lease Quote. In the event an order is not issued by the Government within such thirty (30) days, Dell reserves the right to re-quote the lease pricing or extend the original quote in writing. The Delivery Order issued to initiate a lease based on this Lease Quote must be in compliance with GSA SIN 132-3, Option 2, of the referenced GSA Contract. A lease order issued hereunder is subject to Dell acceptance and/or Dell's credit approval.
3. The Government agrees that early termination is highly unlikely because the acquisition, quantity and use of the involved products are deemed to be essential to its operations and will complete an Essential Use Certificate to that effect if required by Lessor. Further, the Government reasonably believes that funds in an amount sufficient to make all payments during the Lease Term can be obtained and agrees to take all reasonable positive action to obtain and maintain such funds. This proposed lease is subject to Credit Approval by the Lessor's Credit Review Committee. Except for any maintenance-responsibilities included in the Lease, the Government agrees that, by accepting the Lease and providing the Product for the Government's use, Dell has fully performed its obligation under the Lease.
4. Termination for Convenience of the Government: Leases entered into under this option may not be terminated except by the ordering office's contracting officer responsible for the delivery order in accordance with FAR 52.212-4, Contract Terms and Conditions-Commercial Items, paragraph (l), Termination for Convenience of the Government. In the event of a Termination for Convenience of the Government, the Government will promptly pay Dell, or its assignee, the following: i) the sum of the current fiscal year's payment obligations, including any applicable taxes and late fee's, less any payments made to the date of termination; plus ii) the Termination Ceiling, which will be the present value of the remaining Lease Payments over the Lease Term discounted at the like-term Treasury yield % used to calculate the periodic Lease Payments, interpolated to the number of months remaining in the Lease Term, plus any unpaid taxes or other charges then due.



5. Notwithstanding the provisions of SIN 132-3, for Leases with the Option to Own - Fair Market Value end of lease purchase option, the purchase option available to the Government at the end of the Lease Term shall be based on the then current Fair Market Value. The Government understands that it accrues no equity or partial ownership to the products by virtue of Lease Payments paid hereunder. The Fair Market Value shall be determined by Dell, or its assignee, on the basis of and shall be the value which would be obtained in an arm's length transaction between an informed and willing buyer and an informed and willing seller under no compulsion by either party to perform the transaction.

6. Dell, or its assignee, will invoice, and the Government agrees to pay such periodic Lease payments in accordance with Section 2 / Payment Schedule as incorporated in your Lease Quote, prior to the beginning of the period for which the charges accrue. For Prompt Payment Act provisions, all invoices are due upon receipt of invoice, and are payable not later than the payment due date listed on the invoice or the 30th day from the start of the payment period in accordance with the Prompt Payment Act provisions 5 CFR Part 1315.4g and FAR 52.232-25. Prompt Payment Act (1315.10) interest penalties shall apply for all payments not made in accordance with this clause.

7. Products may only be terminated at the Delivery Order level in accordance with the termination provisions set forth in SIN 132-3. In the event the Government exercises its right to terminate a lease under SIN 132-3, the Government shall be required to return all the products included in the Delivery Order to Contractor in accordance with the return provisions set forth therein. The end of lease purchase option is available to the Government only upon satisfaction of all payment obligations for the full Lease Term and is not applicable to a lease termination prior to the end of the Lease Term.

8. It is the Government's intent to exercise each renewal option and to extend the lease until completion of the Lease Term provided the needs of the Government for the products or functionally similar products continue to exist. Accordingly, the Government shall not replace the products leased under this delivery order with functionally similar products during the Lease Term specified in the delivery order. . For purposes of this clause, replacement includes reverting to the means by which the Government met the bona fide functional need before the Government issued the Order.

9. In the event you are of the opinion that any charges or credits on an invoice are not billed properly, the Government will promptly pay the portion of the invoice not in question and immediately provide Dell, or its assignee, with detailed written notice of the items in question.

10. To the extent permitted by the Agency, Federal Acquisition Regulation ("FAR") supplement of the ordering office, FAR Clause 52.232-23, Assignment of Claims, Alternate I, is hereby incorporated by reference. Payments to an Assignee of any amounts due or to become due under this lease, shall not, to the extent specified in the Act, be subject to reduction or setoff.

11. Purchase Option - In the event the Government wishes to buy-out the lease at any time, during or at the end of the Lease Term, the Government will be required to pay a lump sum amount equal to the present value of all outstanding Lease Payments discounted at the rate of Treasury Constant Maturities as published in the Federal Reserve statistical release H.15 in effect at



the time of the original order, interpolated to the number of months remaining in the Lease Term, plus any applicable end of lease purchase option, Fair Market Value or pre-stated purchase option price, and any unpaid taxes or other charges then due. The election to purchase at the end of the Lease Term shall require purchase of all of the leased Products included in the Delivery Order. The end of the lease option elected by the Government shall be the same for all of the products included in the Delivery Order.

12. Form of Payment: The Government will pay Dell, or its assignees, by Electronic Funds Transfer (EFT), wire or check. No credit cards will be allowed as a form of payment under this lease agreement.

13. Acceptance: Acceptance shall occur on the first day after delivery of the product to the Government.

14. Risk of Loss: The Government assumes and shall bear the entire risk of loss and damage, whether or not insured against, to the products from any and every cause whatsoever from the date the products are delivered to the Government's ship to location until the products are either returned to the Contractor's designated return location or purchased by the Government, except for any loss or injury resulting from the negligence or fault of Contractor. No loss or damage to the products or any part thereof shall impair any obligation of the Government under the relevant Order, including but not limited to the Government's obligation to make payments under such Order, which obligations shall continue in full force and effect. In the event of loss or damage of any kind to any products, the Government, at the Government's option, shall: (i) Place the same in good repair, condition and working order to the satisfaction of Contractor within 90 days of such loss or damage; or (ii) Pay Contractor the amount equivalent to the Purchase Option price calculated as described in Paragraph 10 above.

15. Title: During the Lease Term, products shall always remain the property of the Contractor. The Government shall have no property right or interest in the products except as provided herein and shall hold the products subject and subordinate to the rights of the Contractor. Software and software licenses shall be deemed personal property. The Government shall have no right or interest in the software and related documentation except as provided in the license and the lease. Upon the Commencement Date of the Lease Term, the Government shall have an encumbered license to use the software for the Lease Term. The Government's encumbered license rights in the software will be subject to the same rights as provided to a purchaser of a license under the terms of this contract except that the Government will not have an unencumbered, paid-up license until it has paid the applicable purchase option price.

Unless otherwise agreed to in writing by the parties, the above supplements Dell's GSA SIN 132-3 and apply to any lease entered into by the parties.

