

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEM Offeror To Complete Block 12, 17, 23, 24, & 30				1. Requisition Number SEE SCHEDULE		Page 1 Of 25	
2. Contract No. W52P1J-13-A-0014		3. Award/Effective Date 2013SEP24		4. Order Number		5. Solicitation Number	
7. For Solicitation Information Call:		A. Name ANGELINE A GRAFF		B. Telephone Number (No Collect Calls) (309) 782-1540		6. Solicitation Issue Date	
9. Issued By ARMY CONTRACTING COMMAND - RI ROCK ISLAND, IL 61299-8000 BLDGS 60 & 390 Email: ANGELINE.A.GRAFF@US.ARMY.MIL				10. This Acquisition is <input type="checkbox"/> Unrestricted OR <input type="checkbox"/> Set Aside: % For: <input type="checkbox"/> Small Business <input type="checkbox"/> Women-Owned Small Business (WOSB) Eligible Under the Women-Owned Small Business Program <input type="checkbox"/> Hubzone Small Business <input type="checkbox"/> Economically Disadvantaged Women-Owned Small Business (EDWOSB) <input type="checkbox"/> Service-Disabled Veteran-Owned Small Business NAICS: <input type="checkbox"/> 8(A) Size Standard:			
11. Delivery For FOB Destination Unless Block Is Marked <input checked="" type="checkbox"/> See Schedule		12. Discount Terms		<input checked="" type="checkbox"/> 13a. This Contract Is A Rated Order Under DPAS (15 CFR 700)		13b. Rating DOA6	
15. Deliver To SEE SCHEDULE				14. Method Of Solicitation <input type="checkbox"/> RFQ <input type="checkbox"/> IFB <input type="checkbox"/> RFP			
16. Administered By ARMY CONTRACTING COMMAND - RI ROCK ISLAND ARSENAL ROCK ISLAND IL 61299				Code W52P1J			
17a. Contractor/Offeror Code 3DMD3 Facility				18a. Payment Will Be Made By Code HQ0303 DFAS-COLUMBUS DFAS-CO/JAIQBAC ATTN: ROCK ISLAND P. O. BOX 182316 COLUMBUS OH 43218-2316			
17b. Check If Remittance Is Different And Put Such Address In Offer <input type="checkbox"/>				18b. Submit Invoices To Address Shown In Block 18a Unless Block Below Is Checked <input type="checkbox"/> See Addendum			
19. Item No.		20. Schedule Of Supplies/Services		21. Quantity	22. Unit	23. Unit Price	24. Amount
		SEE SCHEDULE					
				(Use Reverse and/or Attach Additional Sheets As Necessary)			
25. Accounting And Appropriation Data				26. Total Award Amount (For Govt. Use Only) \$0.00			
<input type="checkbox"/> 27a. Solicitation Incorporates By Reference FAR 52.212-1, 52.212-4, FAR 52.212-3 And 52.212-5 Are Attached. Addenda <input type="checkbox"/> Are <input type="checkbox"/> Are Not Attached.				<input checked="" type="checkbox"/> 27b. Contract/Purchase Order Incorporates By Reference FAR 52.212-4, FAR 52.212-5 Is Attached. Addenda <input checked="" type="checkbox"/> Are <input type="checkbox"/> Are Not Attached.			
<input checked="" type="checkbox"/> 28. Contractor Is Required To Sign This Document And Return 2 Copies to Issuing Office. Contractor Agrees To Furnish And Deliver All Items Set Forth Or Otherwise Identified Above And On Any Additional Sheets Subject To The Terms And Conditions Specified.				<input type="checkbox"/> 29. Award Of Contract: Ref. _____ Offer Dated _____, Your Offer On Solicitation (Block 5), Including Any Additions Or Changes Which Are Set Forth Herein, Is Accepted As To Items:			
30a. Signature Of Offeror/Contractor				31a. United States Of America (Signature Of Contracting Officer) /SIGNED/			
30b. Name And Title Of Signer (Type Or Print)		30c. Date Signed		31b. Name Of Contracting Officer (Type Or Print) JILL M. SOMMER JILL.M.SOMMER.CIV@MAIL.MIL (309) 782-3582		31c. Date Signed 2013SEP24	

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEM Offeror To Complete Block 12, 17, 23, 24, & 30				1. Requisition Number SEE SCHEDULE		Page 1 Of 25				
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17a. Contractor/Offeror Code 3DMD3 Facility			DELL MARKETING L.P. ONE DELL WAY ROUND ROCK, TX 78682-0001			Code HQ0303		18a. Payment Will Be Made By DFAS-COLUMBUS DFAS-CO/JAIQBAC ATTN: ROCK ISLAND P. O. BOX 182316 COLUMBUS OH 43218-2316		
Telephone No. (512) 728-5786										
<input type="checkbox"/> 17b. Check If Remittance Is Different And Put Such Address In Offer				<input type="checkbox"/> 18b. Submit Invoices To Address Shown In Block 18a Unless Block Below Is Checked <input type="checkbox"/> See Addendum						
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30a. Signature Of Offeror/Contractor <i>Phyllis Pate</i>						31a. United States Of America (Signature Of Contracting Officer)				
30b. Name And Title Of Signer (Type Or Print) Phyllis Pate, Contracts Sr. Advisor			30c. Date Signed 20-SEP-2013			31b. Name Of Contracting Officer (Type Or Print) JILL M. SOMMER JILL.M.SOMMER.CIV@MAIL.MIL (309) 782-3582			31c. Date Signed	

19. Item No.	20. Schedule Of Supplies/Services	21. Quantity	22. Unit	23. Unit Price	24. Amount

32a. Quantity In Column 21 Has Been

Received Inspected Accepted, And Conforms To The Contract, Except As Noted: _____

32b. Signature Of Authorized Government Representative		32c. Date	32d. Printed Name and Title of Authorized Government Representative		
32e. Mailing Address of Authorized Government Representative		32f. Telephone Number of Authorized Government Representative			
		32g. E-Mail of Authorized Government Representative			
33. Ship Number	34. Voucher Number	35. Amount Verified Correct For	36. Payment		37. Check Number
<input type="checkbox"/> Partial <input type="checkbox"/> Final			<input type="checkbox"/> Complete <input type="checkbox"/> Partial <input type="checkbox"/> Final		
38. S/R Account No.	39. S/R Voucher Number	40. Paid By			
41a. I Certify This Account Is Correct And Proper For Payment		42a. Received By (Print)			
41b. Signature And Title Of Certifying Officer		41c. Date	42b. Received At (Location)		
			42c. Date Rec'd (YY/MM/DD)	42d. Total Containers	

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MOD/AMD

Name of Offeror or Contractor: DELL MARKETING L.P.

SUPPLEMENTAL INFORMATION

Buyer Name: ANGELINE A GRAFF
Buyer Office Symbol/Telephone Number: CCRC-TA/(309)782-1540
Type of Contract: Firm Fixed Price
Kind of Contract: Supply Contracts and Priced Orders
Type of Business: Large Business Performing in U.S.
Surveillance Criticality Designator: C
BPA Expiration Date: 2016MAR31

*** End of Narrative A0000 ***

BLANKET PURCHASE AGREEMENT GENERAL TERMS AND CONDITIONS

1. Introduction

Federal Acquisition Streamlining Act:

In the spirit of the Federal Acquisition Streamlining Act, the Army Contracting Command, on behalf of the U.S. Department of Defense (DoD) Enterprise Software Initiative (ESI) (referred to hereafter as the Government or DoD) and Dell Marketing L.P. (the Contractor) enter into this Blanket Purchase Agreement, which includes all Attachments (collectively referred to as the BPA or Agreement) as of the effective date identified in Block 3 of SF 1449 (the "Effective Date").

GSA FSS Contract:

GSA Federal Supply Schedule (FSS) Contract Blanket Purchase Agreements reduce contracting and open market costs such as: search for sources, development of technical documents, solicitations, and the evaluation of Offers. This BPA is entered to reduce the administrative costs of acquiring commercial products and services from the General Service Administration (GSA) Federal Supply Schedule (FSS) Contract(s) [GS-35F-4076D] (the FSS Contract). All orders placed against this BPA are subject to the terms and conditions of the FSS Contract.

DoD ESI:

The DoD ESI is a joint DoD project designed to develop and implement a DoD enterprise procurement process. This ESI Agreement is issued in the spirit of the policy and guidelines provided in the Defense Federal Acquisition Regulation Supplement (DFARS) Section 208.74.

2. Obligation

Extent of Obligation:

The Government is obligated only to the extent of authorized purchases actually made under this Agreement.

Funds Obligation:

This Agreement does not obligate any funds. Funds will only be obligated on each delivery order.

3. Authorized Users

DoD Components:

The Agreement is open for ordering by all DoD Components. For the purposes of this Agreement, a DoD component is defined as follows: the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Unified Combatant Commands, the Inspector General of the Department of Defense (DoD IG), the Defense Agencies, the DoD Field Activities, the U. S. Coast Guard, NATO, the Intelligence Community and FMS with a Letter of Authorization.

GSA / Ordering Organizations:

GSA or other applicable ordering organizations/agencies are authorized to place orders under this Agreement on behalf of DoD end users and must comply with DFARS 208.7400.

Government Contractors:

Government contractors performing work for a DoD Component (as defined above) may place Delivery Orders under this Agreement on behalf of and for the benefit of the DoD entity if authorized by their cognizant Contracting Officer in accordance with the

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requirements of FAR 51 and/or DFARS 251 as appropriate.

4. Term and Survival

Term:

This Agreement shall commence on the Effective Date, and shall continue in force for a period of up to 5 years after such date, unless otherwise terminated as provided herein and is contingent on maintaining or renewing a GSA FSS Schedule. The ordering period for all items under this BPA shall be the same.

GSA Federal Supply Schedule Succession:

This BPA is based on the Contractors current GSA 70 schedule contract number GS-35F-4076D. In the event the current GSA 70 schedule contract is canceled or expires and a new GSA 70 schedule contract is awarded, this BPA shall automatically transfer to the new GSA 70 schedule contract to the extent the new schedule contract includes the same scope and items as the canceled or expired GSA contract.

Annual Review for Best Value:

This Agreement will be reviewed annually to ensure that it still represents a best value.

Survival:

This Agreement shall survive unto Contractor, its Successors, rights and assigns. The terms and conditions in this Agreement shall survive the acquisition or merger of Contractor by or with another entity. Contractor shall ensure these survivorship terms are included in any such merger or acquisition agreement, including a duty on the part of the surviving entity to abide by the terms of this Agreement.

5. Organization of this Agreement

BPA Structure:

This BPA is organized in two major segments:

A. The general terms and conditions herein

B. Attachments, which are binding agreements entered into and made effective at the time of the award of this BPA. All attachments to this Agreement will be deemed part of this Agreement and incorporated into Section J. Terms defined in this Agreement and used in any Attachment will have the same meaning as in this Agreement.

The Attachments are set forth as follows:

ATTACHMENT	TITLE
A-2	Applicable FAR and DFARS provisions
B	Cloud Offering and Price List
C	Master SaaS Agreement
F	Exhibit F, Contract Management Deliverables
G	Fees and Payments
H	Microsoft Product Use Rights
I	Microsoft Products Use Rights Supplement
J	Cloud Services/EaaS Requirements

Order of Precedence:

The Order of Precedence for resolving any inconsistency between this Agreement and the GSA contract terms shall be as specified in the GSA contracts Commercial Item clause, FAR 52.212-4.

The provisions of FAR 52.212-4 specified in FAR 12.302, as required by Federal law, shall prevail over any terms of the commercial license.

In the event of any inconsistency between the general terms and conditions of this Agreement and the terms and conditions of any Attachment to this Agreement, the general terms and conditions shall take precedence over the terms and conditions of any Attachment, unless the parties specifically agree in writing that a term or condition of an Attachment has precedence over the corresponding term or condition in the general terms and conditions of the BPA.

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All orders placed against this BPA shall incorporate the terms and conditions of this BPA, including all Attachments. In the event of a conflict between an ordering document (including the Contractors license, support, maintenance, or services agreements) and this BPA, the BPA and its Attachments shall take precedence over the Order unless the parties specifically agree in writing that a term or condition of an Order has precedence over the corresponding term or condition in the general terms and conditions of the BPA or its Attachments.

6. Product and Service Offerings

The Contractor shall make available to all authorized users of this Agreement the products and services contained in Attachment B.

The Master EaaS Agreement, Attachment C, is applicable to products and services ordered under this BPA and applies to all orders placed against it. The summary of Attachment C is to govern the provision of EaaS for software licensed to DoD.

Changes proposed by the Contractor shall become effective only upon written acceptance by the Government.

7. Pricing TermsBase Pricing:

Prices for commercial products and services are specified in Attachment B. The Contractor shall not charge prices in excess of those listed in this Agreement.

Prices shall not escalate and are not subject to upward adjustment during the term of this Agreement.

The 2.0% Acquisition, Contracting, and Technical (ACT) Fee is included in the Contractors prices.

Additional Price and Discount Terms:

The government may secure additional discounts at the time of placing an order. Spot discounts are authorized and encouraged.

SmartBUY Program Extension:

Office of Management and Budget (OMB) has announced the SmartBUY initiative to maximize cost savings and achieve best quality when acquiring commercial products and services. If during the term of this Agreement, Contractor and its resellers enter into a government-wide agreement with the GSA under the SmartBUY Initiative, which includes pricing for the specific products or services under similar terms and conditions as those licensed by the DoD under this Agreement, Contractor and its resellers agree to reduce the prices in Attachment B for the remaining term of this Agreement to meet the prices and fees under the SmartBUY agreement, or shall license the products and sell the services under the SmartBUY agreement for the same remaining term of this Agreement, at the discretion of the DoD. Neither the Contractor nor its resellers shall preclude the government from purchasing or licensing commercial products or services under a SmartBUY Agreement.

8. Product and Pricing Data SubmissionData Submission Format:

Contractor shall submit and keep current all product, service and pricing data in the format described in Attachment B (as amended from time to time) for publication in all web and other methods for public and private display and access.

Changes to Contractors products or prices shall only be effective upon receipt of written approval from the Procuring Contract Officer (PCO).

UNSPSC:

The United Nations Standard Products and Services Code (UNSPSC) is a required field in the submission format required by DoD for products and prices. The UNSPSC code permits software asset management through a standard coding structure. The UNSPSC is a coding system used to classify both products and services for use throughout the global marketplace. The management and development of the UNSPSC Code is coordinated by GS1 US. The current version is available free as a download at <http://www.unspsc.org>.

9. OrderingOrdering Guide:

The Contractor shall post the Ordering Guide on its web site.

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The Contractor shall immediately notify the Contracting Officer in the event of any changes to Contractor POC information, Contractor physical address, Contractor web address, or any other relevant information in the Ordering Guide.

Applicability of FAR and DFARS Provisions:

Orders issued against this BPA are subject to the FAR clauses included in the underlying GSA Schedule.

Orders issued against this BPA are subject to the DFARS clauses as indicated by a check mark in Attachment A-2. Additional DFARS clauses may apply to the Delivery Order.

The DFARS clauses listed in Attachment A-2 are those in effect as of the effective date of this BPA. Ordering Offices are responsible for incorporating the most current version of the applicable DFARS clauses in the Delivery Order as appropriate.

Any additional DFARS clauses not checked in Attachment A-2 should be considered by the Ordering Offices for inclusion in the Delivery Order.

The Ordering Offices should consider the requirements of the FAR supplement of the end user component (local requirements), as they apply to commercial item acquisition and use of GSA schedules, in determining what additional clauses may be required for incorporation in the Delivery Order issued by the Ordering Office.

Web Sites and Electronic Ordering:

—

This BPA will be posted to the DoD ESI website as part of the ESI program. The web site can be viewed at <http://www.esi.mil/1> and is publicly accessible. The Government may also post this Agreement to other federal government or DoD web sites, some of which may be publicly accessible. It is the intention of the Government to use existing and future capability of the DoD Standard Procurement System, Electronic Data Interchange (EDI) capability, Government procurement card, and Contractor electronic ordering capability to create a paper-less ordering, invoicing and payment process. During the term of the BPA, the Contractor shall participate to achieve this objective.

On-line ordering may also be accomplished through DoD controlled web sites.

The Contractor shall ensure that the data and information relating to Contractors products, technical specifications, services, prices and Other information related to this BPA is current, accurate, complete, and delivered by the Contractor in the standard format(s) described in Attachment B.

The Contractor shall maintain coordinated and integrated hypertext links to the ESI web site from their World Wide Web site(s).

The Contractor shall provide electronic-commerce (EC)/EDI capabilities and accept and respond to secure on-line orders and customer requests consistent with the terms of this acquisition vehicle.

The Contractor shall use its commercially reasonable business efforts to adapt its business processes as technical requirements, environment and architecture evolve.

This BPA may also be loaded into publicly accessible electronic catalog systems of other DoD agencies.

Order Suspension:

There may be occasions where the Government may suspend ordering (by CLIN up to and including the entire BPA.) If a suspension is announced, the Contractor shall adhere to this suspension by not accepting/processing delivery orders for the suspended item(s).

10. Contractor BPA Management Obligations

Report of Sales:

—

The Contractor shall provide a Report of Sales to the SPM and the PCO in electronic format within fifteen (15) days following completion of the monthly reporting period, or as otherwise requested by the SPM. \~The report shall be submitted in the standard format shown in Attachment F. \~Sales reports are required even in those instances where no sales are made. \~The SPM or PCO shall provide written approval of each report to the Contractor. \~At the end of each calendar quarter, the written approval provided to the Contractor will be accompanied by a request to remit the ACT fees in accordance with Attachment G.\~The SPM or PCO will provide a copy of the approved quarterly Report of Sales to the DoD Components participating in fee sharing.

Fees and Payments:

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The Contractor shall pay the ACT fees to the parties described in Attachment G within 30 days after notification of approval from the applicable SPM or PCO for the sales report required pursuant to section 9.

Centralized Administration:

The Contractor must provide centralized administration, in the form of a Program Manager, in support of all work performed under this Agreement. The Program Manager, at a minimum, is required to participate in periodic program management reviews (which may require travel to a Government named site). Additional functions would include customer service, educating the sales force and submission of monthly/quarterly reports and approved fee payments.

Records:

The Contractor shall maintain archival copies of all orders for the term of the Agreement and for seven (7) years after its expiration or termination. Copies shall be made available to the Government upon request.

Program Management Reviews (PMR):

The Contractor shall participate in regular reviews of the progress of the Agreement. Reviews shall be held at least twice yearly as scheduled by the Software Product Manager. During these reviews the Contractor shall report on status of Agreement sales, sales leakage, marketing and any outstanding issues concerning the Agreement, among other things. PMR agenda and presentation format shall be provided by the SPM to Contractor prior to each PMR. Travel expenses are the responsibility of the Contractor.

Sales Leakage Prevention:

The goals of the ESI Program can only be realized through cooperation between the Government and the Contractor to direct appropriate sales through the ESI vehicles. The Contractor shall ensure that all sales personnel are aware of the ESI Program and enforce the policy that this Agreement is the preferred procurement vehicle for the products within. Within sixty (60) days of the effective date of this BPA, Contractor shall submit its plan of action and define the processes required to conform to the requirements of this BPA and shall keep current the plan throughout the Term of this BPA.

The Contractor shall establish a process to regularly audit sales to Government buyers, determine where sales outside the ESI vehicle are occurring, and take appropriate action to direct further sales through the ESI vehicle. Results of these audits will be presented as an agenda item during PMRs.

Marketing and Promotion:

The Contractor shall dedicate reasonable resources to this effort and market and advertise this Agreement, to include advertising the availability and benefits of this Agreement on the Contractors web site, advertising this Agreement at relevant trade shows, participation in DoD Component sponsored events, and promotion through news media geared to Government/DoD IT personnel and leadership.

The Contractor may obtain standardized ESI marketing materials by requesting access from the SPM.

The Contractors use of the ESI logo, seal or emblem shall be limited to materials describing the products and services which are specifically made available under this BPA. ESI reserves the right to review any materials that contain the ESI brand prior to use by the Contractor, and, at a minimum, requires the Contractor to follow these guidelines:

- Use Only The Approved Master Artwork. Do not alter or distort the appearance of the logo in anyway, for example, by adding new design elements or colors or changing the font. The logo must always look sharp, clean, and well produced.
- Allow A Minimum Clear Space Around The ESI Logo. Always allow for a minimum clear space around the logo. Never violate the clear space with any graphic elements, words or charts.
- Maintain Legibility. Never reproduce the logo in a manner that causes the logo to become illegible or blurry, which may happen if the logo is reproduced too small.

All materials made available for public view must include the following statement: The ESI logo/markings is used with permission. ESI procedures are explained in DFARS 208.74 and DoD CIO Guidance and Policy memorandum No. 12-8430 dated July 26, 2000.

11. Indemnity

Indemnification for Harmful Conduct:

To the maximum extent permitted by law, to include FAR Section 52.212-4(u), Contractor will defend, indemnify, protect and hold harmless DOD and their respective officers, directors, employees, agents, and Affiliates from and against any and all claims, losses, liens, demands, attorneys' fees, damages, liabilities, costs, expenses, obligations, causes of action, or suits, (collectively Claims) by a third party, that are caused by or arise out of: 1)\-any wrongful act or omission, whether active or

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passive and whether actual or alleged, or willful misconduct of the Contractor or its employees, subcontractors or agents; and ii)\-property loss, damage, personal injury or death, caused by the Contractor, or any of the Contractors employees, subcontractors or agents.

12. Personal Data and Personally Identifiable Information (PII)

Compliance with Privacy Act:

Contractor must comply with the Personally Identifiable Information requirements as set forth in the Privacy Act of 1974, Public Law 93-579, as amended, including all policies and directives issued there under including, for example, DoD Directive 5400-11, DoD Program dated May 8, 2007, as may also be amended from time to time or superseded.

13. Termination

Effect of Termination:

Effect of Termination by Contractor: Notwithstanding any termination of this Agreement, by Contractor, including any Attachments to this Agreement, DOD shall have the right to continue use of any Products and Documentation that were purchased by a Delivery Order issued prior to the termination of the Agreement.

Surviving Provisions:

The following sections shall survive the termination or expiration of this Agreement: Section 11 (Indemnity), Section 12 (Personal Data and Personally Identifiable Information), Section 13 (Effect of Termination), Section 13 (Surviving provisions), Section 15 (General Provisions) and any software licenses acquired pursuant to this BPA where usage rights extend beyond the expiration or termination date of this BPA.

14. Relationship of the Parties

Independent Contractors:

Each party will act solely as an independent contractor. Nothing contained herein will be construed to create the relationship of principal and agent, employer and employee, partners or joint venturers. Neither party assumes any liability for personal injury or property damage arising out of the other partys performance of this Agreement.

The Contractor will be responsible for all obligations in this Agreement whether or not Contractor provides them directly. Further, the Contractor is the sole point of contact with regard to all contractual matters, including payment of any and all charges under orders executed under this Agreement.

15. General Provisions

YEAR 2000 Compliance:

All products provided under this BPA shall be Y2K compliant as defined in FAR 39.106.

Headings:

The section captions and headings used in this Agreement are for reference only, and are not to be construed in any way as terms or be used to interpret the provisions of this Agreement.

Notices:

All notices required under this Agreement will be in writing and will be sent to the Government PCO and the Contractors designated Program Manager for this Agreement at the address set forth on page 1 of this Agreement, unless otherwise agreed to by the parties. Notices are considered to be "issued" when copies are either deposited in the mail, transmitted by facsimile, or sent by other electronic commerce methods, such as email.

Reference to Days:

All references in this Agreement to days will, unless otherwise specified, mean calendar days.

Severability:

If any term or provision of this Agreement is held to be illegal or unenforceable, the validity or enforceability of the remainder of this Agreement shall not be affected. In such event, the parties will negotiate a valid, enforceable substitute provision that

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most nearly achieves the parties original intent in entering into this Agreement or provide an equitable adjustment in the event no such provision can be added.

Waiver:

Neither party's failure to exercise or delay in exercising any of its rights under this Agreement shall constitute or be deemed to constitute a waiver, forfeiture, or modification of such rights or any others. Waiver of a breach of this Agreement shall not be deemed a waiver of any future breach. Any waiver must be in writing and signed by each party's representative.

Dispute Resolution:

In the event of disagreement with respect to any aspect of this Agreement, the parties agree to discuss in good-faith to reach an amicable resolution, and to escalate such resolution process to the appropriate members of their respective management organization who have the power and authority to achieve a successful resolution.

Entire Agreement:

This Agreement, together with all Attachments hereto, Service Delivery Orders, and Delivery Orders, constitutes the entire agreement between DOD and Contractor and supersedes all prior or contemporaneous communications, representations, and agreements, whether oral or written, regarding the subject matter of this Agreement. No modifications of, or amendments to, the terms of this Agreement shall be valid unless in writing and signed by an authorized representative of each party.

*** END OF NARRATIVE A0001 ***

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Name of Offeror or Contractor: DELL MARKETING L.P.

CONTRACT CLAUSES

	<u>Regulatory Cite</u>	<u>Title</u>	<u>Date</u>
1	52.232-37	MULTIPLE PAYMENT ARRANGEMENTS	MAY/1999

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LIST OF ATTACHMENTS

List of Addenda	Title	Date	Number of Pages	Transmitted By
Attachment 0001	A-2 APPLICABLE FAR AND DFARS PROVISIONS	16-SEP-2013	003	DATA
Attachment 0002	B CLOUD OFFERING AND PRICE	09-SEP-2013	001	DATA
Attachment 0003	C MASTER SOFTWARE AS A SERVICE LICENSE AGREEMENT	15-JUL-2013	004	DATA
Attachment 0004	F EXHIBIT F, CONTRACT MANAGEMENT DELIVRABLES	19-SEP-2013	008	EMAIL
Attachment 0005	G FEES AND PAYMENTS	19-SEP-2013	004	DATA
Attachment 0006	H MICROSOFT PRODUCT USE RIGHTS	01-JAN-2013	125	EMAIL
Attachment 0007	I MICROSOFT PRODUCT USE RIGHTS SUPPLEMENT	02-AUG-2013	003	EMAIL
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Attachment A-2 Applicable FAR and DFARS Provisions

1.1 Orders issued against this BPA are subject to the clauses included in the underlying GSA Schedule and the additional DFARS clauses listed below that are incorporated by reference in this BPA. Ordering Offices should consider the requirements of DFARS and the FAR supplement of the end user component, as it applies to commercial item acquisition and use of GSA schedules, in determining what additional clauses may be required for incorporation in the delivery order issued by the Ordering Office.

1.1.1 The following FAR/DFARS clauses and provisions are hereby incorporated by reference with the same force and effect as if it was given in full text. Upon request, the Contracting Officer will make their full text available.

1.1.2 Also, the full text of a clause may be accessed electronically at these addresses:

1.1.2.1. <http://www.acq.osd.mil/dpap/dars/dfars/index.htm>

1.1.2.2 <http://acquisition.gov/comp/far/index.html>

1.1.2.3 <http://farsite.hill.af.mil/>

1.2 252.204-7000 Disclosure of Information (DEC 1991)

1.3 252.204-7004 Alternate A (SEP 2007) - substitute paragraph (a) of this clause for paragraph (a) of the clause at FAR 52.204-7 -Central Contractor Registration (APR 2008)

1.4 252.209-7004 Subcontracting with Firms That Are Owned or Controlled by the Government of a Terrorist Country (DEC 2006)

1.5 252.232-7009 Mandatory Payment by Government-wide Commercial Purchase Card (DEC 2006)

1.6 252.232-7010 Levies on Contract Payments (DEC 2006)

1.7 252.246-7000 Material Inspection and Receiving Report (MAR 2008)

1.8 252.212-7001 Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items (JAN 2009)

1.8.1 The Contractor agrees to comply with the following Federal Acquisition Regulation (FAR) clause, which, if checked, is included in this contract by reference to implement a provision of law applicable to acquisitions of commercial items or components.

52.203-3 Gratuities (APR 1984) (10 U.S.C. 2207)

1.8.2 The Contractor agrees to comply with any clause that is checked on the following list of Defense FAR Supplement clauses, which, if checked, is included in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items or components.

252.203-7000 Requirements Relating to Compensation of Former DoD Officials (SEP 2011) (Section 847 of Pub. L. 110-181).

252.205-7000 Provision of Information to Cooperative Agreement Holders (DEC 1991) (10 U.S.C. 2416).

_____ 252.219-7003 Small Business Subcontracting Plan (DoD Contracts (APR 2007) (15 U.S.C. 637).

_____ 252.219-7004 Small Business Subcontracting Plan (Test Program) (AUG 2008 (15 U.S.C. 637 note).

_____ 252.225-7001 Buy American Act and Balance of Payment Program (JAN 2009) (41 U.S.C. 10a-10d, E.O. 10582).

252.225-7012 Preference for Certain Domestic Commodities (DEC 2008) (10 U.S.C. 2533a).

_____ 252.225-7014 Preference for Domestic Specialty Metals (JUN 2005) (10 U.S.C. 2553a).

_____ 252.225-7015 Restriction on Acquisition of Hand or Measuring Tools 9JUN) (10 U.S.C. 2533a).

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- 252.225-7016 Restriction on Acquisition of Ball and Roller Bearings (MAR 2006) (Section 8065 of Pub. L. 107-117 and the same restriction in subsequent DoD appropriations acts).
- 252.225-7021 Trade Agreements (AUG 2013) (19 U.S.C.3301 note).
- 252.225-7027 Restriction on Contingent Fees for Foreign Military Sales (APR 2003)(22U.S.C.2779).
- 252.225-7028 Exclusionary Policies and Practices of Foreign Governments (APR 2003) (22 U.S.C. 2755).
- 252.225-7036 (i) Buy American--Free Trade Agreements--Banlance of Payments Program (JAN 2009) (41 U.S.C. 10a-10d and 19 U.S.C. 3301 note).
(ii) Alternate I (OCT 2006) of 252.225-7036
- 252.225-7038 Restriction on Acquisition of Air Circuit Breakers(JUN 2005) (10 U.S.C.2534(a)(3)).
- 252.226-7001 Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (SEP 2004) (Section 8021 of Public Law 107-248 and similar sections in subsequent DoD appropriations acts).
- 252.227-7015 Technical Data--Commercial Items (JUN 2013) (10 U.S.C. 2320).
- 252.227-7037 Validation of Restrictive Markings on Technical Data (JUN 2013) (10 U.S.C. 2321).
- 252.232-7003 Electronic Submission of Payment Requests and Receiving Reports (Jun 2012) (10 U.S.C. 2227).
- 252.237-7019 Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Pub. L. 108-375).
- 252.243-7002 Requests for Equitable Adjustment (DEC 2012) (10 U.S.C. 2410).
- 252.247-7023 (i)Transportation of Supplies by Sea(Jun2013) (10 U.S.C. 2410)
(ii) Alternate I (MAR2000) of 252.247-7023.
(iii) Alternate II (MAR2000) of 252.247-7023.
(iv) Alternate III (MAR2000) of 252.247-7023.
- 252.247-7024 Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C.2631).

1.8.3. In addition to the clauses listed in paragraph (e) of the Contract Terms and Conditions Required to Implement Statutes or Executive Orders--Commercial Items clause of this contract (FAR 52.215-5), the Contractor shall include the terms of the following clauses, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

- 252.225-7014 Preference for Domestic Specialty Metals, Alternate I (APR 2003) (10 U.S.C. 2533a).
- 252.237-7019 Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Pub. L. 108-375).

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Attachment B Cloud Offering and Price

CLIN 0001: Microsoft Office 365 Government Community Cloud

This CLIN shall encompass requirements of Paragraphs 1.1 through 1.13 and Paragraph 2. (See Attachment J Cloud Services/EaaS Requirements).

The per user per year price shall not not exceed \$29.04 for calendar year 2013.

Prorated pricing shall not exceed \$2.42/Month-effective the first day of each calendar month.

CLIN 1001: Microsoft Office 365 Government Community Cloud

This CLIN shall encompass requirements of Paragraphs 1.1 through 1.13 and Paragraph 2. (See Attachment J Cloud Services/EaaS Requirements).

The per user per year price shall not not exceed \$29.04 for calendar year 2014.

Prorated pricing shall not exceed \$2.42/Month-effective the first day of each calendar month.

CLIN 2001: Microsoft Office 365 Government Community Cloud

This CLIN shall encompass requirements of Paragraphs 1.1 through 1.13 and Paragraph 2. (See Attachment J Cloud Services/EaaS Requirements).

The per user per year price shall not not exceed \$29.04 for calendar year 2015.

Prorated pricing shall not exceed \$2.42/Month-effective the first day of each calendar month.

CLIN 3001: Microsoft Office 365 Government Community Cloud

This CLIN shall encompass requirements of Paragraphs 1.1 through 1.13 and Paragraph 2. (See Attachment J Cloud Services/EaaS Requirements).

The per user per year price shall not not exceed \$29.04 for calendar year 2016.

Prorated pricing shall not exceed \$2.42/Month-effective the first day of each calendar month.

CLIN 4001: Microsoft Office 365 Government Community Cloud

This CLIN shall encompass requirements of Paragraphs 1.1 through 1.13 and Paragraph 2. (See Attachment J Cloud Services/EaaS Requirements).

The per user per year price shall not not exceed \$29.04 for calendar year 2017.

Prorated pricing shall not exceed \$2.42/Month-effective the first day of each calendar month.

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Attachment C Master Software as a Service License Agreement

This Master Software as a Service Subscription License Agreement (EaaS Agreement, Subscription Services or Agreement) is made and entered into as of the effective date identified in Block 3 of SF 1449 (the Effective Date) by and between Dell Marketing L.P. and Army Contracting Command-Rock Island on behalf of the entire Department of Defense (Licensee or DoD).

1. Applicability of this Software as a Service (EaaS) Subscription Agreement (the Agreement)

1.1. This EaaS Subscription Agreement shall apply as a supplement to the Software Services licensed by DoD (Licensee), ordered from the Cloud Service Provider (CSP) directly or through one of its authorized Resellers pursuant to an ESI BPA and all BPA Attachments. Licensee may place orders under this EaaS Subscription License Agreement by issuing Delivery Order Documents in accordance with the Ordering instructions. This Agreement is issued under the GSA Federal Supply Schedule Contract GS-35F-4076D.

1.2. The terms and conditions of this Agreement take precedence over any conflicting terms and conditions in the underlying GSA Contract unless prohibited by Federal Law.

1.3. The terms and conditions of this Agreement will not take precedence over the CSPs License Agreement/Product Use Rights. DoD and its users shall not be bound by the terms of a Click Wrap license encountered when initially accessing the Software or at any time thereafter unless DOD has had an opportunity to negotiate such terms with CSP or other Third Party as applicable, notwithstanding DoD users clicking Accept in order to continue using the Software. For clarity, the CSP License Agreement/Product Use Rights shall not be considered a Click Wrap license for purposes of this Agreement.

2. License Rights to Use-- Software as a Service (SaaS)

2.1. VAR agrees on behalf of CSP to grant DoD a license to use the Software Services specified in a Delivery Order as per the CSPs License Agreement/Product Use Rights for the period of performance and number of Users in the Delivery Order.

3. Software Capabilities

3.1. VAR agrees on behalf of CSP that The Software Services will perform in accordance with the applicable CSP Service Level Agreement located at <http://microsoftvolumelicensing.com/DocumentSearch.aspx?Mode=3&DocumentTypeId=37>, or successor location.

4. Access to the Software

4.1. VAR agrees on behalf of CSP to provide DoD access to the Software Services via Internet connectivity capability as described in the CSPs applicable network service descriptions.

4.2. DoD will provide Users with hardware and other software required to access, display and use [CSPS] Software Services.

5. Hosting the Software in the Cloud

5.1. VAR agrees to provide the standard Software Services described in its CSP service descriptions. VAR shall provide separately any services as described in its technical solution proposal.

5.2. EaaS as part of VARs acceptance of DoDs Delivery Order, VAR will also specify those Cloud components in writing which are controlled or provided by a third party. All such third party components will be subject to the terms and conditions of this EaaS Subscription Agreement. VAR warrants and covenants that all included Cloud software components (including third party components) of the CSP EaaS Software Services as included specifically in the Contract Line Item Numbers are provided with no additional fees, licenses or other restrictions and that VAR has obtained all required permission and licenses to use the components. All VAR obligations in this EaaS Subscription Agreement extend to all components regardless of location or control of the components.

5.2.1. The CSP shall comply with FedRAMP continuous monitoring requirements and NIST Special Publication 800-53 (i.e. notice of a Security Incident within one hour of determining a Security Incident has occurred).

5.3. Personnel Access to Government Data. The CSP will require all employees who will have access to customer-owned data to pass the appropriate background investigation required by the Agency for the applicable Software Services. At a minimum, all CSP employees with access to customer-owned data or the architecture that supports customer-owned data will pass a NACI investigation and be a US person as defined in Executive Order 12333.

5.4. NDA Clause

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5.4.1. All employees of the CSP who have access to government data must sign CSPs non-disclosure agreement which must be acceptable to the DOD.

5.5. Data Center Inspection CLAUSE (Assessment of System) CSP will perform one or more audits on the security of the computers and computing environment that it uses in processing Customer Data (including personal data) on the EaaS Software Services and the physical data centers from which it provides the EaaS Software Services. Audit(s): (a) will be performed at least annually; (b) will each be performed annually on a rotation scheduled by the CSP; (c) will either be performed according to ISO 27001 standards or will meet SSAE 16 SOCL TYPE II audit standards or other SSAE 16 variant standards that include this SOCL scope; (d) will be performed by independent third party security and Audit professionals at CSPs selection and expense; (e) will result in the generation of one or more audit reports ("Audit Reports"), which will be CSPs confidential information and (f) may be performed for other purposes (e.g., as part of CSPs regular internal security procedures or to satisfy other contractual obligations). CSP may, at its discretion, transition to a successor or replacement accounting style audit standard if the relevance or applicability of the SSAE 16 standard changes.

If DOD requests in writing, CSP will provide it with a confidential summary of each of the Audit Reports ("Summary Report") so that DOD can reasonably verify CSPs compliance with its security obligations. Each Summary Report is CSPs confidential information. Summary Reports will be not be prepared in a way that would frustrate or prevent DODs ability to understand any non-conformities reported in the corresponding Audit Report.

5.6. LAW ENFORCEMENT & Notification CLAUSE

5.6.1. The CSP will reasonably cooperate with law enforcement investigations specifically related to the provision of CSPs Software Services, consistent with the provisions of FedRAMP, if applicable, and CSPs License Agreement/Product Use Rights.

5.7. Fedramp Clause

CSP will utilize FedRAMP security baseline requirements and processes in establishing management, operational and technical controls. Any control revision, or adjustment from the baseline requirements will be justified in accordance with SP 800-37. CSP will maintain operations consistent with the accreditation package used to grant an Authority to Operate (ATO). The ATO will be achieved through a Certification and Accreditation process at FIPS Publication 199 Categorization of at least Moderate-Impact level.

6. EaaS Software Services Support

6.1.1. VAR/CSP shall supply 24/7/365 day a year telephone support via dedicated solution experts. VAR shall pass through to DOD CSPs standard Service Level Agreement (SLA) prioritizing service requests by severity, description of services, a listing of its various severity levels and key performance indicators including the service health dashboard included in CSPs EaaS Software Services.

6.2. Upgrades by CSP

6.2.1. CSP may modify the functionality or features or update the EaaS Software Services from time to time. After an update, some previously available functionality or features may change or no longer be available to DOD. CSP will publish online planned upgrades and updates at a minimum during the calendar quarter that immediately precedes the calendar quarter during which such planned upgrades and updates are scheduled to be made generally available. If DOD objects to a planned new upgrade, update or retired feature within 30 days of the date it is first published online as a planned change, then CSP will discuss the objections with DOD and consider them in good faith. CSP reserves the right to create and offer any new feature/upgrade/update, or to remove a retired feature, in order to address customer demand, remain competitive, or advance innovation in its offerings.

7. CSPs Intellectual Property

7.1. CSP solely owns the intellectual property in the Software (except for third party components) and the Documentation provided under a Delivery Order issued under this EaaS Agreement.

7.2. CSP warrants it has full power and authority to grant DoD the rights granted herein or in any Delivery Orders issued hereunder including the right to use, display and distribute the Software to the extent set forth in CSPs License Agreement/Product Use Rights and that the Software is free of any and all restrictions, settlements, judgments or adverse claims.

8. Other Intellectual Property

8.1. Upon execution of a Delivery Order under this ESI BPA Attachment C, VAR agrees to disclose and identify to DoD in writing any Third Party or Open Source software (hereinafter Third Party Materials) provided with the Software or any services or other components of the Cloud environment or the Subscription Agreement.

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8.2. To the extent any Third Party Materials are provided under this Agreement, VAR warrants it has obtained or will obtain all necessary licenses to any Third Party Materials (including without limitation, all Open Source licenses) provided with the EaaS Software Services.

8.3. VAR warrants to DoD that all such Third Party Material complies with required third party licenses and that DoDs use of such Third Party Material, as provided by VAR will not be in conflict with any and all third party license requirements and will satisfy all conditions on permitted use, modification or distribution of such Third Party Materials without the need for any additional action or license fees from DoD. VAR will provide DoD updates to the list of Third Party or Open Source software provided with each product or subscription service as appropriate during the term of the Agreement.

9. Transferability of EaaS Licenses

9.1. In connection with the EaaS Software Services, DOD may reassign user subscription licenses on a short-term basis, to cover a users absence or the unavailability of a device that is out of service. Reassignment of these user subscription licenses for any other purpose or timeframe must be permanent.

10. DoD Data

10.1. DoD will provide all data for use in the Subscription Services. VAR and CSP will not modify, delete or add to the DoD Data.

10.2. The DoD Data is owned by DoD at all times, regardless of location at any point in time. VAR and CSP makes no claim to any right of ownership in DoD data.

10.3. Upon DoDs request, for any reason whatsoever, whether coincident with a termination of subscription services, regardless of the reason for termination, including but not limited to non-payment by DoD, CSP must promptly return all DoD Data in comma separated value (CSV) or Microsoft format. Under no circumstances will CSP delete or otherwise destroy DoD data unless instructed to do so by DOD in writing.

11. Jurisdiction Clauses (US Only)

VAR and the CSP agree to maintain all customer-owned data in connection with the EaaS Software Services within the States, districts, and territories of the United States of America.

12. Commercial Use Clause

The CSP shall only use customer-owned data to provide the EaaS Software Services. This may include troubleshooting aimed at preventing, detecting and repairing problems affecting the operation of the EaaS Software Services and the improvement of features that involve the detection of, and protection against, emerging and evolving threats to DOD users (such as malware or spam).

12.1. SAVINGS CLAUSE

12.1.1. The CSP will comply with FedRAMP in connection with its provision of the EaaS Software Services.

13. System maintenance

13.1. CSP follows FedRAMP guidelines for continuous monitoring/PAV-C. CSP provides PAV-C reports in Excel format via secure electronic mail. If this format is not considered acceptable to DOD, VAR will work with CSP to determine a mutually agreeable format. PAV-C reports will be provided as an overall PAV-C compliance status for DODs environment. DOD will not receive PAV-C information from other customer environments.

14. DoD Indemnification

In accordance with FAR section 52.212-4(u), The DoD does not have the authority to and shall not indemnify any entity. The DoD agrees to pay for any loss, liability or expense, which arises out of or relates to the DoDs acts or omissions with respect to its obligations hereunder, where a final determination of liability on the part of the DoD is established by a court of law or where settlement has been agreed to by the DoD agency. This provision shall not be construed to limit the DoDs rights, claims or defenses which arise as a matter of law or pursuant to any other provision of this Agreement. This provision shall not be construed to limit the sovereign immunity of the DoD.

14.1. CSP may not terminate this Agreement or suspend services for non-payment. CSP must follow the disputes resolution process in FAR 52.212-4 to resolve any alleged breaches by the government, including an allegation of non-payment.

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14.2. The DoD may terminate this Agreement without cause by giving CSP thirty (30) calendar days prior written notice whenever the DoD shall determine that such termination is in the best interest of the DoD.

15. Term of Agreement

This Agreement starts on the date the DoD executes a valid Delivery Order and ends when VAR no longer is obligated to provide DoD with Subscription Services under any Delivery Order(s). Each Delivery Order will specify the end date of the Subscription.

16. Confidentiality

Each party shall treat the other party's confidential information in the same manner as its own confidential information. The parties must identify in writing what is considered confidential information.

17. Publicity/Advertisement

The CSP must obtain DoD approval prior to mentioning the DoD or a DoD agency in an advertisement, endorsement, or any other type of publicity. This includes the use of any trademark or logo.

18. Rights of Survivorship of the Agreement

18.1. This Agreement shall survive unto VAR, its Successor, rights and assigns. The software and agreement terms and conditions as covered under this agreement shall survive this agreement, in perpetuity, notwithstanding the acquisition or merger of VAR by or with another entity. Any software name changes, re-packing or merger of similar products that carry forward the same or similar function of the software shall be supported with updates, upgrades and new releases under this agreement at no additional cost.

19. Temporary Use of Software During Times of Conflict

19.1. As part of Temporary Expeditionary Deployments (TEDs), during the term of this Agreement, DOD may temporarily surge additional subscriptions at no additional cost ("TED Licenses"). TEDs are limited to deployments away from in-garrison locations (any military post or government office where troops or civilian government personnel are at a permanent location), war games, exercises, real world contingencies, and emergency situations similar to the initiated domestic terrorist attacks of 19 April 1995 (i.e., the Timothy McVeigh Terry Nichols perpetrated 'Oklahoma City Bombing' involving the Alfred P. Murrah Federal Building'); the initiated international terrorist attacks, perpetrated on American soil, on 9/11/2001; and finally, the national inclement weather natural disasters perpetrated by Hurricane(s) Katrina and Rita during the August and September months of Calendar Year 2005, where temporary duty stations (TED's) and continuity of operations (COOP) alternative venues or sites were needed, for a substantial period of time, due to the destruction of federal or U.S. Government facilities, infrastructure, offices and work spaces.

19.2. After the TED, or six (6) calendar months, whichever is shorter ("Temporary Use Period"), unless a different time period is agreed to in writing by the CSP, the DOD will provide a written certification that the TED Licenses have either been removed from service, or payment has been made under this EaaS Subscription Agreement by ordering additional EaaS licenses equal to the number of TED Licenses not removed from service. DOD agrees to use the TED Licenses in accordance with the terms contained in this Agreement.

20. Signatures

20.1. Software VAR acknowledges and agrees to these terms and conditions which shall supplement the terms and conditions of CSPs License Agreement/Product Use Rights but not take precedence over such terms and conditions.\~

20.2. IN WITNESS WHEREOF, Software VAR has executed and approved these Software License Agreements as an appendix to Software CSPs License Agreement/Product Use Rights on the date indicated below.

VAR: Dell Marketing L.P.

[Name of entity]

By Phyllis Pate *Phyllis Pate*
Name

Title Contracts Sr. Advisor

Date 20-SEP-2013

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Attachment G Fees and Payments

1. GSA Industrial Funding Fee (IFF). The BPA unit prices include the applicable GSA IFF. The contractor shall be responsible for all required filings to GSA and for payment of this fee in accordance with applicable GSA instructions.

2. Acquisition, Contracting, and Technical (ACT) Fee. The cost of awarding, administering and managing this BPA is included in the prices charged to ordering activities.

2.1 The ACT fee is 2% and is included for all software products, the initial maintenance coverage period, software maintenance as a service, system maintenance services and other related services and/or training. For purposes of this document, the term software means a collection of one or more programs, databases or microprograms fixed in any tangible medium of expression that comprises a sequence of instructions (source code) to carry out a process in, or convertible into, a form executable by an electronic computer (object code). Software maintenance as a service creates, designs, implements, and/or integrates customized or configured 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 deliverable-based and charged in arrears. System maintenance services include system maintenance services for software maintenance associated with proprietary hardware systems. It can also include software support associated with middleware, proprietary application programming interface (API) specific to one or more devices within a particular manufacturer's product range or similar types of software maintenance as deemed appropriate by the ESI Team. The ACT fees shall be remitted and distributed in accordance with sections 3 and 4 of this document.

2.2 There is no ACT Fee charged for the renewal of software maintenance as a product.

For the purposes of this document, the term renewal means the continuation of software maintenance in the subsequent coverage periods following the initial maintenance period. Software maintenance as a product may be referred to by other terms, such as software assurance, or software support. The term software maintenance includes any service provided in support of Commercial Off the Shelf (COTS) software for a defined period of time by a software publisher or reseller to provide software patches, bug fixes, new releases, product upgrades, etc., and any related support services to ensure the proper functioning of a software product. For some vendors, software maintenance might 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 and email support (includes tiers 1,2,& 3 support) and/or web-based general technical support for users self diagnostics. Software maintenance for the purposes of this document does NOT include the creation, design, implementation, configuration, integration, etc. of a software package. These examples are considered software maintenance as a service.

3. Remittance of Fees. The contractor shall remit the ACT fee on a calendar quarterly basis (i.e. January March, April June, July September, and October December) or as otherwise requested by the Software Product Manager (SPM). Payment is due thirty (30) days following approval of the Report of Sales for the completed quarter. ACT fees that have not been paid within the prescribed thirty (30) days shall be considered a debt to the United States Government under the terms of FAR 32.6. The Government may exercise all its rights under the contract, including withholding or setting off payments and interest on the debt (see contract FAR clause 52.232-17, Interest). Failure of the Contractor to pay the ACT Fee in a timely manner may result in termination of the BPA.

4. Fee Distribution. The Army, Air Force, DLA, DISA and Navy are participating in a fee-sharing program. The Contractor shall collect the 2% ACT fee and distribute in accordance with the following procedures. Fee sharing shall be determined by the End User Agency or Service identified in the monthly Report of Sales. This field shall be notated Army, Air Force, DLA, DISA, Navy or DOD as appropriate. Marine Corps sales are reported under the Navy designation. Fee checks shall not be issued until written approval is received for the Report of Sales.

(For a SmartBUY agreement, use the following: The Air Force, Army, DLA, DISA, Navy and GSA (for SmartBUY Federal government Civilian Agency orders) are participating in an ACT fee-sharing program. For orders within DoD, the 2% ACT fee is split equally between the DoD Component whose customer places the order and the Component that manages the contract. The Contractor shall collect the 2% ACT fee and distribute in accordance with the following procedures. ACT fee sharing shall be determined by the End User Agency or Service identified in the monthly Report of Sales. This field shall be notated Air Force, Army, DLA, DISA, Navy, DoD or Non-DoD as appropriate.

In the case of SmartBUY orders (Federal Government Civilian Agencies) non-DoD orders and non DoD support contractor orders, excluding the Intelligence Community and non Coast Guard orders or support vendors to same, the 2% ACT fee is split equally between the Agency that manages the contract and GSA SmartBUY Program Management Office.)

4.1 ALL SALES:

The 2% ACT fee is split equally between the DoD Component whose customer places the order and the DoD Component that manages the ESI agreement. For example, an Air Force order issued against an ESI agreement managed by the Navy results in one half (or 1%) of the 2% fee being returned to the Air Force acquisition organization (listed under Air Force Sales). The Navy will retain the entire 2% fee under orders issued for Navy activities or those activities that do not collect a fee under the ESI agreements managed by the Navy. The

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contractor is responsible for distributing the ACT fee to all applicable Services in accordance with the instructions herein. The amount of ACT Fee due the Navy shall be calculated at 1% for Army sales, 1% for Air Force sales, 1% for DLA sales, 1% for DISA sales and 2% for all other sales.

The contractor shall remit ACT Fee to the address provided below by corporate or cashiers check made payable to Treasurer of the United States. No transmittal letter is required with submission of Navy fee checks.

Checks must include the following information to ensure proper crediting of the payment:

BPA (fill in applicable #)

DoD (fill in name of agreement) Enterprise Software Agreement

ACT Fee

For US Postal Service mail or USPS Express Mail, send check to:

SPAWAR Systems Center Pacific

Attn: Susan Ellison

Code 55390, Bldg 91

53560 Hull Street

San Diego, CA 92152-5001

For Federal Express, United Parcel Service, DHL or Other Courier Services, send check to:

SPAWAR Systems Center Pacific

Shipping and Receiving

Receiving Officer (OT 7)

Attn: Susan Ellison

Code 55390, Bldg 91

4297 Pacific Hwy.

San Diego, CA. 92110

Email a copy of the ACT Fee remittance check to the SPM (FILL-IN APPLICABLE EMAIL).

4.2 ARMY SALES:

The amount of ACT Fee due the Army shall be calculated at 1% of all Army sales.

The contractor shall remit ACT Fee to the address provided below by corporate or cashiers check made payable to Treasurer of the United States. Checks must be notated with the following information:

BPA (fill in applicable #)

SCP Fee Reimbursement

***Checks must be accompanied by a transmittal letter (format to be provided) that cites the applicable accounting data to ensure proper crediting of the payment.

Send check and transmittal letter to:

Project Director, Computer Hardware, Enterprise Software and Solutions (PD CHESS)

PEO Enterprise Information Systems

SFAE-PS-SCP (Attn: Miguel Campos)

9350 Hall Road, Bldg 1445

Fort Belvoir, VA 22060

Email a copy of the check and letter electronically to:

mailto:peoeis.pdchess.vndrrpts@us.army.mil

mailto:Miguel.campos2@us.army.mil

4.3 AIR FORCE SALES:

The amount of ACT Fee due the Air Force shall be calculated at 1% of all Air Force sales.

The contractor shall remit ACT Fee to the address provided below by corporate or cashiers check made payable to 3801-LI. Checks must be notated with the following information:

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BPA (fill in applicable #)
ESI-SW Fee Sharing

***Checks must be accompanied by a transmittal letter (format to be provided) that cites the applicable accounting data to ensure proper crediting of the payment.

Send check and transmittal letter to:

Defense Finance and Accounting Service
Disbursing Operations Directorate
FOR: 3801-Limestone Field Site
8899 E 56th Street
Indianapolis, IN 46249-9339

Email a copy of the check and transmittal letter to: <mailto:AFPEO.EIS.HIJI.Financials@gunter.af.mil>

Please include with the above documents the Customer Usage Check Report (CCR) and Delivery Order Status Report (DOSR) or the Report of Sales (per BPA requirements)

Subject Line Format of e-mail shall be as follows:

Contract Number with hyphens, Sales Reports Month Year, Contract Name, and Contractor Name
[Example: FA0000-00-A-0000, Sales Report June 2010, ESI SW, Vendor, Inc.]

4.4 DLA SALES

The amount of ACT Fee due DLA shall be calculated at 1% of all DLA sales.

The contractor shall remit ACT Fee to the address provided below by corporate or cashiers check made payable to Treasurer of the United States. No transmittal letter is required with submission of DLA fee checks.

Checks must include the following information to ensure proper crediting of the payment:

BPA (fill in applicable #)
DoD (fill in name of agreement) Enterprise Software Agreement
Quarterly ACT Fee

Send check to:

Defense Logistics Agency
DES Acquisition Staff Directorate
Attn: Connie House, DES-A
8725 John J. Kingman Road, Room 1145
Fort Belvoir, VA 22060-6220

Mail a copy of the check to:

Defense Logistics Agency
Attn: Susan Lizzi, J-654
8725 John J. Kingman Road
Fort Belvoir, VA 22060-6221

Or email a copy of the check to:

Email: <mailto:Susan.Lizzi@dla.mil>

4.5 DISA SALES

The amount of ACT Fee due DISA shall be calculated at 1% of all DISA sales.

The contractor shall remit ACT Fee to the address provided below by corporate or cashiers check made payable to Treasurer of the United States. Checks must be notated with the following information:

BPA (fill in applicable #)
DoD (fill in name of agreement) Enterprise Software Agreement
Quarterly ACT Fee

****Checks must be accompanied by a transmittal letter (format to be provided) that cites the applicable accounting data to ensure proper crediting of the payment.

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Send check and transmittal letter to:

DPAS-CO

Finance and Accounting Office

Attn: Disbursement Office (Tom Triplett)

3990 East Broad St., Bldg. 21

Columbus, Ohio 43213

Direct questions to Jonnice Medley, 301-225-8081

Email a copy of the check and transmittal letter to: <mailto:jonnice.medley@disa.mil>.

For SmartBUY agreements add the below:

4.6 GSA SALES

The amount of ACT Fee due GSA shall be calculated at 1% of all Civilian agency sales.

The contractor shall remit ACT Fee by corporate or cashiers check made payable to Treasurer of the United States. Checks must be notated with the following information:

BPA (Enter BPA number)

ESI-SW Fee Sharing

***Checks must be accompanied by a transmittal letter (sample enclosed) that cites the applicable accounting data to ensure proper crediting of the payment.

Send check and transmittal letter to:

GSA

P. O. Box 880908

Dallas, TX 75388-0908

Mail a copy of the check and transmittal letter to:

GSA

Attn: Pebble Randolph

SmartBUY Program Management Office

10304 Eaton Place

Fairfax, VA 22310

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Attachment J Requirements for Cloud Services/Email as a Service

The Contractor's solution for Cloud Services/Email as a Service provides for or meets with the following requirements:

1.1 Infrastructure System Security - U.S. Citizens and Background Checks

All non-federal employees with physical access to the data center infrastructure or access to any federal government data shall be U.S. citizens with confirmed background checks, including: employment history check, education verification, social security number (SSN) verification, fingerprinting, criminal history check, Office of Foreign Assets Control list (OFAC) validation, Bureau of Industry and Security list (BIS) validation, and Office of Defense Trade Controls debarred persons list (DDTC) validation equivalent to the NACI, NACLIC that are required within the DoD.

1.2 Infrastructure System Security

The infrastructure system shall be, at a minimum, logically separated from the infrastructure system of any other customer and must provide their artifacts for achieving FedRAMP compliance.

Logically separate infrastructure is necessary to meet DoDs enhanced security requirements and to minimize risk of unauthorized use and disclosure of sensitive information in accordance with DODI 8500.2. The data that will be processed, stored and transmitted will be unclassified/For Official Use Only (Unclass/FOUO) information. Data in transit must be protected using an approved FIPS 140-2 algorithm. Data in the possession of federal agencies are protected by a variety of statutory requirements and penalties that apply to all federal employees, e.g., the Trade Secrets Act, the Privacy Act, the Procurement Integrity Act, and the Freedom of Information Act. All data and audit and transaction logs must be presented and maintained in accordance with DoD regulations and standards and must be released as applicable during any investigations and tests conducted. The Contractor will include an incident handling and reporting process that meets DoD requirements IAW 8500.2 MAC2 Sensitive Controls.

1.3 Security - Domestic Data Location

All data, including but not limited to email, documents, administrative data, support data, email archiving, and billing data, transmitted via the system or maintained in the system shall reside at all times in servers located in the United States or in servers the operation and maintenance of which are subject only to the laws of the United States. The primary and backup data centers for the services shall be located in the United States.

The system will be used to store and transmit sensitive government and private entity data. Data transmitted must only be subject to disclosure pursuant to U.S. Federal law and not the laws of any other jurisdiction or foreign nation.

1.4 Security - Certification

The Contractor submitted for review a System Security Plan addressing the required security controls in the DODI 8500.1/2 implementation of the Committee on National Security Systems Instruction (CNSSI) No. 1253 supporting Confidentiality, Integrity, and Availability (CIA) of Moderate, Moderate, Moderate (MMM) Level when published.

1.5 Infrastructure System Security - Administrative Access

The Contractor's solution allows for different levels of security access to and management of Agency data by Agency administrative personnel on a need to know basis.

In order to limit the risk of the inadvertent or intentional improper disclosure or use of data stored on or transmitted through the system, administrative personnel need to have access only to the extent necessary to perform their job functions rather than unlimited access to all components and subsystems within the system.

1.6 Privacy/Government Records

The Contractors solution shall not capture, maintain, scan, index, share or use data stored or transmitted by the system for any non-authorized activity or non-government purpose. The Contractor's solution shall not capture, maintain, scan, index, share or use data stored or transmitted by the system for any commercial purpose of Contractor or any third party. The Contractor will provide a specific process for handling spillage that ensures compliance with DoD requirements, including Army Spillage BBP, NIST Special Pub 800-88, DoD 5200.1-R chapter 10, and DoD 5220.22-M.

1.7 Accessibility - Section 508

Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d) requires federal agencies to make their electronic and information technology accessible to people with disabilities. Contractor submitted a Voluntary Product Accessibility Template (VPAT) for each

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product in its proposed solution describing how the product supports (or fails to support) the accessibility features and functions described in Section 508.

1.8 Government Records

All government records utilizing Contractor's services must be maintained in compliance with the requirements of the Federal Records Act, 44 USC Chap. 33, the E Government Act of 2002, 44 U.S.C. 101, and the implementing regulations issued by the National Archives and Records Administration (NARA) at 36 CFR 1200 et seq. In addition to the Federal requirements for records management, Department of Defense Directive Number 5015.2, DoD Records Management Program, all government records must be maintained and stored in a manner that: (1) is an accurate representation of the facts to which the record attests; (2) protects against any unauthorized use or alteration of the record; (3) maintains the physical and logical format of the records, and the relationships between the data elements; and (4) enables the transfer of records, including their associated metadata, to new storage media or formats. All government records must be maintained so as to retain their functionality and integrity. Document integrity means the documents are complete and unaltered. Functionality means the document is kept in a usable format and, if necessary, is compatible with current hardware and software. Contractor demonstrated how it ensures compliance with these requirements for its offered solution.

1.9 Support

Contractor shall supply 24/7/365 day a year support via dedicated solution experts. Contractor shall provide their initial Service Level Agreement (SLA) prioritizing service requests by severity, description of services, a listing of its various severity levels including key performance parameters and other industry standard SLA information.

1.10 Change Management

The Contractor will implement new service features and upgrades in accordance with Federal Information Security Management Act and implementing regulations issued by NIST and DoD. The Contractor will implement new features and upgrades with minimal disruption to the government.

1.11 Compatibility

Contractor's solution shall include, but not be limited to the following:

- 1.11.1 Email ability with DoD/Army alias for seamless identity
- 1.11.1.2 Ability for a user to select and use Rich Text Format, HTML format, or Plain Text format for email messages
- 1.11.1.3 Ability to provide delivery receipts or read receipts
- 1.11.1.4 Ability to set message priority for all systems in use
- 1.11.1.5 Ability to provide for task and journal functions for all systems in use
- 1.11.1.6 Calendar ability
- 1.11.1.7 Scheduled appointments with attachments must make attachments available to all users, regardless of system being used
- 1.11.1.8 Scheduled appointments must be able to be updated with new information and new attendees
- 1.11.2 Minimum total file storage per user of 50 GB (including email, documents, and other files)
- 1.11.3 Unified Communication Capabilities (including presence, chat, voice, video, and collaboration as a minimum)
- 1.11.4 Thin Client Ability to manage documents
- 1.11.5 Portal Collaboration services such as Groups, Community Pages, etc
- 1.11.6 Mobile App support
- 1.11.7 Use of DoD Public Key Infrastructure (PKI) Certificates
- 1.11.8 Two Factor Authentication (For non-CAC users)
- 1.11.9 Digitally Sign and Encrypt Email, documents, and stored files as necessary from both thick and thin browser clients.
- 1.11.10 Offline content access

1.12 Features - Reinstated Email Accounts

This product provides for the ability to restore a user's entire mailbox as well as individual mail entries for up to thirty days after deletion.

Users may accidentally or intentionally delete individual emails and subsequently need to recover these deleted emails. The service must provide a means for recovering deleted individual mail items for a reasonable period of time after deletion.

Similarly, administrators may accidentally or intentionally delete entire mailboxes, and subsequently need to recover the mailboxes. The service must provide a means for recovering deleted mailboxes for a reasonable period of time after deletion.

1.13 HIPAA

DoD is a HIPAA Covered Entity and Contractor will describe their concept for compliance with the Health Insurance Portability and

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Accountability Act.

Dell and Microsoft will work with DoD to supply a Business Associate Amendment as part of the proposed solution.

2. IDENTITY MANAGEMENT

The DoD will provide a single source for authentication of CAC users that is Security Assertion Markup Language 2.0 (SAML 2.0) compliant. All users will be required to migrate to an email account that is compliant with the DMDC enterprise standard under the authority of DoD Directive 8320.03.

This solution provides for a Two Factor Authentication for Non-CAC users including a detailed technical implementation, to include responsible parties for this implementation.

Technical implementation for managing user accounts for non-CAC users, where the Cloud Service Provider acts as the identity provider and controls usernames, passwords and other information used to identify, authenticate and authorize users for web applications as well as the responsible parties for this implementation.

*** END OF NARRATIVE J0001 ***