

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. Contract ID Code
Firm Fixed Price

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2. Amendment/Modification No. P00001	3. Effective Date 2014MAR13	4. Requisition/Purchase Req No. SEE SCHEDULE	5. Project No. (If applicable)
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6. Issued By ARMY CONTRACTING COMMAND - RI MEGAN M. FRANCIS ROCK ISLAND, IL 61299-8000 BLDGS 60 & 390 EMAIL: MEGAN.M.FRANCIS@US.ARMY.MIL	Code W52P1J	7. Administered By (If other than Item 6)	Code
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8. Name And Address Of Contractor (No., Street, City, County, State and Zip Code) PROVISTA SOFTWARE INTERNATIONAL, INC. 5500 STEWART AVE. SUITE 116 FREMONT, CA 94538-9989	<input type="checkbox"/>	9A. Amendment Of Solicitation No.
	<input type="checkbox"/>	9B. Dated (See Item 11)
	<input checked="" type="checkbox"/>	10A. Modification Of Contract/Order No. W52P1J-14-A-0005
	<input type="checkbox"/>	10B. Dated (See Item 13) 2014MAR12

Code ISPN2

Facility Code

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

The above numbered solicitation is amended as set forth in item 14. The hour and date specified for receipt of Offers

is extended, is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended by one of the following methods: (a) By completing items 8 and 15, and returning _____ copies of the amendments; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. **FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER.** If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. Accounting And Appropriation Data (If required)

NO CHANGE TO OBLIGATION DATA

**13. THIS ITEM ONLY APPLIES TO MODIFICATIONS OF CONTRACTS/ORDERS
It Modifies The Contract/Order No. As Described In Item 14.**

<input type="checkbox"/>	A. This Change Order is Issued Pursuant To: The Contract/Order No. In Item 10A.	The Changes Set Forth In Item 14 Are Made In
<input checked="" type="checkbox"/>	B. The Above Numbered Contract/Order Is Modified To Reflect The Administrative Changes (such as changes in paying office, appropriation data, etc.) Set Forth In Item 14, Pursuant To The Authority of FAR 43.103(b).	
<input type="checkbox"/>	C. This Supplemental Agreement Is Entered Into Pursuant To Authority Of:	
<input type="checkbox"/>	D. Other (Specify type of modification and authority)	

E. IMPORTANT: Contractor is not, is required to sign this document and return _____ copies to the Issuing Office.

14. Description Of Amendment/Modification (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

SEE SECOND PAGE FOR DESCRIPTION

Except as provided herein, all terms and conditions of the document referenced in item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. Name And Title Of Signer (Type or print)	16A. Name And Title Of Contracting Officer (Type or print) JILL M. SOMMER JILL.M.SOMMER.CIV@MAIL.MIL (309)782-3582		
15B. Contractor/Offeror _____ (Signature of person authorized to sign)	15C. Date Signed	16B. United States Of America By _____ /SIGNED/ (Signature of Contracting Officer)	16C. Date Signed 2014MAR13

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SECTION A - SUPPLEMENTAL INFORMATION

Buyer Name: MEGAN M. FRANCIS
Buyer Office Symbol/Telephone Number: CCRC-TA/(309)782-2234
Type of Contract: Firm Fixed Price
Kind of Contract: Other
Type of Business: Small Disadvantaged Business Performing in U.S.
Surveillance Criticality Designator: C
BPA Expiration Date: 2019MAR30

*** End of Narrative A0000 ***

1. The purpose of this modification to Blanket Purchase Agreement W52P1J-14-A-0005/P00001 is as follows:

A. To correct the introduction paragraph of the Master Software Agreement Terms and Conditions document identified in Section J, Attachment 0001 as follows:

FROM:

This Master Software Agreement Terms and Conditions (the MSA or Agreement) is made and entered into as of *date we sign by and between Four, Incorporated(Reseller) and Army Contracting Command-Rock Island on behalf of the entire Department of Defense (Licensee or DoD).

TO:

This Master Software Agreement Terms and Conditions (the MSA or Agreement) is made and entered into as of 12 March 2014 by and between Provista(Reseller) and Army Contracting Command-Rock Island on behalf of the entire Department of Defense (Licensee or DoD).

B. To correct the last paragraph of the Master Software Agreement Terms and Conditions document as identified in Section J, Attachment 0001 as follows:

FROM:

In Witness whereof, the parties have caused this License to be executed by their duly authorized representatives effective as of the Effective Date shown in block XX of the BPA.

TO:

In Witness whereof, the parties have caused this License to be executed by their duly authorized representatives effective as of the Effective Date as shown on the SF 1449, block 3 of the BPA.

2. Except as provided herein, all other terms and conditions remain unchanged.

*** END OF NARRATIVE A0002 ***

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SECTION J - LIST OF ATTACHMENTS

This Master Software Agreement Terms and Conditions (the MSA or Agreement) is made and entered into as of 12 March 2014 by and between Provista (Reseller) and Army Contracting Command-Rock Island on behalf of the entire Department of Defense (Licensee or DoD).

1. Applicability of the MSA

1.1. This MSA shall apply to one time charge (OTC) software (also referred to as a Program as defined below) licensed by Licensee for the use of a DoD Component (defined later in this Attachment) and ordered from the Publisher. A DoD component may place orders under this MSA by issuing Delivery Order Documents in accordance with the Ordering instructions.

1.2 A Program ("Program" or "Licensed Program"): is the following, including the original, any portion thereof, and all whole or partial copies:

- a. one or more sequences of instructions suitable for processing by a computer;
- b. components;
- c. related licensed materials such as publications and other documentation,
- d. audio-visual content (such as images, text, recordings, or pictures) defined within or generated by the execution of, such sequence(s) of instructions; and
- e. control data (such as control blocks, event logs, configuration files) defined within or generated by the execution of such sequence(s) of instructions. Control data includes without limitation data that is designed to (i) manage or limit the operation of programs, or (ii) help monitor, record, manage, or limit the consumption of software or hardware resources, including, without limitation, data used in IBMs implementation of Technological Measures

1.3 Delivery Orders issued hereunder will specify the processes for delivering and receiving Programs, as well as the details of the License terms and conditions. Consistent with the terms of the GSA Schedule, the terms of this MSA are intended to supplement the terms of the GSA Schedule. In the event of a conflict between Delivery Orders, this MSA and the GSA Schedule, any such conflict will be resolved in the following descending order of precedence: 1) Delivery Orders, 2) the GSA Schedule, and 3) this MSA.

1.4 Publishers standard version of the end user license agreement to be used for Delivery Orders for Programs placed under the BPA are contained in Chapter 1 General Information, Chapter 5 (applicable to SIN 132-33, Perpetual Software License), and Appendix S Passport Advantage of the GSA Schedule).

2. License Grants

2.1. At the time a DoD component wishes to place an order for Publishers Programs or Software Maintenance (SWM) (also referred to as Software Subscription and Support or S&S), the DoD Component and the Reseller shall execute a Delivery Order specifying the license grant details, including the license type, unit of measure and units ordered.

2.2. Publisher acknowledges that DoD and its users shall not be bound by the terms of a Click Wrap license that conflict with the terms of this MSA.

3. Evaluation of the Program

3.1. If Licensee wishes to evaluate any Program generally available from Publisher, Licensee may order a trial Program, which Licensee may use for trial non-production purposes only, in accordance with Licensors evaluation license terms attached hereto to this MSA.

4. US Government Configuration Baseline

4.1. The Publisher shall comply with the requirements of the US Government Configuration Baseline (USGCB) as specified at <http://usgcb.nist.gov/to> ensure applications are fully functional and operate correctly as intended. The standard installation, operation, maintenance, updates, and/or patching of software shall not alter the configuration settings from the approved USGCB configuration.

4.2. Applications designed for normal end users shall run in the standard user context without elevated system administration privileges.

4.3 DoD buyers may require compliance with additional baseline configuration requirements.

5. Net-Centricity

5.1 The Department of Defense is transforming the way information is managed to accelerate decision-making, improve joint warfighting and create intelligence advantages. To reach this Net-Centric state, DoD must exploit advancing technologies that move the enterprise from an application centric to a data-centric paradigm. DoD ESI Contractor partners are encouraged to use the OSD NII DCIO Net-Centric Checklist, located at http://www.defenselink.mil/cionii/docs/NetCentric_Checklist_v2-1-3_.pdf to provide information

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on the Net-Centric posture of their IT products and services. Licensees shall obtain licenses which do not restrict the ownership of DoD Data as set out in 7.2 of this MSA.

6. Section 508 of the Rehabilitation Act Compliance

6.1 SECTION 508. If applicable, Section 508 compliance information on supplies and services in this contract, are available by calling IBM's Federal Information Call Center at 1-800-333-6705. IBM would provide a VPAT with each Deliver Order.

7. Intellectual Property Rights and Data Ownership.

7.1 Data Ownership. The DoD Data belongs to DoD and Publisher makes no claim to any right of ownership in it. If Publisher is granted access to DoD DATA, Publisher agrees to keep the DoD Data Confidential as that term is defined in the Glossary (Attachment A) and the relevant FAR and DFARS provisions pertaining to Confidential Information and Confidentiality. Upon DoDs request, for any reason whatsoever, Contractor must promptly return all DoD Data in Contractors possession in comma separated value (CSV) format.

7.2 Patent and Copyright Claims. If a third party claims that a Program IBM provides to the Government infringes that party's patent or copyright, IBM will indemnify the Government, its officers, agents, and employees against liability, at IBM's expense and pay all costs, damages, and attorneys fees that a court finally awards or that are included in a settlement approved by IBM, provided that the Government:

- A. Promptly notifies IBM in writing of the claim; and
- B. Gives IBM such opportunity as is offered by applicable laws, rules or regulations to participate in the defense thereof. The Government shall make every effort to permit IBM to fully participate in the defense and/or in any settlement of such claim. However, IBM understands that such participation will be under the control of the Department of Justice.

Remedies

If such a claim is made or appears likely to be made, the Government agrees to permit IBM to enable the Government to continue to use the Program, or to modify it, or replace it with one that is at least functionally equivalent. If IBM determines that none of these alternatives is reasonably available, the Government agrees to return the Program to IBM on IBM's written request. IBM will then give the Government a credit equal to the amount paid by the Government or 12 months' charges (whichever is less).

This is subject to the Government's right to require continued use of the Program pursuant to the provisions of 28 USC 1498. In the event of such continued use, the Government shall notify IBM in writing of its election to continue use and agrees to undertake at the Government's expense the defense of any action against the Government and IBM shall have no further indemnification obligation; it being understood that IBM may participate at its expense in the defense of any such action if such claim is against IBM.

Claims for Which IBM is Not Responsible:

IBM has no obligation regarding any claim based on any of the following:

- A. The Government's modification of a Program, or a Program's use in other than its Specified Operating Environment;
- B. Anything the Government provides which is incorporated into a Program or IBM's compliance with any designs, specifications, or instructions provided by the Government or by a third party on behalf of the Government;
- C. The combination, operation, or use of a Program with other products not provided by IBM as a system, or the combination, operation or use of a product with any product, data, apparatus, or business method that IBM did not provide, or the distribution, operation or use of a Program for the benefit of a third party;
- D. Infringement by a non-IBM product.
- E. Programs use other than in accordance with its applicable licenses and restrictions or use of a non-current version or release of a Program, when a claim could have been avoided or the risk of a claim reduced by using the current version or release;
- F. the distribution, operation, or use of the Program outside Governments enterprise or for the benefit of any third party; or
- G. Separately Licensed Code, if any, as identified in the LI for the Program.

The LI for the Program or other documents may permit the Government to copy, modify, or redistribute all or portions of the Program without paying additional licensing fees to IBM. The indemnification obligation under this Patent and Copyright provision only applies to copies of the Program provided to the Government by IBM and additional copies expressly authorized in a proof of entitlement (PoE). IBM has no obligation for claims relating to copies of the Program neither provided by IBM nor specifically authorized by a PoE, even if permitted by the LI for the Program or other documents.

These Patent and Copyright terms do not obligate in any manner any third-party supplier of code (including Separately Licensed Code) included with or part of the Program.

The foregoing states the entire obligation of IBM with respect to infringement of patents or copyrights.

8. Delivery.

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8.1 Delivery. Publishers delivery of the Programs to DoD shall be by electronic download, if available, or as otherwise specified in Delivery Orders, FOB Destination.

9. Title and Risk of Loss. Publisher agrees that DoD will deal directly with Publisher on any claims for loss or damage to a Program in a tangible form and that DoD shall not be required to assert any claims for loss or damage against the common carrier or insurers. If licensed Programs in a tangible form are lost or damaged during shipment from IBM, IBM will replace such licensed Programs and Program storage media at no additional charge to the Government. If licensed programs are lost or damaged while in the possession of the Government, IBM will replace such licensed Programs at the then current commercial charges, if any, for processing, distribution, and/or program storage media. Such charges will be outside the scope of this Agreement.

10. Audit

10.1. The Government agrees to create, retain, and provide to IBM and its auditors written records, system tool outputs, and other system information sufficient to provide auditable verification to IBM that your installation and use of Licensed Programs is in compliance with the terms herein.

Unless otherwise mutually agreed to, upon 30 days written request, and no more frequently than annually, IBM may audit the use of programs provided under any order.

You further agree that IBM and its auditors may verify your compliance with the terms herein by, among other things, having reasonable access to premises in which you use or install Licensed Programs. IBM agrees to use personnel with appropriate security clearances when required. IBM will invoice You for any additional charges to which You become obligated as determined by an audit. The provisions in this paragraph shall remain in effect during the term of this Agreement and for a reasonable time thereafter to confirm deployment and use of the Licensed Programs during the term of this Agreement.

The audit will be designed to verify your compliance with the applicable governing terms and conditions at all sites and environments in which you use the Licensed Programs, and will be conducted in a manner that minimizes disruption to your business, during normal business hours, and may be conducted on your premises. The audit will be conducted using various data collection methods, including manual questionnaires and system diagnostic tools, designed to measure and compare your IBM software deployments against your entitlements. The auditor will afford you an opportunity to review and understand the audit process and methodologies in detail at a kickoff meeting prior to the commencement of the review.

10.2. Nothing herein will be deemed to prevent DoD from conducting an internal review of its use and deployment of a Program for its own asset management purposes provided that such internal review will not modify Licensor's verification rights and may not be used as a basis for determining Licensor's audit findings. Notwithstanding Publisher audit provisions to the contrary, DoD may perform an internal audit of The Program use and will use its best efforts to keep full and accurate accounts that may be used to properly ascertain and verify numbers of licenses, users or subscription parameters in use. Upon Publisher written request, DoD may provide audit reports to Publisher from Licensees internal audit records as the sole means of satisfying Publishers requests for audit.

10.3. At the Delivery Order level and upon mutual agreement between the parties, an alternative audit approach may be considered.

11. Publisher Warranties, Disclaimers, Exclusive Remedies.

11.1. Intellectual Property Warranty. Publisher represents and warrants that, as of the Effective Date:

11.1.1. Publisher 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 each Program to the extent set forth in this Agreement or any Delivery Order. In the event of a breach of this Section 11.1.1, the parties rights and obligations in the governments remedies, shall be governed by Section 7.2 above.

11.1.2. Provided the licensee uses the Program in accordance with its specifications and license terms, Publisher has obtained all necessary licenses for DoD to any third party materials provided as part of Publishers standard off-the-shelf Programs (including without limitation, all open source licenses) provided with each Program. In the event of a breach of this Section 11.1.2, the parties rights and obligations in the governments remedies, shall be governed by Section 7.2 above;

11.1.3 Provided Licensee has in use the most current anti-virus protection code available, Publisher warrants that it has not intentionally placed any Harmful Code into a standard Program licensed under this Agreement. IBM's sole obligation and Licensees exclusive remedy for any breach of this warranty is for IBM to replace the infected Program or, at IBMs reasonable discretion, part of the Program with the same IBM Program or part of the Program, as applicable, not containing such Harmful Code. Harmful Code is defined for these purposes as any self-propagating program that infects and damages another program.

12. License Assignment and Transfer

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12. 1 For the purposes of this Agreement and the licensing of a Program under the BPA only, the term DoD Component means any of the following: i) The Department of Defense parent units (for clarity, DoD parent units excludes the departments or components listed in items ii through x): ii) the Department of the Air Force, iii) Department of the Army, iv) Department of the Navy, v) the Defense Information Systems Agency, vi) Defense Intelligence Agency, vii) Defense Logistics Agency, viii) the Defense Threat Reduction Agency, ix) National Geospatial Intelligence Agency, x) National Reconnaissance Office, and xi) the National Security Agency. The term DoD Component does not include any future business or Government entities or assets of business or Government entities which would become part of the DoD Component through any organizational changes or realignments after the effective date of the BPA to which this Agreement is attached. Program and Software Maintenance (S&S) offerings shall only be used within the DoD Component to which the Programs are licensed and the Software Maintenance is performed. Although it is generally envisioned that licenses may be transferred from one DoD Component to another DoD Component, none of the licenses granted hereunder nor any of the licensed Programs or copies thereof may be sub-licensed, assigned, or transferred without the prior written consent IBM. Any attempt to sub-license, assign, or transfer any of the rights, duties, or obligations under this Agreement are void. Delivery Orders may contain terms which provide for narrower, more limited or different organizational use than set out hereunder.

In Witness whereof, the parties have caused this License to be executed by their duly authorized representatives effective as of the Effective Date shown in block three (3) of the BPA.

*** END OF NARRATIVE J0002 ***