



**AUTHORIZED FEDERAL ACQUISITION SERVICE
INFORMATION TECHNOLOGY SCHEDULE PRICELIST
GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY
SOFTWARE**

Special Item 132-33 Perpetual Software Licenses
Special Item 132-34 Maintenance of Software

Note: Notwithstanding the FSC CLASS listings below, only software that is available under the GSA BPA's listed in the Special Notices to Agencies section of the Information for Ordering Office section below is available under this Contract. A much wider software offering is available under the other (unrestricted as to products/customers) Dell Marketing L.P. GSA Schedule 70 contract, GS-35F-4076D.

SIN 132-33 - PERPETUAL SOFTWARE LICENSES

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

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

FSC CLASS 7030 - INFORMATION TECHNOLOGY SOFTWARE

Large Scale Computers

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

Microcomputers

- Operating System Software
- Application Software
- Electronic Commerce (EC) Software
- Utility Software
- Communications Software
- Core Financial Management Software

Ancillary Financial Systems Software
Special Physical, Visual, Speech, and Hearing Aid Software

SIN 132-34 - MAINTENANCE OF SOFTWARE

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

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

Dell Marketing L.P.
One Dell Way
Round Rock, Texas 78682
(800) 727-1100
Internet Address: <http://www.dell.com/fed>

Contract Number: GS-35F-4027D

Contract Period: March 1, 1996 - October 31, 2013
General Services Administration
Federal Acquisition Service

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

INFORMATION FOR ORDERING OFFICES

SPECIAL NOTICES TO AGENCIES:

1. This Contract is restricted to the below listed GSA Blanket Purchase Agreement that were in place at the time this Contract was novated from ASAP Software Express, Inc. to Dell Marketing L.P. in 2009:

Customer	BPA#	Expiration	Software Products
USDA BPA	AG-3142-B-09-0004	3/31/2013	Microsoft Enterprise and Select
Social Security Administration	SS00-09-40002	10/31/2013	Microsoft Enterprise

As such, there is no opportunity for Small Business Participation is, unless in the form of purchases through Letters of Delegation specific to these BPA's.

1. GEOGRAPHIC SCOPE OF CONTRACT

The geographic scope of this contract is worldwide.

2. ORDERING AND PAYMENT ADDRESSES

ORDERING ADDRESS

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

PAYMENT ADDRESS

Standard Remittance Address:

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

Overnight Mail Remittance Address:

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

Wire Transfer Information

Payee/Company Information:

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

Financial Institution Information:

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

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

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

The following telephone number(s) can be used by ordering offices to obtain technical and/or ordering assistance: (800) 727-1100

The following telephone numbers may be used by ordering office to place delivery orders and/or obtain technical/ordering assistance. If you do not find a number appropriate for your Agency, please contact either your Dell Sales Representative or the Dell GSA Schedule contact listed on GSA's *e-schedules library* site.

Civilian Agencies

Social Security Administration: 1-866-501-9403
USDA: 1-877-416-4332

Department of Defense

US Army: 1-877-377-0247
US Air Force: 1-877-377-0249
US Navy: 1-877-377-0251
US Marine Corps: 1-877-377-0251
Other DoD Agencies: 1-877-377-0245

3. LIABILITY FOR INJURY OR DAMAGE

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

4. STATISTICAL DATA FOR GOVERNMENT ORDERING OFFICE COMPLETION OF STANDARD FORM 279

Block 9: G. Order/Modification Under Federal Schedule
Block 16: Data Universal Numbering System (DUNS) Number: **877936518**
Block 30: Type of Contractor: C. Large Business
Block 31: Woman-Owned Small Business: No
Block 37: Contractor's Tax Identification Number (TIN): **74-2616805**
Block 40: Veteran Owned Small Business (VOSB): No

a. Cage Code: **3DMD3**

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

5. FOB POINT

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

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

Outside the U.S. (OCONUS):

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

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

6. DELIVERY SCHEDULE

a. TIME OF DELIVERY. The contractor shall deliver to CONUS destinations within the number of calendar days after receipt of order (ARO), as set forth below. Offerors shall insert in the "time of Delivery (days ARO)" column in the Schedule of Items a definite number of calendar days within which delivery will be made. In no case shall the offered delivery time exceed the contractor's normal commercial practice. The contractor shall ship orders to destinations OCONUS within the shipping times specified below.

ITEMS OR GROUPS	DELIVERY TIME
132-33	1-30
132-34	1-30

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

As negotiated at the time of ordering office request.

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

b. URGENT REQUIREMENTS. When the Federal Supply Schedule contract delivery period does not meet the bona fide urgent delivery requirements for an ordering agency, agencies are encouraged, if time permits, to contact the contractor for the purpose of obtaining accelerated delivery. The contractor shall reply to the inquiry within 3 workdays after receipt. (Telephonic replies shall be confirmed by the Contractor in writing.) If the Contractor offers an accelerated delivery time acceptable to the ordering agency, any order(s) placed pursuant to the agreed upon

accelerated delivery time frame shall be delivered within this shorter delivery time and in accordance with all other terms and conditions of the contract.

7. DISCOUNTS AND PAYMENT TERMS

- a. **PRICES.** Prices listed herein are net; the IFF have already been deducted.
- b. **SPECIAL PRICING.** Ordering offices are encouraged to compete their large requirements among GSA FSS Schedule 70 contractors, and Schedule contractors are encouraged to quote lower "spot prices" for individual opportunities. The resulting competitive price may be included in a Delivery Order without triggering the Price Reduction clause.

Special pricing may be available for large requirements. Call (800) 727-1100 to discuss with your Sales Representative.

d. PAYMENT TERMS:

- i. Net 30 days from receipt of invoice or completion of acceptance, whichever is later - payment by check or EFT. Net 30 days invoices are payable by credit card upon payment by the customer of a two percent (2%) finance charge, to compensate Dell for the charge Dell must pay the credit card processing financial institution.
 - ii. Credit card payments are accepted provided billing is authorized at the time of shipment. Dell does not offer my additional discount for their use. No Finance Charge is assessed where Dell is authorized to charge the credit card at the time of shipment.
- e. **GOVERNMENT EDUCATIONAL INSTITUTIONS:** Government Educational Institutions are offered the same discounts as all other Government customers.

8. TRADE AGREEMENTS ACT OF 1979, AS AMENDED

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

9. STATEMENT CONCERNING AVAILABILITY OF EXPORT PACKING

Export packing is outside the scope of this Contract.

10. SMALL REQUIREMENTS

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

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

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

Special Item Number 132-33 - Perpetual Software Licenses
Special Item Number 132-34 - Maintenance of Software

11. ORDERING PROCEDURES FOR FEDERAL SUPPLY SCHEDULE CONTRACTS

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

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

13. FEDERAL INFORMATION TECHNOLOGY/TELECOMMUNICATIONS STANDARDS REQUIREMENTS

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

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

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

obtained by writing or calling the U.S. Department of Commerce, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone number (301)975-2833.

14. CONTRACTOR TASKS / SPECIAL REQUIREMENTS (C-FSS-370) (NOV 2003)

- a. **SECURITY CLEARANCES:** The Contractor may be required to obtain/possess varying levels of security clearances in the performance of orders issued under this contract. All costs associated with obtaining/possessing such security clearances will be negotiated with the ordering office on an individual Multiple Award Schedule task/delivery order basis.
- b. **TRAVEL:** The Contractor may be required to travel in performance of orders issued under this contract. Allowable travel and per diem charges are governed by Pub .L. 99-234 and FAR Part 31, and are reimbursable by the ordering agency or can be priced as a fixed price item on orders placed under the Multiple Award Schedule. Travel in performance of a task order will only be reimbursable to the extent authorized by the ordering agency. The Industrial Funding Fee does NOT apply to travel and per diem charges.
- c. **CERTIFICATIONS, LICENSES AND ACCREDITATIONS:** As a commercial practice, the Contractor may be required to obtain/possess any variety of certifications, licenses and accreditations for specific FSC/service code classifications offered. All costs associated with obtaining/ possessing such certifications, licenses and accreditations should be factored into the price offered under the Multiple Award Schedule program.
- d. **INSURANCE:** As a commercial practice, the Contractor may be required to obtain/possess insurance coverage for specific FSC/service code classifications offered. All costs associated with obtaining/possessing such insurance should be factored into the price offered under the Multiple Award Schedule program.
- e. **PERSONNEL:** The Contractor may be required to provide key personnel, resumes or skill category descriptions in the performance of orders issued under this contract. Ordering activities may require agency approval of additions or replacements to key personnel.
- f. **ORGANIZATIONAL CONFLICTS OF INTEREST:** Where there may be an organizational conflict of interest as determined by the ordering agency, the Contractor's participation in such order may be restricted in accordance with FAR Part 9.5, in the event a mitigation plan is unable to be agreed upon between the order office and the contractor.
- g. **DOCUMENTATION/STANDARDS:** The Contractor may be requested to provide products or services in accordance with rules, regulations, OMB orders, standards and documentation as specified by the agency's order.
- h. **DATA/DELIVERABLE REQUIREMENTS:** Any required data/deliverables at the ordering level will be as specified or negotiated in the agency's order.
- i. **GOVERNMENT-FURNISHED PROPERTY:** As specified by the agency's order, the Government may provide property, equipment, materials or resources as necessary. Contractor does not maintain a Government approved property management system.

j. **AVAILABILITY OF FUNDS:** Many Government agencies' operating funds are appropriated for a specific fiscal year. Funds may not be presently available for any orders placed under the contract or any option year. The Government's obligation on orders placed under this contract is contingent upon the availability of appropriated funds from which payment for ordering purposes can be made. No legal liability on the part of the Government for any payment may arise until funds are available to the ordering Contracting Officer. It is at the Contractor's sole discretion whether to accept an order(s) where funds are not yet available

k. **OVERTIME:** For professional services, the labor rates in the Schedule should not vary by virtue of the Contractor having worked overtime. For services applicable to the Service Contract Act (as identified in the Schedule), the labor rates in the Schedule will vary as governed by labor laws (usually assessed a time and a half of the labor rate).

15. CONTRACT ADMINISTRATION FOR ORDERING OFFICES.

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

16. GSA Advantage!™

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

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

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

17. PURCHASE OF INCIDENTAL, NON-SCHEDULE ITEMS

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

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

- i. All applicable acquisition regulations pertaining to the purchase of the items not on the Federal Supply Schedule have been followed (e.g., publicizing (Part 5),

competition requirements (Part 6), acquisition of commercial items (Part 12), contracting methods (Parts 13, 14, and 15), and small business programs (Part 19));

- ii. The ordering activity contracting officer has determined the price for the items not on the Federal Supply Schedule is fair and reasonable;
- iii. The items are clearly labeled on the order as items not on the Federal Supply Schedule; and
- iv. All clauses applicable to items not on the Federal Supply Schedule are included in the order.

18. CONTRACTOR COMMITMENTS, WARRANTIES AND REPRESENTATIONS

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

- i. Time of delivery/installation quotations for individual orders;
- ii. Technical representations and/or warranties of products concerning performance, total system performance and/or configuration, physical, design and/or functional characteristics and capabilities of a product/equipment/service/software package submitted in response to requirements which results in orders under this schedule contract.
- iii. Any representations and/or warranties made concerning the products made in any literature, description, drawings and/or specifications furnished by the Contractor.

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

19. OVERSEAS ACTIVITIES

The terms and conditions of this contract shall apply to all orders for delivery and maintenance of equipment in areas listed in the price list outside the 48 contiguous states, Hawaii, Alaska and the District of Columbia except for the following modifications:

- a. In place of a delivery date for equipment, a shipping date shall be specified on the order.
- b. All items being offered in this GSA Schedule are user installable. Additional on-site installation and maintenance is not provided under this GSA Schedule.

20. BLANKET PURCHASE AGREEMENT (BPAs)

The use of BPAs under any schedule contract to fill repetitive needs for supplies or services is allowable. BPAs may be established with one or more schedule contractors. The number of BPAs to be established is within the discretion of the ordering activity establishing the BPA and should be

based on a strategy that is expected to maximize the effectiveness of the BPA(s). Ordering activities shall follow FAR 8.405-3 when creating and implementing BPA(s).

21. CONTRACTOR TEAM ARRANGEMENTS

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

22. INSTALLATION, DEINSTALLATION, REINSTALLATION

All items being offered in this GSA Schedule are user installable.

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

The ordering activity issuing the task order against this contract will be responsible for proper administration and enforcement of the Federal labor standards covered by the Davis-Bacon Act. The proper Davis-Bacon wage determination will be issued by the ordering activity at the time a request for quotations is made for applicable construction classified installation, de-installation, and reinstallation services under SIN 132-8 or 132-9.

23. SECTION 508 COMPLIANCE

If applicable, Section 508 compliance information on the supplies and services in this contract are available in Electronic and Information Technology (EIT) at the following:

<http://www.dell.com/content/topics/reftopic.aspx/pub/508?c=us&cs=RC1009777&l=en&s=fed>

Voluntary Product Accessibility Template (VPAT) for Dell products may be requested by email to Regulatory_Compliance@Dell.com. Please include the following text within the subject line of your e-mail "Request for Voluntary Product Accessibility Template (VPAT)".

The EIT standard can be found at: www.Section508.gov/

24. ELECTRONIC GSA INFORMATION

Given the restricted scope of this Contract, Dell's GSA Terms and Conditions, as well as Dell's GSA product and pricing, are available from Dell's GSA Contract Manager, upon request.

25. PRIME CONTRACTOR ORDERING FROM FEDERAL SUPPLY SCHEDULES.

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

- a. A copy of the authorization from the ordering activity with whom the contractor has the prime contract (unless a copy was previously furnished to the Federal Supply Schedule contractor); and
- b. The following statement: "This order is placed under written authorization from _____ dated _____. In the event of any inconsistency between the terms and conditions of this order and those of your Federal Supply Schedule contract, the latter will govern."

27. INSURANCE—WORK ON A GOVERNMENT INSTALLATION (JAN 1997)(FAR 52.228-5)

- a. The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.
- b. Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective—
 - i. For such period as the laws of the State in which this contract is to be performed prescribe; or
 - ii. Until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.
- c. The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

28. SOFTWARE INTEROPERABILITY

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

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

1. INSPECTION/ACCEPTANCE

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

2. GUARANTEE/WARRANTY

a. Warranty/License

i. Dell Software. This subparagraph covers all software that is distributed with the Dell product, for which there is no separate license agreement between the buyer and the manufacturer or owner of the software. The warranty and license agreement is available at www.dell.com (click on the “Terms and Conditions of Sale” link, followed by the “Dell Software License Agreement” link).

ii. Third-party software products.

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

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

c. Limitation of Liability. Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the ordering activity for consequential damages resulting from any defect or deficiencies in accepted items.

d. Return Policy. The ordering activity may return products to Dell up to 30 days from the day they are delivered. To return products, you must call Dell Customer Service (800) 284-1200 to receive a Credit Return Authorization Number. You must ship the products to Dell in their original packaging or equivalent, prepay the shipping charges, and you must insure the shipment or accept the risk of loss or damage during shipment. Software is returnable only if the sealed package containing the diskettes is unopened. Returned products must be in as new condition, and all of the manuals, diskettes, power cords and other items included with a product must be returned with it.

3. SOFTWARE MAINTENANCE

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

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

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

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

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

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

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

Software maintenance as a service is billed in arrears in accordance with 31 U.S.C. 3324. Invoices for maintenance service shall be submitted by the Contractor on a quarterly or monthly basis, after the completion of such period. Maintenance charges must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

4. TECHNICAL SERVICES

The contractor, without additional charge to the Government, shall provide a point of contact the purpose of which is to provide user assistance and guidance in the implementation of the operating system software for the first 30 days from the date of acceptance. User assistance may be provided by Dell or the software manufacturer. Assistance is available through Dell Technical Support; the Technical Support telephone numbers may vary by product type and are available online (as is support via chat and email) on the "Call Technical Support" page at:

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

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

5. PERIODS OF TERM MAINTENANCE (132-34)

- a. The Contractor shall honor orders for periods for the duration of the contract period or a lesser period of time.
- b. Term Licenses and/or maintenance may be discontinued by the ordering activity on thirty (30) calendar day's written notice to the Contractor.
- c. Annual Funding. When annually appropriated funds are cited on an order for maintenance, the period of maintenance shall automatically expire on September 30 of the contract period, or at the end of the contract period, whichever occurs first. Renewal of the maintenance orders citing the new appropriation shall be required, if the maintenance is to be continued during any remainder of the contract period.
- d. Cross-Year Funding Within Contract Period. Where an ordering activity's specific appropriation authority provides for funds in excess of a 12 month (fiscal year) period, the ordering activity may place an order under this schedule contract for a period up to the expiration of the contract period, notwithstanding the intervening fiscal years.
- e. Ordering activities should notify the Contractor in writing thirty (30) calendar days prior to the expiration of an order, if the maintenance is to be terminated at that time. Orders for the continuation of maintenance will be required if the maintenance is to be continued during the subsequent period.

6. UTILIZATION LIMITATIONS - (132-33 AND 132-34)

- a. Software acquisition is limited to commercial computer software defined in FAR Part 2.101.
- b. When acquired by the ordering activity, commercial computer software and related documentation so legend shall be subject to the following:
 - i. Title to and ownership of the software and documentation shall remain with the Contractor, unless otherwise specified.
 - ii. Software licenses are by site and by ordering activity. An ordering activity is defined as a cabinet level or independent ordering activity. The software may be used by any subdivision of the ordering activity (service, bureau, division, command, etc.) that has access to the site the software is placed at, even if the subdivision did not participate in the acquisition of the software. Further, the software may be used on a sharing basis where multiple agencies have joint projects that can be satisfied by the use of the software placed at one ordering activity's site. This would allow other agencies access to one ordering

activity's database. For ordering activity public domain databases, user agencies and third parties may use the computer program to enter, retrieve, analyze and present data. The user ordering activity will take appropriate action by instruction, agreement, or otherwise, to protect the Contractor's proprietary property with any third parties that are permitted access to the computer programs and documentation in connection with the user ordering activity's permitted use of the computer programs and documentation. For purposes of this section, all such permitted third parties shall be deemed agents of the user ordering activity.

iii. Except as is provided in paragraph 8.b(2) above, the ordering activity shall not provide or otherwise make available the software or documentation, or any portion thereof, in any form, to any third party without the prior written approval of the Contractor. Third parties do not include prime Contractors, subcontractors and agents of the ordering activity who have the ordering activity's permission to use the licensed software and documentation at the facility, and who have agreed to use the licensed software and documentation only in accordance with these restrictions. This provision does not limit the right of the ordering activity to use software, documentation, or information therein, which the ordering activity may already have or obtains without restrictions.

iv. The ordering activity shall have the right to use the computer software and documentation with the computer for which it is acquired at any other facility to which that computer may be transferred, or in cases of disaster recovery, the ordering activity has the right to transfer the software to another site if the ordering activity site for which it is acquired is deemed to be unsafe for ordering activity personnel; to use the computer software and documentation with a backup computer when the primary computer is inoperative; to copy computer programs for safekeeping (archives) or backup purposes; to transfer a copy of the software to another site for purposes of benchmarking new hardware and/or software; and to modify the software and documentation or combine it with other software, provided that the unmodified portions shall remain subject to these restrictions.

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

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

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

COMMITMENT

To actively seek and partner with small businesses.

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

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

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

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

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

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

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

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