

THIS SERVICES AGREEMENT (this "Agreement") is entered into as of April 28, 2015 ("Effective Date"), by and between COUNTY OF MONTEREY ("County") on behalf of the MONTEREY COUNTY HEALTH DEPARTMENT, and EXECUTIVE INFORMATION SYSTEMS, L.L.C., a Maryland Corporation ("Contractor"). County and Contractor are sometimes referred to in this Agreement as a "Party" or, collectively, as the "Parties."


The Parties agree as follows:

1. APPLICATION OF GSA Agreement, Contract No. GS-35F-0170K. The Parties agree to apply and incorporate by reference to this Agreement the terms and conditions of the sections entitled *Information for Ordering Activities Applicable to All Special Item Numbers* and *Terms and Conditions Applicable to Perpetual Software License (Special Item Number 132-33) of General Purpose Commercial Information Technology Software* of the federal General Services Administration ("GSA") Agreement with Executive Information Systems, LLC, Contract No. GS-35F-0170K ("GSA Agreement, Contract No. GS-35F-0170K"). A copy of GSA Agreement, Contract No. GS-35F-0170K, is attached to this Agreement as Exhibit A. All terms and conditions described in these sections shall apply to Contractor and to County standing in the place of the party designated in GSA Agreement, Contract No. GS-35F-0170K as "Customer."
2. DEFINITIONS.
 - a. "Product" means all software, software licenses, and software maintenance and support identified in Purchase Requests and purchased pursuant to this Agreement.
 - b. "Purchase Request" means CONTRACTOR's form of purchase request used for ordering Product pursuant to this Agreement.
 - c. "Purchase Order" means County's form of purchase order used for ordering Product pursuant to this Agreement.
3. This Agreement is not a commitment by County to purchase product from Contractor.
4. Product will be purchased on an "as ordered" basis through the use of one or more Purchase Requests executed by the Parties and one or more Purchase Orders issued by County.
5. Each Purchase Request and accompanying Purchase Order shall be deemed a separate agreement that incorporates the terms and conditions of this Agreement by reference.
6. This Agreement expires on March 31, 2020, unless sooner terminated by one of the Parties.

7. Either Party may cancel this Agreement, without cause, with a thirty day (30) written notice.

IN WITNESS WHEREOF, County and Contractor hereto have executed this Agreement by authority as follows:

COUNTY OF MONTEREY

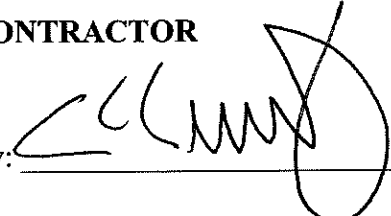
By: 
Mike Derr, Contracts/Purchasing Officer

Date: 5/11/15

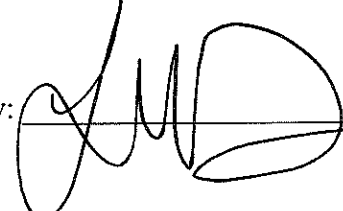
By: _____
Ray Bullick, Director of Health or designee

Date: _____

CONTRACTOR

By: 

Date: 04/21/15

By: 

Date: 4-21-15

Approved as to Legal Form:

By: 
Deputy County Counsel

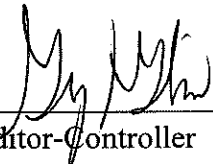
Date: 5/5/15

Approved as to Liability Provisions:

By: _____
County Risk Management

Date: _____

Approved as to Fiscal Provisions:

By: 
County Auditor-Controller

Date: 5-5-15



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

Special Item No. 132-33 Perpetual Software License

Special Item No. 132-50 Training Courses

Special Item No. 132-51 Information Technology Professional Services

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

Executive Information Systems, LLC

6901 Rockledge Drive, Suite 600

Bethesda, MD 20817

(301) 581-8594

FAX (301) 581-2573

www.execinfosys.com

Contract Number:

GS-35F-0170K

Period Covered by Contract:

December 22, 1999 through June 19, 2015

General Services Administration
Federal Supply Service

Pricelist current through Modification #PO0272, dated December 17th, 2014.

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

SIN 132-33 - PERPETUAL SOFTWARE LICENSE

Includes operating system software, application software, EDI translation and mapping software, enabled E-mail message based products, Internet software, database management programs, and other software.

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 under SIN 132.34 Software Maintenance as a Service.

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

SIN 132-50 - TRAINING COURSES

Includes training.

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

Includes resources and facilities management, database planning and design, systems analysis and design, network services, programming, millennium conversion services, conversion and implementation support, network services project management, data/records management, subscriptions/publications (electronic media), and other services.

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

Note 2: Offerors and Agencies are advised that the Group 70 – Information Technology Schedule is not to be used as a means to procure services which properly fall under the Brooks Act. These services include, but are not limited to, architectural, engineering, mapping, cartographic production, remote sensing, geographic information systems, and related services. FAR 36.6 distinguishes between mapping services of an A/E nature and mapping services which are not connected nor incidental to the traditionally accepted A/E Services.

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

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

SPECIAL NOTICE TO AGENCIES: Small Business Participation

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

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

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

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

1. Geographic Scope of Contract:

48 Contiguous States, the District of Columbia, Alaska, Hawaii and Puerto Rico

2. Contractor's Ordering Address and Payment Information:

Executive Information Systems, LLC
Attn: Sales
6901 Rockledge Drive, Suite 600
P.O. Box 34076
Bethesda, MD 20817-0076

Contractor's Payment Information:
Executive Information Systems, LLC
Attn: Accounting
P.O. Box 34076
Bethesda, MD 20827-0076

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

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

(301) 581-8594

When Authorized Dealers are allowed by the Contractor to bill ordering activities and accept payment, the order and/or payment must be in the name of the Contractor, in care of the Authorized Dealer.

3. LIABILITY FOR INJURY OR DAMAGE

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

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

Block 9: G. Order/Modification Under Federal Schedule

Block 16: Data Universal Numbering System (DUNS) Number: 93-828-9527

Block 30: Type of Contractor - B. Other Small Business

Block 31: Woman-Owned Small Business - No

Block 36: Contractor's Taxpayer Identification Number (TIN): 52-2198860

4a. CAGE Code: INM64

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

5. FOB Destination

6. DELIVERY SCHEDULE

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

SPECIAL ITEM NUMBER	DELIVERY TIME (Days ARO)
132-33	30 Days
132-50	30 Days
132-51	As negotiated between the ordering agency and the contractor

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

7. Discounts: Prices shown are NET Prices; Basic Discounts have been deducted.

a. Prompt Payment: Net 0% -30 days from receipt of invoice or date of acceptance, whichever is later.

b. Quantity: Discount already deducted.

c. Dollar Volume:

\$200,000 to \$349,000	1%
\$350,000 to \$499,000	2%
\$500,000 to \$749,000	3%
\$750,000 and up	4%

Note: The dollar volume discounts apply on a per purchase order basis for software and/or software maintenance (SINs132-33). The purchase order must include a single site for a server, mainframe or desktop package and cannot be used in combination with additional discounts/concessions from current GSA Schedule pricing.

- d. Government Educational Institutions are offered the same discounts as all other Agency customers
 - e. Other: None
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:
10. Small Requirements: The minimum dollar value of orders to be issued is \$100.
11. Maximum Order (All dollar amounts are exclusive of any discount for prompt payment.)
- a. The Maximum Order value for the following Special Item Numbers (SINs) is \$500,000:
Special Item Number 132-33 – Perpetual Software License
Special Item Number 132-51 – Information Technology (IT) Professional Services
 - b. The Maximum Order value for the following Special Item Numbers (SINs) is \$25,000:
Special Item Number 132-50 - Training Courses
12. USE OF FEDERAL SUPPLY SERVICE INFORMATION TECHNOLOGY SCHEDULE CONTRACTS.
In accordance with FAR 8.404:
- [NOTE: Special ordering procedures have been established for Special Item Numbers (SINs) 132-51 IT Professional Services and 132-52 EC Services; refer to the terms and conditions for those SINs.]**
- Orders placed pursuant to a Multiple Award Schedule (MAS), using the procedures in FAR 8.404, are considered to be issued pursuant to full and open competition. Therefore, when placing orders under Federal Supply Schedules, ordering activities need not seek further competition, synopsise the requirement, make a separate determination of fair and reasonable pricing, or consider small business set-asides in accordance with subpart 19.5. GSA has already determined the prices of items under schedule contracts to be fair and reasonable. By placing an order against a schedule using the procedures outlined below, the ordering activity has concluded that the order represents the best value and results in the lowest overall cost alternative (considering price, special features, administrative costs, etc.) to meet the ordering activity's needs.
- a. Orders placed at or below the micro-purchase threshold. ordering activities can place orders at or below the micro-purchase threshold with any Federal Supply Schedule Contractor.
 - b. Orders exceeding the micro-purchase threshold but not exceeding the maximum order threshold. Orders should be placed with the Schedule Contractor that can provide the supply or service that represents the best value. Before placing an order, ordering activities should consider reasonably available information about the supply or service offered under MAS contracts by using the "GSA Advantage!" on-line shopping service, or by reviewing the catalogs/pricelists of at least three Schedule Contractors and selecting the delivery and other options available under the schedule that meets the ordering activity's needs. In selecting the supply or service representing the best value, the ordering activity may consider--

- (1) Special features of the supply or service that are required in effective program performance and that are not provided by a comparable supply or service;
 - (2) Trade-in considerations;
 - (3) Probable life of the item selected as compared with that of a comparable item;
 - (4) Warranty considerations;
 - (5) Maintenance availability;
 - (6) Past performance; and
 - (7) Environmental and energy efficiency considerations.
- c. Orders exceeding the maximum order threshold. Each schedule contract has an established maximum order threshold. This threshold represents the point where it is advantageous for the ordering activity to seek a price reduction. In addition to following the procedures in paragraph b, above, and before placing an order that exceeds the maximum order threshold, ordering activities shall--

Review additional Schedule Contractors'

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

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

- (1) Offer a new lower price for this requirement (the Price Reductions clause is not applicable to orders placed over the maximum order in FAR 52.216-19 Order Limitations);
 - (2) Offer the lowest price available under the contract; or
 - (3) Decline the order (orders must be returned in accordance with FAR 52.216-19).
- d. Blanket purchase agreements (BPAs). The establishment of Federal Supply Schedule BPAs is permitted when following the ordering procedures in FAR 8.404. All schedule contracts contain BPA provisions. ordering activities may use BPAs to establish accounts with Contractors to fill recurring requirements. BPAs should address the frequency of ordering and invoicing, discounts, and delivery locations and times.
- e. Price reductions. In addition to the circumstances outlined in paragraph c, above, there may be instances when ordering activities will find it advantageous to request a price reduction. For example, when the ordering activity finds a schedule supply or service elsewhere at a lower price or when a BPA is being established to fill recurring requirements, requesting a price reduction could be advantageous. The potential volume of orders under these agreements, regardless of the size of the individual order, may offer the ordering activity the opportunity to secure greater discounts. Schedule Contractors are not required to pass on to all schedule users a price reduction extended only to an individual ordering activity for a specific order.
- f. Small business. For orders exceeding the micro-purchase threshold, ordering activities should give preference to the items of small business concerns when two or more items at the same delivered price will satisfy the requirement.
- g. Documentation. Orders should be documented, at a minimum, by identifying the Contractor the item was purchased from, the item purchased, and the amount paid. If an ordering activity

requirement, in excess of the micro-purchase threshold, is defined so as to require a particular brand name, product, or feature of a product peculiar to one manufacturer, thereby precluding consideration of a product manufactured by another company, the ordering activity shall include an explanation in the file as to why the particular brand name, product, or feature is essential to satisfy the ordering activity's needs.

13. FEDERAL INFORMATION TECHNOLOGY/TELECOMMUNICATION STANDARDS REQUIREMENTS: ordering activities acquiring products from this Schedule must comply with the provisions of the Federal Standards Program, as appropriate (reference: NIST Federal Standards Index). Inquiries to determine whether or not specific products listed herein comply with Federal Information Processing Standards (FIPS) or Federal Telecommunication Standards (FED-STDS), which are cited by ordering activities, shall be responded to promptly by the Contractor.
- 13.1 FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATIONS (FIPS PUBS): Information Technology products under this Schedule that do not conform to Federal Information Processing Standards (FIPS) should not be acquired unless a waiver has been granted in accordance with the applicable "FIPS Publication." Federal Information Processing Standards Publications (FIPS PUBS) are issued by the U.S. Department of Commerce, National Institute of Standards and Technology (NIST), pursuant to National Security Act. Information concerning their availability and applicability should be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161. FIPS PUBS include voluntary standards when these are adopted for Federal use. Individual orders for FIPS PUBS should be referred to the NTIS Sales Office, and orders for subscription service should be referred to the NTIS Subscription Officer, both at the above address, or telephone number (703) 487-4650.
- 13.2.1 FEDERAL TELECOMMUNICATION STANDARDS (FED-STDS): Telecommunication products under this Schedule that do not conform to Federal Telecommunication Standards (FED-STDS) should not be acquired unless a waiver has been granted in accordance with the applicable "FED-STD." Federal Telecommunication Standards are issued by the U.S. Department of Commerce, National Institute of Standards and Technology (NIST), pursuant to National Security Act. Ordering information and information concerning the availability of FED-STDS should be obtained from the GSA, Federal Supply Service, Specification Section, 470 East L'Enfant Plaza, Suite 8100, SW, Washington, DC 20407, telephone number (202)619-8925. Please include a self-addressed mailing label when requesting information by mail. Information concerning their applicability can be obtained by writing or calling the U.S. Department of Commerce, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone number (301)975-2833.
14. CONTRACTOR TASKS / SPECIAL REQUIREMENTS (C-FSS-370) (NOV 2001)
 - (a) Security Clearances: The Contractor may be required to obtain/possess varying levels of security clearances in the performance of orders issued under this contract. All costs associated with obtaining/possessing such security clearances should be factored into the price offered under the Multiple Award Schedule.
 - (b) Travel: The Contractor may be required to travel in performance of orders issued under this contract. Allowable travel and per diem charges are governed by Pub .L. 99-234 and FAR Part 31, and are reimbursable by the ordering agency or can be priced as a fixed price item on orders placed under the Multiple Award Schedule. The Industrial Funding Fee does NOT apply to travel and per diem charges.
 - (c) Certifications, Licenses and Accreditations: As a commercial practice, the Contractor may be required to obtain/possess any variety of certifications, licenses and accreditations for specific FSC/service code classifications offered. All costs associated with obtaining/ possessing such certifications, licenses and accreditations should be factored into the price offered under the Multiple Award Schedule program.

- (d) Insurance: As a commercial practice, the Contractor may be required to obtain/possess insurance coverage for specific FSC/service code classifications offered. All costs associated with obtaining/possessing such insurance should be factored into the price offered under the Multiple Award Schedule program.
- (e) Personnel: The Contractor may be required to provide key personnel, resumes or skill category descriptions in the performance of orders issued under this contract. Ordering activities may require agency approval of additions or replacements to key personnel.
- (f) Organizational Conflicts of Interest: Where there may be an organizational conflict of interest as determined by the ordering agency, the Contractor's participation in such order may be restricted in accordance with FAR Part 9.5.
- (g) Documentation/Standards: The Contractor may be requested to provide products or services in accordance with rules, regulations, OMB orders, standards and documentation as specified by the agency's order.
- (h) Data/Deliverable Requirements: Any required data/deliverables at the ordering level will be as specified or negotiated in the agency's order.
- (i) Government-Furnished Property: As specified by the agency's order, the Government may provide property, equipment, materials or resources as necessary.
- (j) Availability of Funds: Many Government agencies' operating funds are appropriated for a specific fiscal year. Funds may not be presently available for any orders placed under the contract or any option year. The Government's obligation on orders placed under this contract is contingent upon the availability of appropriated funds from which payment for ordering purposes can be made. No legal liability on the part of the Government for any payment may arise until funds are available to the ordering Contracting Officer.

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

16. **GSA Advantage!**

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

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

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

17. **PURCHASE OF OPEN MARKET ITEMS**

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

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

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

18. CONTRACTOR COMMITMENTS, WARRANTIES AND REPRESENTATIONS

- a. For the purpose of this contract, commitments, warranties and representations include, in addition to those agreed to for the entire schedule contract:
 - (1) Time of delivery/installation quotations for individual orders;
 - (2) Technical representations and/or warranties of products concerning performance, total system performance and/or configuration, physical, design and/or functional characteristics and capabilities of a product/equipment/ service/software package submitted in response to requirements which result in orders under this schedule contract.
 - (3) Any representations and/or warranties concerning the products made in any literature, description, drawings and/or specifications furnished by the Contractor.
- b. The above is not intended to encompass items not currently covered by the GSA Schedule contract. The above does not provide any warranty for SAS software or services other than as specifically set forth in the terms applicable to Special Items Nos. 132-33, 132-34, 132-50 and 132-51.

19. OVERSEAS ACTIVITIES

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

None.

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

20. BLANKET PURCHASE AGREEMENTS (BPAs)

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

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

Federal Supply Schedule contracts contain BPA provisions to enable schedule users to maximize their administrative and purchasing savings. This feature permits schedule users to set up "accounts" with Schedule Contractors to fill recurring requirements. These accounts establish a period for the BPA and

generally address issues such as the frequency of ordering and invoicing, authorized callers, discounts, delivery locations and times. Agencies may qualify for the best quantity/volume discounts available under the contract, based on the potential volume of business that may be generated through such an agreement, regardless of the size of the individual orders. In addition, agencies may be able to secure a discount higher than that available in the contract based on the aggregate volume of business possible under a BPA. Finally, Contractors may be open to a progressive type of discounting where the discount would increase once the sales accumulated under the BPA reach certain prescribed levels. Use of a BPA may be particularly useful with the new Maximum Order feature. See the Suggested Format, contained in this Schedule Pricelist, for customers to consider when using this purchasing tool.

21. CONTRACTOR TEAM ARRANGEMENTS

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

22. INSTALLATION, DEINSTALLATION, REINSTALLATION

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

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

23. SECTION 508 COMPLIANCE.

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:

www.execinfosys.com

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

24. PRIME CONTRACTOR ORDERING FROM FEDERAL SUPPLY SCHEDULES.

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

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

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

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

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

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

1. INSPECTION/ACCEPTANCE

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

2. GUARANTEE/WARRANTY

- a. Unless specified otherwise in this contract, the Contractor's standard commercial guarantee/warranty as stated in the contract's commercial pricelist will apply to this contract. All SAS software will substantially conform to its then-current user documentation. If the Software does not substantially conform, EIS will choose to make it conform, replace it with conforming Software or refund the current license fee paid. This is the exclusive remedy for breach of this warranty.
- b. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.
- c. **Limitation of Liability.** Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

For SAS software, EIS and its licensors are not liable for (1) special, incidental, indirect, consequential, punitive, or reliance damages (arising on contract or tort), or (2) any claim against the customer by a third party. EIS and its licensors are not required to provide the product authorization code if Customer is in breach of this Agreement or if all amounts due under this Agreement are not paid and are not liable for damages caused by the resulting Software interruption. Customer is responsible for implementing procedures to verify accuracy of data input and output. EIS' and its licensors' total liability for any claim relating to matters covered by this Agreement or use of the Software is limited to the license fees received from Customer for the Software product(s) at issue during the then-current license period.

3. TECHNICAL SERVICES

The Contractor, without additional charge to the ordering activity, shall provide a hot line technical support number (919) 677-8000 for the purpose of providing user assistance and guidance in the implementation of the software. The technical support number is available from Monday through Friday 9:00 AM to 6:00 PM EST exclusive of holidays.

4. SOFTWARE MAINTENANCE

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 under SIN 132.34 Software Maintenance as a Service.

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

5. INTENTIONALLY OMITTED

6. UTILIZATION LIMITATIONS - (132-33)

- a. Software acquisition is limited to commercial computer software defined in FAR Part 2.101.
- b. When acquired by the ordering activity, commercial computer software and related documentation so legend shall be subject to the following:
 - (1) Title to and ownership of the software and documentation shall remain with the Contractor, unless otherwise specified.
 - (2) Software licenses are by site and by ordering activity. An ordering activity is defined as a cabinet level or independent ordering activity as identified on each quotation issued or order placed herunder. Subject to the license restrictions set forth herein and in any order, 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 the government's data within such public domin databases. The user ordering activity will take appropriate action by instruction, agreement, or otherwise, to protect the Contractor's proprietary property with any third parties that are permitted access to the computer programs and documentation in connection with the user ordering activity's permitted use of the computer programs and documentation. For purposes of this section, all such permitted third parties shall be deemed agents of the user ordering activity.
 - (3) Except as is provided in paragraph 6.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 ordering activity's 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.

- (4) 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 combine it with other software.
- (5) "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.

For SAS software, the license is for use only by those employees of the agency licensing the software and any short-term on-site contractors while doing work for such agency.

7. SOFTWARE CONVERSIONS - (132-33)

Full monetary credit will be allowed to the ordering activity when conversion from one version of the software to another is made as the result of a change in operating system, or from one computer system to another. Under a perpetual license (132-33), the purchase price of the new software shall be reduced by the amount that was paid to purchase the earlier version. This Section is subject to the terms of Section 9.n. below.

8. DESCRIPTIONS AND EQUIPMENT COMPATIBILITY

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

9. TERMS AND CONDITIONS APPLICABLE TO THE PURCHASE OF SAS INSTITUTE SOFTWARE

The terms and conditions of this Section, along with the applicable purchase order govern the license hereunder of software products ("Software") of SAS Institute Inc. (the "Institute" or "SAS").

Each purchase order to this Agreement ("PO") identifies the specific government entity ("Customer") authorized to use the Software listed on that purchase order. Each PO is a separate agreement, which incorporates the terms of this Agreement.

a. License Grant

- (1) The Software products and versions available under this Agreement are set forth in Price List. Upon receipt of an acceptable order, EIS will provide to the Government entity placing the order the production release for the Software identified on the purchase order for the applicable operating system and hardware. For desktop and server based Software, the version of the Software will be specified.
- (2) The desktop and server based Software provided under this Agreement will be authorized to operate for fifty (50) years. The utility contained in the Software that will

authorize it to operate for fifty years is confidential and a trade secret of EIS or its licensors, which is not discernible or disclosed during authorized use, to which access is not authorized by anyone who receives or uses the Software under this Agreement.

- (3) The mainframe software licensed under this Agreement is on an annual basis. The mainframe software may be renewed at the mutual agreement of the parties. The first license period will be for 12 months. The first renewal period will be from the expiration of the first period through the following September 30th. Thereafter, renewal periods will be from each October 1 through September 30
- (4) The Software is licensed (1) on a per server basis for use with the supported operating system designated on the order; (2) for an unlimited number of users or on a user increment basis for a specified number of users, or (3) on a per mainframe basis for use with the supported operating system designated on the order. The order will specify if the Software is licensed on a per-server, user increment basis or per mainframe. If the Software is licensed on a per-server or per mainframe basis, each copy of Software must only be installed on individual CPUs. If the Software is licensed on a user-increment basis, the total number of individuals who access the Software during the license period must be counted and included in the user increment licensed

b. Indemnification

If a claim of copyright, patent, trade secret, or other intellectual property rights violation is made against Customer relating to the Software, EIS (or its designee) agrees to indemnify the Customer by paying any settlement approved by EIS (or its designee), or any judgment, costs, or attorneys' fees finally awarded against the Customer for such claim. The parties agree to cooperate with each other in the investigation, defense and/or settlement thereof. This indemnification obligation shall not apply unless EIS has been informed as soon as practicable by Customer of the claim and EIS (or its designee) has been given such opportunity as is afforded by applicable law to participate in its defense, at its own expense. . This indemnification obligation does not apply to the extent the claim is based on a combination of Institute Software with other software or a Customer modification to the Software if such claim would not have been made but for the combination or modification.

If such a claim is made or, in EIS' (or its designee's) opinion, is likely to be made, EIS (or its designee), at its option, may modify the Software, obtain rights for the Customer to continue using the Software, or terminate the license for the Software product at issue and refund the current license fee paid by Customer. Customer agrees to abide by EIS' (or its designee's) decision and, if appropriate, install a different version of the Software or stop using the Software.

c. Customer Responsibilities

- (1) So the Customer can properly update and distribute information needed to keep the Software functioning properly and account for authorized hardware, the Customer will define in each order the hardware on which the Software is installed and the business addresses and points of contact of those locations.
- (2) If the Customer believes the Software is being used in violation of this Agreement, Customer will promptly notify EIS in writing and will cooperate in EIS' investigation and resolution of the situation.
- (3) The Customer will not permit anyone having access to the Software to:
 - a. Reverse assemble or decompile the Software; or
 - b. Mask, modify, or suppress any copyright notices or other proprietary rights notices, or fail to properly label any authorized copy; or
 - c. Time-share, rent, outsource, or otherwise use the Software except as specifically permitted in this Agreement.

- d. **Authorized Use**
Subject exclusively to the terms of this Agreement, authorized use is restricted to Customer's employees and Customer's authorized short-term on-site contractors who receive the Software under the Federal Supply Schedule.
- e. **Licensing Provisions Specific to Enterprise Miner™ Software**
- (1) Customer is not authorized to use Enterprise Miner with third party data for the benefit of a third party unless the licensing documents are amended and additional fees paid. A third party is any government department, agency, contractor or any other third party that is not a part of the licensed government department, agency or contractor.
 - (2) The client component of Enterprise Miner is licensed on a PC Use basis. "PC Use" is defined as the greater of either (i) the total number of individuals (not concurrent) authorized to access the Software or (ii) the total number of personal computers on which the Software will be installed and available for processing on the designated operating system.
- f. **Licensing Provisions Specific to SAS/TOOLKIT® Software.**
- (1) Customer may use SAS/TOOLKIT software to develop executable images, which may be distributed to third parties. No portion of SAS/TOOLKIT software shall be distributed by Customer to any third party except as linked into the executable image.
- g. **Licensing Provisions Specific to SAS/IntrNet™ Software.**
- (1) These terms also modify the license terms, which apply to the SAS software licensed on the same hardware for which the SAS/IntrNet software is licensed ("Application Server").
 - (2) Customer may allow Customer's employees ("Employees") and third parties ("End Users") to use SAS/IntrNet software to access and use applications written in SAS software ("Applications") which are resident on Customer's Application Server(s). Subject to the restrictions set forth below, such access may be from anywhere in the world. Customer must configure its Applications such that End Users do not have access to program editing or to any other capability for free form programming in SAS software.
 - (3) Unless Customer receives prior written consent from EIS, Customer may not allow Applications accessed through SAS/IntrNet software to access SAS software resident on other hardware unless that other hardware is also licensed for SAS/IntrNet software.
 - (4) Customer is responsible for End User access to SAS software.
 - (5) Customer may not use SAS/IntrNet software in any outsourcing, facilities management or service bureau arrangement or any data or information technology management operation by or for third parties. The terms of this Section do not expand authorization to access SAS software except to the limited extent set forth in Section 2 above.
 - (6) Customer may not download or otherwise export or re-export any software or any underlying information or technology except in full compliance with all laws and regulations of the United States of America and any other applicable laws and regulations. The United Nations Convention on Contracts for the International Sale of Goods is excluded from this agreement.

- (7) If Customer chooses to use the “SAS Powered” Logo (“Logo”), the terms in this Section 7 apply. Should Customer choose not to use the Logo, the terms in this Section 7 do not apply.
- a. The Logo may be used only in connection with applications written in SAS Programming Language.
 - b. The Logo may be used only on web pages, splash screens, packaging and marketing collateral (“Marketing Material”) that refer to applications written in SAS Programming Language. If Customer’s Marketing Material includes other applications or products, the Logo must be clearly associated only with the authorized applications.
 - c. The Logo may be used only in the official form provided by the Institute, and Customer must follow the Logo Guidelines, which are included with the SAS/IntrNet software media. Customer may not modify the Logo in any manner, including size, shape, proportions, color, etc.
 - d. Customer’s Marketing Material which contains the Logo must include the following legend: “SAS, the SAS Powered logo and all other SAS Institute Inc. product or service names are registered trademarks or trademarks of SAS Institute Inc., in the USA and other countries. ® indicates USA registration.”
 - e. EIS AND ITS LICENSORS MAKE NO WARRANTIES OF ANY KIND RESPECTING THE SAS TRADEMARK OR THE LOGO, INCLUDING THE VALIDITY OF THEIR RIGHTS IN THOSE MARKS IN ANY COUNTRY, AND DISCLAIMS ANY AND ALL WARRANTIES THAT MIGHT OTHERWISE BE IMPLIED BY APPLICABLE LAW, INCLUDING WARRANTIES AGAINST INFRINGEMENT OF THIRD PARTY TRADEMARKS. CUSTOMER USES THE LOGO AT CUSTOMER’S OWN RISK.
 - f. Customer agrees to assist EIS and its licensors in executing and recording any documents relating to this permission necessary to protect the SAS trademark or Logo in any country.
 - g. These terms and conditions apply only to the Logo. Customer is not granted permission to use any other SAS trademark or logo. Customer is not authorized to use any Institute trademark in the name of its company, products, or services.
 - h. EIS may terminate Customer’s permission to use the Logo at any time, at EIS’ sole discretion, if EIS deems it necessary for protection of the SAS trademark or Logo.

h. Licensing Provisions Specific to IT Charge Manager™ Software

- (1) IT Charge Manager may be used, and its license fee is based, on one installation on the authorized hardware on which it is licensed and use within the United States during the license period. Customer may not use IT Charge Manager with third party data for the benefit of a third party unless the licensing documents are amended and additional license fees paid. A third party is any separate Government department, agency, contractor, or any other third party that is not a part of the licensed Government department, agency or contractor.
- (2) IT Charge Manager operates in conjunction with IT Service Vision software. IT Service Vision software consists of a client and a server component. Customer is authorized to use IT Charge Manager on all computer hardware on which Customer has licensed the client component of IT Service Vision software under this Agreement.
- (3) Charge Manager will only operate after Customer has installed product authorization codes for the IT Service Vision software with which IT Charge Manager operates.

- (4) If Customer's license for IT Charge Manager is terminated or expires, Customer shall (i) cease using, (ii) delete, and (iii) destroy or return to EIS all copies of IT Charge Manager in its possession.

i. Licensing Provisions Specific to JMP® Statistical Discovery Software and STATVIEW® Software

- (1) The Software is licensed on a Total User basis. "Total Users" is defined as the total number of individuals who access the Software on each licensed operating system during the license period.
- (2) The fee includes one (1) set of media, installation materials and one (1) set of documentation generally provided with the applicable Software.

j. Licensing Provisions Specific to CFO Vision™ Software

CFO Vision and any additional products under CFO Vision available under this Agreement may be licensed by the government. CFO Vision may be licensed by a government department, agency or other organization within a department or agency ("Licensed Entity"). Each individual within a licensed entity who accesses CFO Vision is considered a user. A user may only access CFO Vision to support internal business operations and administrative processes of the Licensed Entity and may not use CFO Vision for the benefit of another government department, agency, contractor, or any third party, government or otherwise. Use of CFO Vision components, except in conjunction with the remainder of CFO Vision, is prohibited. The Licensed Entity agrees to be responsible for use of CFO Vision by its users.

k. Licensing Provisions Specific to SAS/C® Compiler Software

If licensed on a mainframe, the SAS/C software is provided with a sixty-day free trial period. Otherwise, there is no trial period. The SAS/C software contains various programs and libraries, which may be redistributed subject to the restrictions, set forth below. These programs and libraries are part of either Limited Distribution Libraries or the SAS/C Redistribution Package. Listings of the programs and libraries included under each of these headings are included within the SAS/C software and/or in the SAS/C software documentation provided by EIS. Consult the SAS/C software documentation for information on how to access these listings.

- (1) The Limited Distribution Libraries and the SAS/C Redistribution Package are copyrighted property of the Institute and shall be used by Customer only as follows:

a. Limited Distribution Libraries

Customer and successive third parties may copy and distribute the files included in the Limited Distribution Libraries and create derivative works based on these files. These files may be distributed worldwide.

b. SAS/C Redistribution Package

The SAS/C Redistribution Package files do not include a trial period. Customer's distribution of the SAS/C Redistribution Package files is subject to an annual license fee in addition to the license fee paid by Customer for the SAS/C software. SAS/C Redistribution Package files may only be distributed as a component of Customer's product created using the SAS/C software. In no event shall such files be distributed by Customer separate and apart from Customer's product nor shall Customer authorize third parties to redistribute such files in any manner. These files may be distributed worldwide.

- (2) Customer shall not use the Institute's name, logo, or trademarks to market products Customer develops using the SAS/C software. EIS has no support obligations to third

parties.

- (3) Customer is responsible for compliance with any applicable import and export regulations and for compliance with all applicable laws and regulations in the country of distribution and/or use.

l. Licensing Provisions Specific to SAS/WAREHOUSE ADMINISTRATOR™ Software

- (1) The SAS/Warehouse Administrator is licensed on a per named administrator basis. Upon licensing this Software, Customer must provide EIS with the name(s) of the warehouse administrator(s). As those administrators change, Customer may call or write EIS to update EIS. The warehouse administrator must be a Customer employee.

m. Licensing Provisions Specific to Enterprise Reporter™ Software

- (1) The Enterprise Reporter software is licensed on a "PC Use" basis. All individuals who have access to the Enterprise Reporter software during a license period must be counted in the number of total users. "PC Use" is defined as the greater of either (i) the total number of individuals (not concurrent) authorized to access the Software or (ii) the total number of personal computers on which the Software will be installed and available for processing on the designated operating system.
- (2) Enterprise Reporter will operate on both a server and personal computer and Customer will receive a product authorization code for each platform. As long as Customer does not exceed the number of users or personal computer installs licensed, Customer may install Enterprise Reporter on either or both platforms. It is Customer's responsibility to ensure the correct product authorization code is applied

n. Software Maintenance and Fees

- (1) Fees for particular versions or releases of the Software may differ depending upon previous versions or releases licensed by Customer. Fees for hardware changes or upgrades in users which result in additional license fees will be consistent with the Price List and billed under the license fee schedule and will be effective and invoiced as of the date of change or upgrade. With regard to hardware changes, applicable fees are generally based on the total processing power of the hardware on which the Software is installed. With respect to server hardware, processing power includes each processor on each chip. With respect to mainframe hardware, processing power is based on Millions of Instructions Per Second ("MIPS"). Customer must notify Contractor prior to making any hardware change.
- (2) Maintenance is available for desktop and server based Software licensed under this Agreement. Maintenance beyond the first twelve months of the license will be made available for each designated server or user increment upon payment of the applicable yearly Maintenance fees contained in the Price List. Institute Maintenance in the form of updates, new releases, and fixes is cumulative. If at any time during the term of this Agreement Customer elects not to order Maintenance from EIS for a server or user increment such that there is an interruption in Maintenance for that server or user increment for the licensed Software, reinstatement of such Maintenance will require payment of a maintenance reinstatement fee equal to the amount of all preceding skipped annual periods of Maintenance (back to the last annual period paid in full) for that server or user increment of the licensed Software. If at any time during the term of this Agreement Customer elects not to order Maintenance from EIS for a server or user increment, then Customer's license rights shall continue with regard to such Software for

the remainder of the license period applicable to such Software, subject to the license terms applicable to such Software on the last day for which Maintenance was purchased. Without limiting the foregoing sentence, without the payment of applicable fees consistent with the Price List, Customer may not change authorized hardware, add additional users, change operating systems, acquire additional Product Authorization Codes or license additional software products for use with such Software.

o. Ordering

To license the Software or order Maintenance, Customer will provide orders which contain complete product, pricing, hardware, operating system, software product, version, if applicable, and media information, and identification and location of the Government's premises where the Software is shipped. This Agreement will be incorporated into Customer's order. EIS has the right to request and receive written clarification of any order, which does not contain complete information. If Customer is a non-government entity authorized to order under this contract, such Customer agrees that, unless specifically agreed to in writing by EIS, without any requirement to expressly reject such terms, purchase order terms and conditions received by EIS from such Customer that conflict with or are in addition to the terms hereof are expressly deleted and rejected. Acceptance by EIS of any order does not constitute an amendment to this Agreement.

p. Institute Distribution of the Software and Documentation

Upon receipt of an acceptable order from Customer, EIS will ship F.O.B. destination (using its best efforts to ship within ten business days) to the designated contact on the order the media for the Software being licensed. One copy of the applicable Software documentation for each Software product ordered will also be provided. For desktop and server based Software, the Software media shipped will be preauthorized to operate for fifty (50) years. If licensed for a server, the Software media shipped will be preauthorized to operate on the designated server for fifty (50) years. If licensed for a mainframe, the Software media shipped will be preauthorized to operate on the designated mainframe for the designated license period.

q. Hardware and Operating System Support

During the term of this Agreement, the Software will operate on hardware and operating systems listed in the Price List (which may be modified) which are compatible with and supported by the licensed Version of the Software.

r. Upgrades

Customer must notify EIS within thirty (30) days of all upgrades in designated users between user increment licenses or upgrades between mainframes or servers as classified by SAS and identified in the Price List. Upgrade fees within the same operating system are calculated by the difference in the corresponding fees (and the difference in the corresponding Maintenance fees, when applicable) for the licensed Software. No upgrades are available for a move to a different operating system.

s. Source Code

Source code from which the Software object code is derived ("Source Code") is not being provided and is an Institute trade secret to which access is not authorized. Except to the extent allowed by law, neither Customer nor any other user may reverse assemble or decompile the Software or otherwise attempt to recreate the Source Code.

t. Licenses for Additional SAS Software

Customer may license additional Software, other than those contained in the Price List, which the parties mutually desire to make available under this Agreement, in accordance with fees to be mutually agreed upon by the parties. This provision applies to open market transactions per applicable open market regulations.

- u. **Termination**
Upon termination of this Agreement, Customer agrees to delete or destroy all Software in its possession that is not currently paid for and certify the same to EIS. Upon termination of any license, Customer agrees to reclaim, delete, and destroy the Software product at issue and certify the same to EIS.
- v. **Late Shipment**
EIS will use its best efforts to ship the Software within ten (10) days of receipt of an acceptable order. However, EIS does not guarantee specific delivery dates. If EIS fails to deliver the Software in the time frame required by the Customer, the Customer may cancel its order. EIS will not be responsible for any losses incurred by the Customer in purchasing software elsewhere.
- w. **Continuing Obligation**
Obligations in this Agreement, which by their nature are continuing, survive termination or expiration. Upon termination or expiration of the license, or when a user is no longer authorized to access the Software, Customer agrees to reclaim, delete and destroy the Software product at issue.
- x. Except as herein modified, all terms and conditions of the Agreement remain in full force and effect and are hereby ratified and confirmed.
- y. **License Terms Specific to the following SOFTWARE SOLUTIONS AND SUITES: SAS® Human Capital Management Software, SAS® Consolidation and Reporting Software, SAS® Planning Software, SAS® Financial Management Adapter for SAP Software, Enterprise Integration Technology Software, SASTM Integration Technologies Software, WebHound™, SAS® Text Miner Software, SAS® Human Capital Management, Talent Scorecard Software, SAS® Information Delivery Portal Software, SAS® Strategy Management Software, SAS® Activity-Based Management Software (including SAS® Activity-Based Management Adapter for SAP), SAS® IT Resource Management Software (including SAS® IT Resource Management Adapter for SAP), SAS® Data Integration Server Software, SAS® Enterprise Data Integration Server Software, SAS® Intelligence Storage Software, SAS® Data Quality Solution Software, SAS® BI Server Software, SAS® Enterprise BI Server Software, SAS® Data Surveyor Software, SAS® IT Service Level Management Software, SAS® Financial Management for SAS® 9 Software (including SAS® Financial Management Adapter for SAP), Platform Suite for SAS Software, Restricted Use Infrastructure Server Software, SAS® Forecast Server Software, SAS® Spend Analysis Software, SAS® Sourcing Strategy Software, SAS® Sourcing Data Quality Software, SAS® Procurement Scorecard Software, SAS® Inventory Optimization Software, JMP® Genomics Software (includes JMP® Genetics, JMP® Microarray, and JMP® Proteomics Software), SAS® Enterprise Miner for Desktop Software, SAS® Metadata Bridges Software, SAS® Model Manager Software, SAS® Enterprise Model Management Software, SAS® for Sustainability Management Software, DataFlux Software and Teragram Software.**

The following terms govern Customer's use of each of the following listed SAS Software offerings which consist of combinations of SAS software components or which include sub-components supplied by third parties and SAS (collectively, "Software Solutions and Suites," or singly, "Software Solution or Suite"): SAS® Human Capital Management Software, SAS® Consolidation and Reporting Software, SAS® Planning Software, SAS® Financial Management Adapter for SAP Software, Enterprise Integration Technology Software, SASTM Integration Technologies Software, WebHound™, SAS® Text Miner Software, SAS® Human Capital Management, Talent Scorecard Software, SAS® Information Delivery Portal Software, SAS® Strategy Management Software, SAS® Activity-Based Management Software (including SAS® Activity-Based Management Adapter for SAP), SAS® IT Resource Management Software (including SAS® IT Resource Management Adapter for SAP), SAS® Data Integration Server Software, SAS® Enterprise Data Integration Server Software, SAS® Intelligence Storage Software, SAS® Data Quality Solution Software, SAS® BI Server Software, SAS® Enterprise BI

Server Software, SAS® Data Surveyor Software, SAS® IT Service Level Management Software, SAS® Financial Management for SAS® 9 Software (including SAS® Financial Management Adapter for SAP), Platform Suite for SAS Software, Restricted Use Infrastructure Server Software, SAS® Forecast Server Software, SAS® Spend Analysis Software, SAS® Sourcing Strategy Software, SAS® Sourcing Data Quality Software, SAS® Procurement Scorecard Software, SAS® Inventory Optimization Software, JMP® Genomics Software (includes JMP® Genetics, JMP® Microarray, and JMP® Proteomics Software), SAS® Enterprise Miner for Desktop Software, SAS® Metadata Bridges Software, SAS® Model Manager Software, SAS® Software for Test purposes and/or Development purposes, SAS® Software (including, without limitation, SAS/ACCESS Software products), SAS® for Sustainability Management Software, DataFlux Software and Teragram Software. The Institute shall be referred to as "SAS" herein.

- (1) Software Solutions and Suites consist of bundled components. Customer may use such bundled components only through the application under which they are bundled, and may not use or deploy any individual component as a replacement for other SAS Software. Individual components may be provided to Customer on the same or different media as other components of the Software Solution or Suite. EIS may add, modify or delete individual components in new releases. All additional and modified component software shall be governed by these terms and the terms of GSA Schedule Contract No. GS-35F-0170K.
- (2) Specific usage or system requirements related to particular Software Solutions and Suites, if applicable, may be included in the price lists for such products. Software Solutions and Suites may only be used by Customer if Customer has a license to use the applicable SAS Software on appropriate hardware which is to be specified in Customers' orders for the licenses of such Software Solutions and Suites.
- (3) Subject to any specific requirements or restrictions applicable to a Software Solution or Suite, Customer's employees ("Employees") and any authorized third party end users ("Third Party End Users") may use Software Solutions and Suites to access static, web-based applications written in SAS software ("Applications") that reside on the same hardware for which the Software Solutions and Suites are licensed by Customer. Except with EIS' prior written consent, Customer shall not use or allow any Employees or Third Party End Users to use the Software Solutions or Suites, whether directly or through any Application, to process or permit to be processed any third party data or to access any SAS Software that resides on any other hardware unless the Software is also licensed for use on that other hardware. The Applications must be written such that Third Party End Users may not edit SAS programs or have access to any other capability for free form programming in SAS Software. Customer may not use any Software Solutions or Suites to download or otherwise export or re-export any software or any underlying information or technology except in full compliance with all laws and regulations of the United States of America and any other applicable laws and regulations. Customer is responsible for Third Party End User access to SAS software. The United Nations Convention on Contracts for the International Sale of Goods is excluded from this license.
- (4) The warehouse administration function of certain Software Solutions and Suites is licensed on a per named administrator basis. Upon licensing this Software, Customer must provide EIS with the name(s) of the warehouse administrator(s). As those administrators change, Customer may call or write EIS to update EIS. The warehouse administrator must be a Customer employee or other authorized user under the license.
- (5) Unless otherwise authorized by EIS, the AppDev Studio™ functionality of any Software Suite may only be used for development and testing purposes, and may not be used for production use (although the applications and/or applets created with AppDev Studio may be used in a production environment).

- (6) Customer may use Software Suites containing a "performance data warehouse" solely for the purpose of web log data reporting and analysis through a "performance data warehouse." A "performance data warehouse" is the data warehouse or structure created by certain Software Suites to house detailed and summarized performance data and other information necessary to manage the web log data Customer provides to such Software Suite. Customer may not modify such Software Suites to use elements of such Software Suites' functionality to analyze or report on data outside the performance data warehouse.
- (7) Customer acknowledges that certain Software Solutions and Suites include components which contain software licensed to EIS' licensors by Sun Microsystems, Inc. ("Sun Microsystems"), Microsoft Corporation ("Microsoft"), and certain other vendors (collectively, "Third Party Software"). The following additional terms shall apply to the Third Party Software and shall take precedence over any conflicting terms in the license:
- a. Customer may not distribute the Third Party Software to any third party in any modified form. The Third Party Software may not be leased, assigned, or sublicensed, in whole or in part. The Third Party Software is not designed or intended for use in online control of aircraft, air traffic, aircraft navigation or aircraft communications; or in the design, construction, operation or maintenance of any nuclear facility. Customer warrants that Customer will not use or redistribute the Third Party Software for such purposes. This license does not authorize Customer to use any of SAS' names, trademarks or logos or any of its licensors' names, trademarks and logos, including but not limited to Sun Microsystems' and Microsoft's trade names, trademarks or logos.
 - b. Use, duplication, or disclosure of the Third Party Software and related documentation by the US Government is subject to restrictions as set forth in Rights in Technical Data and Computer Software Clauses in DFARS 252.277-7013(c)(1)(ii) and FAR 52.227-19, Commercial Computer Software – Restricted Rights (June 1987) as applicable and the license.
 - c. **DISCLAIMER OF WARRANTY. THE THIRD PARTY SOFTWARE IS PROVIDED TO CUSTOMER "AS IS" WITHOUT ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. SAS' LICENSOR(S) DISCLAIM ANY LIABILITY CONNECTED WITH USE OF THE THIRD PARTY SOFTWARE.**
 - d. **LIMITATION OF LIABILITY. EIS' LICENSOR(S) ARE NOT LIABLE FOR (a) DIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES OF ANY SORT, WHETHER ARISING IN TORT, CONTRACT OR OTHERWISE, EVEN IF EIS HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES, OR (b) FOR ANY CLAIM BY ANY OTHER PARTY. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS LIMITATION AND EXCLUSION MAY NOT APPLY TO CUSTOMER.**
 - e. With regard to SAS/ACCESS Software that contains subcomponents licensed to EIS' licensors by DataDirect Technologies or Progress Software Corporation, the following terms are included herein: This product is a "commercial component," as this term is defined in 48 C.F.R. §2.101, consisting of "commercial computer software" and "computer software documentation," as such terms are defined in 48 C.F.R. §252.227-7014(a)(1) and 48 C.F.R. §252.227-7014(a)(5), respectively, and used in 48 C.F.R. §12.212 and 48 C.F.R. §227.7202, as applicable, and all as amended from time to time. Consistent with 48 C.F.R. §12.212 and 48 C.F.R. §227.7202, and other relevant sections of

the Code of Federal Regulations, as applicable, and all as amended from time to time, all U.S. Government entities acquire this product only with those rights set forth in the license agreement accompanying this product.

- (8) If Netscape LDAP Directory Server or iPlanet™ Software (collectively "LDAP Software") is furnished to Customer as a component of a given Software Solution or Suite, the following additional terms shall apply and shall take precedence over any conflicting terms in the license:
- a. Customer acknowledges that the LDAP Software is being provided as a bundled product with certain Software Solutions and Suites and not as a separate, stand-alone product. Customer may not use the LDAP Software except in connection with Customer's use of the Software Solution or Suite with which it is bundled. Customer shall permit no more than seven hundred (700) users in total to use or otherwise access the LDAP Software. For purposes of the above-referenced restriction to seven hundred (700) users, any individual who has an entry in the directory server shall be considered a User (this does not include resources such as printers or other servers). Such Users shall include all individuals who have access to the LDAP Software's services and not just to the number of individuals who may access those services concurrently. Customer may use the LDAP Software only for directory services for the Software Solution or Suite with which the LDAP Software is bundled, and shall not use the LDAP Software to provide directory services for any other software products or to provide stand-alone directory services.
 - b. EIS may terminate Customer's rights with respect to the LDAP Software immediately in the event of any breach by Customer of EIS' or EIS' licensors' intellectual property rights in the LDAP Software.
 - c. Title, ownership rights, and intellectual property rights in the LDAP Software shall remain in EIS' licensors and suppliers. Customer acknowledges such ownership and intellectual property rights, and will not take any action to jeopardize, limit or interfere in any manner with such rights.
 - d. Customer shall not (a) modify any header files or class libraries in the LDAP Software, (b) create or alter tables or reports relating to the database portion of the LDAP Software (except as necessary for operating the LDAP Software), (c) publish any results of benchmark tests run on the LDAP Software to a third party without EIS' consent, or (d) use the database provided for use with the LDAP Software with any other product. Customer may copy and use the header files contained in the LDAP Software solely to create and distribute programs to interface with the server application programming interfaces (APIs).

The LDAP Software is not fault-tolerant and is not designed, manufactured or intended for use or resale as on-line control equipment in hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life-support machines or weapons systems, in which the failure of the LDAP Software could lead directly to death, personal injury, or severe physical or environmental damage ("High-Risk Activities"). Accordingly, EIS and its licensors and suppliers specifically disclaim any express or implied warranty of fitness for High-Risk Activities. Customer agrees that EIS and its licensors and suppliers will not be liable for any claims or damages arising from the use of the LDAP Software in such applications.

- (9) Unless otherwise authorized by EIS, the Enterprise Guide® functionality of any Software Solution or Suite may not be used to access a distributed server implementation of SAS software or SAS data on a server unless Customer has also licensed

SAS/IntrNet® software, SAS® Information Delivery Portal software, or SAS® Integration Technologies software for that server.

(10) SAS® Financial Management for SAS® 9 Software is subject to the following additional terms and conditions:

a. SAS® Financial Management for SAS® 9 Software is licensed for use by the Customer on a single Customer server except as specified in this section with respect to the Metadata Server. The Customer shall identify the specific machine information (hardware, manufacturer, and operating system) of the server on which the SAS® Financial Management for SAS® 9 Software and the Metadata Server component of that Software will be installed. In addition, the Customer's license of SAS® Financial Management for SAS® 9 Software is limited to and the license and maintenance fees payable by Customer for the Software are based on the quantities of each type of user for which the license and subsequent maintenance have been purchased by the Customer. The types of users for which a license and maintenance of the SAS® Financial Management for SAS® 9 Software may be purchased are as follows:

(i) Administrative Users – Administrative Users are users who access the SAS® Financial Management for SAS® 9 Software to perform installation of and set and maintain parameters around the use of, applications running the SAS® Financial Management for SAS® 9 Software.

(ii) Power Users – Power Users are users who may access the SAS® Financial Management for SAS® 9 Software to use the full functionality of that Software.

(iii) Business Users – Business Users are users who may access the SAS® Financial Management for SAS® 9 Software solely to utilize applications created by Power Users to enter, validate, and manage data.

(iv) Dashboard Users – Dashboard Users are users who access the SAS® Financial Management for SAS® 9 Software in the Dashboard. The “Dashboard” is a web-based interface component of the Software which allows users to view and analyze content.

(v) For each of the foregoing user types, the quantity licensed by the Customer is the total number of such users (not concurrent users) accessing the SAS® Financial Management for SAS® 9 Software during the initial 12 months of the license, or during any subsequent annual maintenance period (whether or not the Customer purchases maintenance for the SAS® Financial Management for SAS® 9 Software with respect to such annual maintenance).

b. The Customer's license of the SAS® Financial Management for SAS® 9 Software also includes and is limited to, and the license and maintenance fees payable by the Customer with respect to that Software are respectively based on, the following components of the SAS® Financial Management for SAS® 9 Software and the quantities of such types of components for which the license or maintenance has been purchased by the Customer:

- (i) Metadata Server – The Customer may install the Base SAS component (along with any other component authorized by EIS) of the SAS® Financial Management for SAS® 9 Software on one additional Customer server which has a classification by SAS that is equal to or lower than SAS’ classification of the Customer server on which the licensed SAS® Financial Management for SAS® 9 Software is installed, solely for the purpose of deploying the Metadata Server component for use within the licensed SAS® Financial Management for SAS® 9 Software environment. Without first paying then-current applicable additional license fees (including an additional license of the Base SAS component), Customer may not install any additional SAS software products on such additional server on which Customer installs the Base SAS component.
 - (ii) AppDev Studio PC Use – The AppDev Studio Software component of the SAS® Financial Management for SAS® 9 Software may only be used for development purposes.
 - c. The license of SAS® Financial Management for SAS® 9 Software also includes a license of a SAS/Access Software product chosen by the Customer.
- (11) SAS® Financial Management Adapter for SAP Software is licensed for use by Customer only with Customer’s use of SAS® Financial Management for SAS® 9 Software that is also licensed by Customer. SAS® Financial Management Adapter for SAP Software must be licensed for the same number of Customer’s licensed Power Users with respect to such SAS® Financial Management for SAS® 9 Software.
- (12) Platform Suite for SAS Software is licensed for use by Customer only with Customer’s concurrent use of Base SAS® that is also licensed by the Customer. Platform Suite for SAS Software may not be used by Customer with any other product of SAS or any third party. Platform Suite for SAS Software is licensed based on the total processing power of the authorized hardware on which the Software is installed. Processing power includes each processor on each chip. Platform Suite for SAS Software, including all of its components, may be used solely for job scheduling purposes in conjunction with the other SAS software applications residing on the one authorized hardware for which it was licensed and may not be used to schedule jobs across multiple pieces of hardware.
- (13) Restricted Use Infrastructure Server Software (“RUIS Software”) is licensed subject to the following:
 - a. RUIS Software is licensed for use by Customer only with Customer’s use of a SAS software solution in which the RUIS Software is embedded by SAS (“SAS Solution”) and which the Customer has also licensed. RUIS Software may not be used by Customer with any other product of SAS or any third party.
 - b. RUIS Software is licensed for use on the hardware for which the applicable SAS Solution has also been licensed by the Customer. The license and maintenance fees payable by the Customer with respect to the RUIS Software are based on the number of processors of Customer’s server on which the RUIS Software resides.

- c. RUIS Software includes README files with additional terms and conditions which govern the license of the use of the RUIS Software in connection with Customer's license of the applicable SAS Solution.
- (14) SAS® Strategy Management Software is subject to the following additional terms and conditions:
- a. SAS® Strategic Performance Management Software is licensed for use by the Customer on a single Customer computer except as specified in this section with respect to the Metadata Server. The Customer shall identify the specific machine information (hardware, manufacturer, and operating system) of the server on which the SAS® Strategic Performance Management Software and the Metadata Server component of that Software will be installed. The Software is licensed on a Total User basis. "Total Users" is defined as the total number of individuals (not concurrent) who access the Software on each licensed operating system during the license period.
 - b. The Customer's license of the SAS® Strategy Management Software commencing with Release 2.0 of the Software also includes and is limited to, and the license and maintenance fees payable by the Customer with respect to that Software are respectively based on, the following components of the SAS® Strategy Management Software and the quantities of such types of components for which the license or maintenance has been purchased by the Customer:
 - (i) Metadata Server – The Customer may install the Base SAS component (along with any other component authorized by EIS) of the SAS® Strategy Management Software on one additional Customer server which has a classification by SAS that is equal to or lower than SAS' classification of the Customer server on which the licensed SAS® Strategy Management Software is installed, solely for the purpose of deploying the Strategic Performance Management Software environment. Without first paying then-current applicable additional license fees (including an additional license of the Base SAS component), Customer may not install any additional SAS software products on such additional server on which Customer installs the Base SAS component.
 - (ii) AppDev Studio PC Use – The AppDev Studio Software component of the SAS® Financial Management for SAS® 9 Software may only be used for development purposes.
- (15) SAS® Forecast Server Software is subject to the following additional terms and conditions:
- a. SAS® Forecast Server Software is licensed for use by the Customer on a single Customer server except as specified in this section with respect to the Metadata Server. The Customer shall identify the specific machine information (hardware, manufacturer, and operating system) of the server on which the SAS® Forecast Server Software and the Metadata Server component of that Software will be installed. The Software license fee is based on the total processing power of the authorized hardware on which the Software is installed. With respect to server hardware, processing power includes each processor on each chip. With respect to mainframe hardware, processing power is based on Millions of Instructions Per Second. The Software is licensed as a bundle of technology and not an "integrated solution." Accordingly, the Software

components in the Software may be used alone or with the other components bundled with the Software.

- b. The Customer's license of the SAS® Forecast Server Software also includes and is limited to, and the license and maintenance fees payable by the Customer with respect to that Software are respectively based on, the following components of the SAS® Forecast Server Software and the quantities of such types of components for which the license or maintenance has been purchased by the Customer:
 - i. Metadata Server – The Customer may install the Base SAS component (along with any other component authorized by EIS) of the SAS® Forecast Server Software on one additional Customer server which has a classification by SAS that is equal to or lower than SAS' classification of the Customer server on which the licensed SAS® Forecast Server Software is installed, solely for the purpose of deploying the Metadata Server component for use within the licensed SAS® Forecast Server Software environment. Without first paying then-current applicable additional license fees (including an additional license of the Base SAS component), Customer may not install any additional SAS software products on such additional server on which Customer installs the Base SAS component.

(16). SAS Enterprise Data Integration Server Software is subject to the following additional terms and conditions:

- a. SAS Enterprise Data Integration Server Software is licensed for use by the Customer on a single Customer server except as specified in this section with respect to the Metadata Server. The Customer shall identify the specific machine information (hardware, manufacturer, and operating system) of the server on which the SAS Enterprise Data Integration Server Software and the Metadata Server component of that Software will be installed. The Software license fee is based on the total processing power of the authorized hardware on which the Software is installed. With respect to server hardware, processing power includes each processor on each chip. With respect to mainframe hardware, processing power is based on Millions of Instructions Per Second. The Software is licensed as a bundle of technology and not an "integrated solution." Accordingly, the Software components in the Software may be used alone or with the other components bundled with the Software.
- b. The Customer's license of the SAS Enterprise Data Integration Server Software also includes and is limited to, and the license and maintenance fees payable by the Customer with respect to that Software are respectively based on, the following components of the SAS Enterprise Data Integration Server Software and the quantities of such types of components for which the license or maintenance has been purchased by the Customer:
 - a. Metadata Server – The Customer may install the Base SAS component (along with any other component authorized by EIS) of the SAS Enterprise Data Integration Server Software on one additional Customer server which has a classification by SAS that is equal to or lower than SAS classification of the Customer server on which the licensed SAS Enterprise Data Integration Server is installed, solely for the purpose of deploying the Metadata Server component for use within the licensed SAS Enterprise Data Integration Server Software

environment. Without first paying then-current applicable additional license fees (including an additional license of the Base SAS component), Customer may not install any additional SAS software products on such additional server on which Customer installs the Base SAS component.

- c. If the Customer has previously licensed the Enterprise Integration Technologies bundle of SAS Software ("EIT Software") for use on the same Customer hardware and with the same operating system with respect to which Customer has licensed the SAS Enterprise Data Integration Server Software and the Customer's annual license or annual maintenance, as applicable, with respect to that EIT Software is current as of the commencement date ("EDILB Date") of Customer's license of the SAS Enterprise Data Integration Server Software, then as of the EDILB Date Customer's license of the EIT Software shall be cancelled and superseded as follows:

i. The SAS/Connect and SAS Integration Technologies Software that are components of the EIT Software are included in Customer's license of the SAS Enterprise Data Integration Server Software and the license and maintenance, as applicable, of such SAS/Connect and SAS Integration Technologies Software, shall be included in the fees payable by Customer for license and maintenance, as applicable, of the SAS Enterprise Data Integration Server Software;

ii. Customer's license of SAS IntrNet Software through the license of the EIT Software shall be converted to a license of such SAS/IntrNet Software on a Stand-alone basis for the same license term as Customer's license of such EIT Software (prior to the cancellation of the license of the EIT Software as provided above). If applicable, the current annual maintenance period with respect to such EIT Software (prior to the cancellation of the license as provided herein) shall apply to such SAS/IntNet Software.

- d. The license SAS Enterprise Data Integration Server Software also includes a license of (i) two (2) SAS/Access Software products chosen by the Customer, (ii) SAS Quality Knowledge Base Locale Software (the locale/language chosen by Customer), and (iii) dfPower Quality Software, dfPower Customize Software, dfPower Platform for SAS and dfPower Profile Software (collectively the "dfPower Components"), provided that each of the dfPower Components is licensed for use by the greater of (A) the number of users authorized to access the applicable dfPower Component, or (B) the number of personal computers on which such dfPower Component will be installed and available for processing on the designated operating system. Such quantity of users shall be the total number of users (not concurrent users) accessing the applicable dfPower Component and such quantity of personal computers shall be the total number of personal computers on which such dfPower Component is installed and available for processing during the initial 12 month license period or during any subsequent annual maintenance period (whether or not the Customer purchases maintenance for the SAS Enterprise Data Integration Server Software with respect to such annual maintenance). Unless additional are licensed, the number of such users or the number of such personal computers with respect to the dfPower Components shall not exceed one (1) such user or personal computer with respect to each of the dfPower Components.

- (17). SAS® Enterprise Model Management Software is subject to the following additional terms and conditions:

- a. SAS® Enterprise Model Management Software is licensed for use by the Customer on a single Customer server except as specified in this section with respect to the Metadata Server. The Customer shall identify the specific machine information (hardware, manufacturer, and operating system) of the server on which the SAS® Enterprise Model Management Software and the Metadata Server component of that Software will be installed. The Software license fee is based on the total processing power of the authorized hardware on which the Software is installed. With respect to server hardware, processing power includes each processor on each chip. With respect to mainframe hardware, processing power is based on Millions of Instructions Per Second.
- b. The Customer's license of the SAS® Enterprise Model Management Software also includes and is limited to, and the license and maintenance fees payable by the Customer with respect to that Software are respectively based on, the following components of the SAS® Enterprise Model Management Software and the quantities of such types of components for which the license or maintenance has been purchased by the Customer:
 - i. The Customer may install the Base SAS component (along with any other component authorized by EIS) of the SAS® Enterprise Model Management Software on one additional Customer server which has a classification by SAS that is equal to or lower than SAS' classification of the Customer server on which the licensed SAS® Enterprise Model Management Software is installed, solely for the purpose of deploying the Metadata Server component for use within the licensed SAS® Enterprise Model Management Software environment. Without first paying then-current applicable additional license fees (including an additional license of the Base SAS component), Customer may not install any additional SAS software products on such additional server on which Customer installs the Base SAS component.
 - ii. The license of SAS® Enterprise Model Management Software also includes a license of SAS® Enterprise Model Management Client Software ("EMM Client Component"), provided that the EMM Client Component is licensed for use by the greater of (A) the number of users authorized to access EMM Client Component and (B) the total number of personal computers on which the Software will be installed and available for processing on the designated operating system. Such quantity of users shall be the total number of users (not concurrent users) accessing the EMM Client Component and such quantity of personal computers shall be the total number of personal computers on which such EMM Client Component is installed and available for processing during the initial 12 month license period or during any subsequent annual maintenance period (whether or not the Customer purchases maintenance for the SAS® Enterprise Model Management Software with respect to such annual maintenance). The number of such users or the number of such personal computers shall not be greater than a quantity of five (5) such users or personal computers, whichever is greater.

- (18). SAS Data Integration Server Software is subject to the following additional terms and conditions:
- a. SAS Data Integration Server Software is licensed for use by the Customer on a single Customer server except as specified in this section with respect to the Metadata Server. The Customer shall identify the specific machine information (hardware, manufacturer, and operating system) of the server on which the SAS Data Integration Server Software and the Metadata Server component of that Software will be installed. The Software license fee is based on the total processing power of the authorized hardware on which the Software is installed. With respect to server hardware, processing power includes each processor on each chip. With respect to mainframe hardware, processing power is based on Millions of Instructions Per Second. The Software is licensed as a bundle of technology and not an "integrated solution." Accordingly, the Software components in the Software may be used alone or with the other components bundled with the Software.
 - b. The Customer's license of the SAS Data Integration Server Software also includes and is limited to, and the license and maintenance fees payable by the Customer with respect to that Software are respectively based on, the following components of the SAS Data Integration Server Software and the quantities of such types of components for which the license or maintenance has been purchased by the Customer:
 - i. Metadata Server – The Customer may install the Base SAS component (along with any other component authorized by EIS) of the SAS Data Integration Server Software on one additional Customer server which has a classification by SAS that is equal to or lower than SAS classification of.
- (19). SAS® Human Capital Management Software is subject to the following additional terms and conditions:
- a. SAS® Human Capital Management Software is licensed for use by the Customer on a single Customer computer except as specified in this section with respect to the Metadata Server. The Customer shall identify the specific machine information (hardware, manufacturer, and operating system) of the computer on which the Software and the Metadata Server component of that Software will be installed. In addition, the Customer's license of the Software is limited to use to process, and the license and maintenance fees payable by Customer for the Software are based on, records relating to the total number of Customer's employees (both active and inactive) located within the United States and tracked in the Software ("Employee Records"). To renew this license, Customer must report the total number of employees to EIS at least sixty (60) days prior to the anniversary date of the license.
 - b. The Software requires SAS Consulting Services perform the installation. SAS Consulting Services are licensed and charged separately.
 - c. If licensed, SAS Talent Scorecard Software is licensed on a Total User basis. "Total Users" is defined as the total number of individuals (not concurrent) who access the Software on each licensed operating system during the license period.
 - d. The Customer's license of the Software also includes and is limited to, and the license and maintenance fees payable by the Customer with respect to that Software are respectively based on, the following component of the Software and the quantity of such component for which the license or maintenance has been purchased by the Customer:

- (i) Metadata Server – The Customer may install the Base SAS component (along with any other component authorized by EIS) of the Software on one additional Customer server which has a classification by SAS that is equal to or lower than SAS' classification of the Customer server on which the licensed Software is installed, solely for the purpose of deploying the Metadata Server component for use within the licensed Software environment. Without first paying then-current applicable additional license fees (including an additional license of the Base SAS component), Customer may not install any additional SAS software products on such additional server on which Customer installs the Base SAS component.
 - (ii) The license of the Software also includes a license of a SAS/Access Software product chosen by the Customer.
- (20). SAS® IT Resource Management Software is subject to the following additional terms and conditions:
- a. The Software is licensed for use by the Customer on a single Customer computer except as specified in this section with respect to the Metadata Server. The Customer shall identify the specific machine information (hardware, manufacturer, and operating system) of the computer on which the Software and the Metadata Server component of that Software will be installed. In addition, the Customer's license of the Software is limited to, and the license and maintenance fees payable by Customer for the Software are based on, use on the type of network for which the Software is licensed by Customer (as noted in the CLIN licensed) as follows:
 - (i) Network Based (Single Site or Mixed) - The Software license fee is based on the total processing capacity of Customer's IT infrastructure managed by the Software in the United States. With respect to IT infrastructure consisting of server hardware, total processing capacity includes each processor on each chip of each server. With respect to IT infrastructure consisting of mainframe hardware, total processing capacity is based on the Millions of Instructions per Second ("MIPS") rating of each mainframe.
 - (ii) Enterprise (Mainframe, Server or Mixed) – Mainframe: The Software license fee is based on a single installation of the Software in the United States used to manage Customer's mainframe hardware IT infrastructure in the United States. Server: The Software license fee is based on a single installation of the Software in the United States used to manage Customer's server hardware IT infrastructure in the United States. Mixed: The Software license fee is based on a single installation of the Software in the United States used to manage Customer's server hardware and mainframe hardware IT infrastructure in the United States.
 - b. The Customer's license of the Software also includes and is limited to, and the license and maintenance fees payable by the Customer with respect to that Software are respectively based on, the following component of the Software and the quantity of such component for which the license or maintenance has been purchased by the Customer:
 - (i) Metadata Server – The Customer may install the Base SAS component (along with any other component authorized by EIS) of the Software on one additional Customer server which has a classification by SAS that is equal to or lower than SAS' classification of the Customer

server on which the licensed Software is installed, solely for the purpose of deploying the Metadata Server component for use within the licensed Software environment. Without first paying then-current applicable additional license fees (including an additional license of the Base SAS component), Customer may not install any additional SAS software products on such additional server on which Customer installs the Base SAS component.

- (ii) Use of the client component of the Software is limited to the greater of either (i) the total number of users (not concurrent) authorized to access the Software or (ii) the total number of persona computers on which the Software will be installed and available for processing on the designated operating system.

(21). SAS® Content Categorization Software is subject to the following additional terms and conditions:

- a. The Software is licensed for use by the Customer on a single Customer computer. The Customer shall identify the specific machine information (hardware, manufacturer, and operating system) of the server on which the Software will be installed. The Software license fee is based on the total processing power of the authorized hardware on which the Software is installed. With respect to server hardware, processing power includes each processor on each chip. With respect to mainframe hardware, processing power is based on Millions of Instructions Per Second. The license fee includes use of the SAS Content Categorization Client subcomponent of the Software by the number of users (not concurrent) who may access the Software during the applicable license period to use the full functionality of the Software, which number of users shall not exceed one (1).
- b. Customer may not disclose to third parties the results of Software performance benchmarks, conducted by EIS, SAS or by Customer, without EIS' prior written authorization. Customer shall not use or permit any user or third party to use any application program interface ("API") provided with the Software to read in bulk or "harvest" the contents of any data files licensed to Customer by EIS and provided with the Software.

(22). SAS® Activity-Based Management Software and ® Activity-Based Management Select Software is subject to the following additional terms and conditions:

- a. The Software is licensed for use by the Customer on a single Customer computer except as specified in this section with respect to the Metadata Server. The Customer shall identify the specific machine information (hardware, manufacturer, and operating system) of the server on which the Software and the Metadata Server component of that Software will be installed. In addition, the Customer's license of the Software is limited to and the license and maintenance fees payable by Customer for the Software are based on the quantities of each type of user for which the license and subsequent maintenance have been purchased by the Customer. The types of users for which a license and maintenance of the Software may be purchased are as follows:
 - (i) Power Users – Power Users are users who may access the Software to use the full functionality of that Software.
 - (ii) Business Users – Business Users are users who may access the Software solely to utilize applications created by Power Users to enter, validate, and manage data.

- (iii) For each of the foregoing user types, the quantity licensed by the Customer is the total number of such users (not concurrent users) accessing the Software during the initial 12 months of the license, or during any subsequent annual maintenance period (whether or not the Customer purchases maintenance for the Software with respect to such annual maintenance).
 - b. The Customer's license of the Software also includes and is limited to, and the license and maintenance fees payable by the Customer with respect to that Software are respectively based on, the following components of the Software and the quantities of such types of components for which the license or maintenance has been purchased by the Customer:
 - (i) Metadata Server – The Customer may install the Base SAS component (along with any other component authorized by EIS) of the Software on one additional Customer server which has a classification by SAS that is equal to or lower than SAS' classification of the Customer server on which the licensed Software is installed, solely for the purpose of deploying the Metadata Server component for use within the Software environment. Without first paying then-current applicable additional license fees (including an additional license of the Base SAS component), Customer may not install any additional SAS software products on such additional server on which Customer installs the Base SAS component.
 - (ii) The license of the Software also includes a license of a SAS/Access Software product chosen by the Customer.
- (23). SAS® IT Service Level Management Software is subject to the following additional terms and conditions:
- a. The Software is licensed for use by the Customer on a single Customer computer except as specified in this section with respect to the Metadata Server. The Customer shall identify the specific machine information (hardware, manufacturer, and operating system) of the computer on which the Software and the Metadata Server component of that Software will be installed. In addition, the Customer's license of the Software is limited to, and the license and maintenance fees payable by Customer for the Software are based on, use on the type of network for which the Software is licensed by Customer (as noted in the CLIN licensed) as follows:
 - (i) Network Based (Single Site or Mixed) - The Software license fee is based on the total processing capacity of Customer's IT infrastructure managed by the Software in the United States. With respect to IT infrastructure consisting of server hardware, total processing capacity includes each processor on each chip of each server. With respect to IT infrastructure consisting of mainframe hardware, total processing capacity is based on the Millions of Instructions per Second ("MIPS") rating of each mainframe.
 - b. A license of SAS® IT Resource Management Software for the same hardware is required to license this Software.
- (24). SAS® Data Surveyor Software is subject to the following additional terms and conditions:
- a. The Software is licensed for use by the Customer on a single Customer computer except as specified in this section. The Customer shall identify the specific machine information (hardware, manufacturer, and operating system) of

the computer on which the Software will be installed. In addition, the Customer's license of the Software is limited to, and the license and maintenance fees payable by Customer for the Software are based on, the capacity of the Customer computer on which the Software is installed (as noted in the CLIN licensed) as follows:

- (i) SAS Data Surveyor for Oracle Applications Capacity Based - The Software license fee is based on the total processing power of the hardware on which the SAS Data Integration Server or SAS Enterprise Data Integration Server software is installed where processing power includes each processor on each chip. If prompted during Software installation, Customer may install certain Software subcomponents on separate hardware which may or may not run the same operating system as the authorized hardware. Notwithstanding anything to the contrary contained in this Agreement, such separate hardware may have a larger machine classification than the authorized hardware. Customer may use the Software, including its subcomponents, solely to access Oracle data in the licensed Oracle database. Customer may not use or deploy any individual Software subcomponent for any other purpose or as a replacement for other SAS software. The terms and conditions of this Agreement shall govern the license for the Software, including all subcomponents, notwithstanding any click-wrap agreement or other similar terms and conditions which may be surfaced during installation of the Software or any Software subcomponents.
- (ii) SAS Data Surveyor for PeopleSoft Capacity Based - The Software license fee is based on the total processing power of the hardware on which the SAS Data Integration Server or SAS Enterprise Data Integration Server software is installed where processing power includes each processor on each chip. If prompted during Software installation, Customer may install certain Software subcomponents on separate hardware which may or may not run the same operating system as the authorized hardware. Notwithstanding anything to the contrary contained in this Agreement, such separate hardware may have a larger machine classification than the authorized hardware. Customer may use the Software, including its subcomponents, solely to access PeopleSoft data in the licensed ODBC, SQL, DB2 or Oracle database. Customer may not use or deploy any individual Software subcomponent for any other purpose or as a replacement for other SAS software. The terms and conditions of this Agreement shall govern the license for the Software, including all subcomponents, notwithstanding any click-wrap agreement or other similar terms and conditions which may be surfaced during installation of the Software or any Software subcomponents.
- (iii) SAS Data Surveyor for SAP Capacity Based - The Software license fee is based on the total processing power of the hardware on which the Software is installed where processing power includes each processor on each chip. The Software, including all of its components, may be used solely to access SAP data in the licensed SAP database. Customer may not use or deploy any individual Software component for any other purpose or as a replacement for other SAS software.
- (iv) SAS Data Surveyor for Seibel Capacity Based - The Software license fee is based on the total processing power of the hardware on which the SAS Data Integration Server or SAS Enterprise Data Integration Server software is installed where processing power includes each processor

on each chip. If prompted during Software installation, Customer may install certain Software subcomponents on separate hardware which may or may not run the same operating system as the authorized hardware. Notwithstanding anything to the contrary contained in this Agreement, such separate hardware may have a larger machine classification than the authorized hardware. Customer may use the Software, including its subcomponents, solely to access Siebel data in the licensed ODBC, SQL, DB2 or Oracle database. Customer may not use or deploy any individual Software subcomponent for any other purpose or as a replacement for other SAS software. The terms and conditions of this Agreement shall govern the license for the Software, including all subcomponents, notwithstanding any click-wrap agreement or other similar terms and conditions which may be surfaced during installation of the Software or any Software subcomponents.

- (25). SAS® Metadata Bridges Software is licensed on the same terms and conditions applicable to the Software with which it is licensed to operate.
- (26). If licensed for use on a desktop computer, then SAS® Enterprise Guide is licensed on a Total User basis. "Total Users" is defined as the total number of individuals who access the Software on each licensed operating system during the license period. In such event, the following terms shall also apply: Customer must notify EIS in writing prior to receiving Software as to whether the Software will be downloaded by the Customer or if the Customer will access the Software on the SAS website. If the Customer accesses the Software on the SAS website, Customer hereby agrees that the use of the Software is also governed by the SAS website Terms of Use found at www.sas.com/Copyright.html. Notwithstanding any "clickwrap" or "clickthrough" license terms that the Customer must approve to download or access the Software, the terms and conditions of this Agreement shall control and the "clickwrap" or "clickthrough" license terms shall be of no force or effect. Customer specifically agrees that it will not disclose, distribute or make available the download/access codes to the Software other than to authorized users of the Software.
- (27). DataFlux Software is subject to the following additional terms and conditions:
 - a. DataFlux Software that is licensed for use by Customer on personal computers is subject to the following additional terms and conditions.
 - (i) The license fees applicable to the Software are based on the greater of either (1) the total number of individuals (not concurrent) authorized to access the Software or (2) the total number of personal computers on which the Software will be installed and available for processing on the designated operating system. Without the payment of additional license fees that may apply, Customer may not exceed such number of individuals or installations.
 - b. DataFlux Software that is licensed for use by Customer on servers is subject to the following additional terms and conditions.
 - (i) The Software license fee is based on the total processing power of the authorized hardware on which the Software is installed. Processing power includes each processor on each chip. Without the payment of additional license fees that may apply, Customer may not install the Software on hardware other than that for which the Software was specifically licensed.
 - c. DataFlux Quality Knowledge Based Locales (also known as DataFlux LocalePacks) are subject to the following additional terms and conditions.

- (i) The Software license fee is based on one (1) installation of the Software on the authorized hardware and use for Customer's internal business purposes only within the United States during the license period. Customer may not exceed the number of installations of locale of use.
 - d. All DataFlux Software is subject to the following additional terms and conditions: All data necessary to use the Software (collectively, the "Verify Data") is licensed to Customer on an annual, non-exclusive, revocable basis. EIS makes no representation or warranty as to the availability of updates to the Verify Data. The license for all or any part of the Verify Data is subject to termination by EIS on thirty (30) days prior written notice to Customer in the event EIS' licensor terminates the license for such Verify Data ("Verify Data Termination"). In the event of a Verify Data Termination, Customer must (i) terminate its use of, and delete and destroy, the affected Verify Data on or before the date provided by EIS in such written notice and (ii) upon request from EIS, provide EIS with a certification of the deletion and destruction of the affected Verify Data signed by an authorized officer of Customer. In the event of a Verify Data Termination, provided Customer has complied with its obligations hereunder, EIS will refund to Customer a prorated portion of the license fees paid by Customer for the then-current term for the affected Verify Data. The Verify Data may be used only in conjunction with, and under the same terms and conditions as, the corresponding Software. Customer must terminate its use of, and delete and destroy, all Verify Data if the license therefore is not renewed for any reason. THE SOFTWARE MAY CONTAIN OR PROVIDE ACCESS TO DATA LICENSED TO EIS BY THIRD PARTY VENDORS ("THIRD PARTY DATA") AND PROVIDE ACCESS TO SERVICES AND DATA PROVIDED BY THIRD PARTIES (COLLECTIVELY, "THIRD PARTY SERVICES"). THIRD PARTY DATA, THIRD PARTY SERVICES, AND ACCESS THERETO ARE PROVIDED TO CUSTOMER "AS IS" WITHOUT ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, OR ARISING AS A RESULT OF CUSTOM OR USAGE IN THE TRADE OR BY COURSE OF DEALING. EIS DISCLAIMS ANY WARRANTY AS TO (A) THE CONTINUED CERTIFICATION OF THE SOFTWARE BY ANY THIRD PARTY OR (B) THE CONTINUED AVAILABILITY OF ANY DISCOUNT PROVIDED FROM USE OF THE SOFTWARE. EIS DISCLAIMS ANY AND ALL LIABILITY IN CONNECTION WITH CUSTOMER'S USE OF THE THIRD PARTY DATA AND THIRD PARTY SERVICES. THE DISCLAIMERS HEREIN DO NOT APPLY TO ANY THIRD PARTY SOFTWARE ACTUALLY EMBEDDED WITHIN THE SOFTWARE, BUT APPLY IN ALL RESPECTS TO ANY DATA SUPPLIED WITH, CONTAINED IN, OR ACCESSED THROUGH THE SOFTWARE.
 - e. In order to fully function, DataFlux "Verify" products require a DataFlux DataPack that must be separately licensed by Customer from DataFlux or a DataFlux reseller.
- (28). SAS® for Sustainability Management Software is subject to the following additional terms and conditions
- a. SAS® for Sustainability Management Software is licensed for use by the Customer on a single Customer server except as specified in this sections with respect to the Metadata Server. The Customer shall identify the specific machine information (hardware, manufacturer, and operating system) of the server on which the SAS® for Sustainability Management Software and the

Metadata Server component of that Software will be installed. The Software license fee is based on the total processing power of the authorized hardware on which the Software is installed. With respect to server hardware, processing power includes each processor on each chip. With respect to mainframe hardware, processing power is based on Millions of Instructions Per Second.

- b. Customer's license of the SAS® for Sustainability Management Software also includes and is limited to, and the license and maintenance fees payable by the Customer with respect to that Software are respectively based on, the following components of the SAS® for Sustainability Management Software and the quantities of such types of components for which the license or maintenance has been purchased by the Customer:
 - (i) Metadata Server – The Customer may install the Base SAS component (along with any other component authorized by SAS) of the SAS® for Sustainability Management Software on one additional Customer server which has a classification by SAS that is equal to or lower than SAS' classification of the Customer server on which the licensed SAS® for Sustainability Management Software is installed, solely for the purpose of deploying the Metadata Server component for use within the licensed SAS® for Sustainability Management Software environment. Without first paying then-current applicable additional license fees (including an additional license of the Base SAS component), Customer may not install any additional SAS software products on such additional server on which Customer installs the Base SAS component.
- c. The license of SAS® for Sustainability Management Software also includes a license of a SAS/Access® Software product chosen by the Customer.

(29). Teragram Software is subject to the following additional terms and conditions:

- a. Teragram TK240 Software, Teragram TK240 Categorization Software, Teragram TK240 Concepts Extraction Software, Teragram Information Workbench Software, Teragram Semantic Term Manager Software and Teragram Linguistic Support Software are subject to the following additional terms and conditions.
 - (i) The Software license fee is based on the number of individuals (not concurrent) who may access the Software during the applicable license period to use the full functionality of the Software. Without the payment of additional license fees that may apply, Customer may not exceed such number of individuals accessing the Software. The Software supports the English language and additional available languages must be licensed separately hereunder.
- b. Teragram TK240 Collaborative Server Software, Teragram Crawler Software, Teragram Search and Indexing Software, Teragram CATCON Automatic Categorizer Software and CATCON Concepts Extraction Software are subject to the following additional terms and conditions.
 - (i) The Software license fee is based on the total processing power of the authorized hardware on which the Software is installed. Processing power includes each processor on each chip. Without the payment of additional license fees that may apply, Customer may not install the Software on hardware other than that for which the Software was specifically licensed.

- c. Teragram CATCON Server Software is subject to the following additional terms and conditions.
 - (i) The Software license fee is based on the total processing power of the authorized hardware on which the Software is installed. Processing power includes each processor on each chip. Without the payment of additional license fees that may apply, Customer may not install the Software on hardware other than that for which the Software was specifically licensed. The Software is licensed as a bundle of technology and not an "integrated solution." Accordingly, the server-based Software components in the bundle may be used alone or with the other components bundled with the Software.
 - d. Teragram Linguistic Suite Software, Teragram Fast Pattern Matching Software, Teragram Direct Answers Software, Teragram Document Duplication Detection Software, Teragram Email Alerts Software, Teragram IPTC Rules Software, Teragram Language Identification and Character Encoding Software, Teragram MeSH Rules Software, Teragram Semantic Term Manager Server Software, Teragram Spelling Correction Software, Teragram Summarization Software and Teragram Taxonomy Discovery Software are subject to the following additional terms and conditions.
 - (i) The Software license fee is based on the total number of computers on which the Software is installed. Without the payment of additional license fees that may apply, Customer may not exceed such licensed number of installs.
 - e. All Teragram Software is subject to the following additional terms and conditions: Customer may not disclose to third parties the results of Software performance benchmarks, conducted by EIS (or its licensors) or by Customer, without EIS' prior written authorization. Customer shall not use or permit any user or third party to use any application program interface ("API") provided with the Software to read in bulk or "harvest" the contents of any data files licensed to Customer by EIS and provided with the Software.
- (30). The following terms apply to any license for Software that is identified as for test purposes only ("Test Software") in any applicable order for the license of Software arising hereunder. In order to license Test Software, Customer must have already licensed (or is simultaneously licensing) for production use, licenses for the same SAS software product(s) that make up the Test Software ("Production Software"),
- a. Customer's license to use the Test Software is solely to verify the quality and accuracy of data output on the hardware and operating system ("Test Environment") with respect to which the applicable Test Software is licensed, subject to the following.
 - (i) Customer shall not change the operating systems under which the Production Software ("Production Environment") and Test Software are currently licensed unless Customer notifies EIS in writing that Customer desires to change such operating system(s) and EIS approves such change; and
 - (ii) The hardware on which the Test Software that is licensed by hardware capacity (as applicable) is installed in accordance with Customer's license of such Test Software and must have the same or lower machine classification rating by SAS ("MCR") as the MCR of the hardware on which the corresponding Production Software is installed

in the Production Environment in accordance with Customer's license of such Production Software; and

- (iii) The number of each type of licensed user of the Test Software that is licensed by quantity of such users (as applicable) and for which annual maintenance is subsequently purchased by Customer must be the same as the number of licensed users of the corresponding Production Software and for which annual maintenance is subsequently purchased by Customer.
 - b. The Test Software may at no time be used by or for Customer (i) in a production environment or as a fail-over system, (ii) to create applications or code or (iii) for any software development.
 - c. Customer must maintain a separate license for the Production Software under the same operating system as the Test Environment. Customer's license to use the Test Software shall automatically terminate upon expiration or termination of Customer's license of the corresponding Production Software or upon failure of Customer to purchase maintenance renewal for such Production Software or the corresponding applicable Test Software for the next maintenance renewal period following the expiration of any then current maintenance period with respect to such Production Software or applicable Test Software.
- (31). The following terms apply to any license for Software that is identified as for development purposes only ("Development Software") in any applicable order for the license of Software arising hereunder, which order for such Development Software is also discounted from the full price set forth in the Price List. In order to license Development Software, Customer must have already licensed (or is simultaneously licensing) for production use, licenses for the same SAS software product(s) that make up the Development Software ("Production Software"),
- a. Customer's license to use the Development Software is solely for development purposes to create applications and code on the Customer hardware running the operating system with respect to which the Development Software is licensed ("Development Environment"), subject to the following.
 - (i) Customer shall not change the operating systems applicable to the Production Environment or the Development Environment unless Customer notifies EIS in writing that Customer desires to change such environments and EIS approves such change ("Production Environment" means the Customer hardware running the operating system with respect to which the Production Software is licensed); and
 - (ii) The hardware on which the Development Software that is licensed by hardware capacity (as applicable) is installed in accordance with Customer's license of such Development Software and must have the same or lower machine classification rating by SAS ("MCR") as the MCR of the hardware on which the corresponding Production Software is installed in the Production Environment in accordance with Customer's license of such Production Software; and
 - (iii) The number of each type of licensed user of the Development Software that is licensed by quantity of such users (as applicable) and for which annual maintenance is subsequently purchased by Customer shall be the same as (or fewer than) the number of licensed users of the corresponding Production Software and for which annual maintenance is subsequently purchased by Customer.

- b. The Development Software shall at no time be used by or for Customer (i) in a production environment or as a fail-over system or (ii) in a test environment.
- c. Customer must maintain a separate license for the Production Software under the same operating system as the Development Environment. Customer's license to use the Development Software shall automatically terminate upon expiration or termination of Customer's license of the corresponding Production Software or upon failure of Customer to purchase maintenance renewal pursuant to the GSA Contract for such Production Software and the corresponding applicable Development Software for the next maintenance renewal period following the expiration of any then current maintenance period with respect to such Production Software or applicable Development Software.

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

1. SCOPE

- a. The Contractor shall provide training courses normally available to commercial customers, which will permit ordering activity users to make full, efficient use of general purpose commercial IT products. Training is restricted to training courses for those products within the scope of this solicitation.
- b. The Contractor shall provide training at the Contractor's facility and/or at the ordering activity's location, as agreed to by the Contractor and the ordering activity.
- c. As used herein the "SAS Training Services" shall mean SAS Training Points
- d. Purchased SAS Training Points do not expire

2. ORDER

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

- a. For SAS Training Points this information will not be included on the order for the SAS Training Points but will be required at the time the training is scheduled by the ordering activity.

3. TIME OF DELIVERY

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

4. CANCELLATION AND RESCHEDULING

- a. This paragraph only applies to SAS Public Training courses. The ordering activity will notify the Contractor at least three (3) calendar days before the scheduled training date, if a student will be unable to attend. The Contractor will then permit the ordering activity to either cancel the order or reschedule the training at no additional charge. In the event the training class is rescheduled, the ordering activity will modify its original training order to specify the time and date of the rescheduled training class. The applicable fee for SAS Public Training that is cancelled on less than three (3) calendar days notice by the ordering activity shall not be waived or reduced and shall remain due and payable by the ordering activity as ordered. However, substitutions (name changes) by the ordering activity with respect to SAS Public Training are accepted at anytime prior to the event as set forth in paragraph c below. In addition, the Contractor will permit the ordering activity to reschedule attendance of a student at a SAS Public Training course at no additional charge provided that notification of the rescheduling to a later availability date of the course is received at least twenty-four (24) hours prior to the start of the applicable SAS Public Training.

For cancellation and rescheduling with respect to SAS Training Points orders, the cancellation policy set forth in paragraphs n. and o. under the "Guidelines" under Section 10 below shall apply.

- b.

In the event the ordering activity fails to cancel or reschedule a training course within the time frame specified in paragraph a, above, the ordering activity will be liable for the contracted dollar amount of the training course or as stated in paragraph a. above. The Contractor agrees to permit the ordering activity to reschedule a student who fails to attend a SAS Public Training class within ninety (90) days from the original course date, at no additional charge provided that twenty-four (24) hours notice of rescheduling is provided as set forth in paragraph a. above, and subject to availability of the course within such ninety (90) day period.

c. For SAS Public Training the ordering activity reserves the right to substitute one student for another up to the first day of class.

d. In the event the Contractor is unable to conduct training on the date agreed to by the Contractor and the ordering activity, the Contractor must notify the ordering activity at least seventy-two (72) hours before the scheduled training date. The requirement for 72 hours notice shall apply except where Contractor is unable to conduct training due to circumstances beyond Contractor's reasonable control, including any force majeure event; provided that in such cases Contractor shall provide the ordering activity with notice of cancellation as soon as reasonably possible.

5. FOLLOW-UP SUPPORT

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

6. PRICE FOR TRAINING

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

7. INVOICES AND PAYMENT

Invoices for training shall be submitted by the Contractor after ordering activity completion of the training course. Charges for training must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE. All orders for training units cannot be paid in advance. Training units can only be invoiced once the training units are used and the training course is completed. It is the ordering activities responsibility to use funds for training units before the expiration of the funds or the end of performance period of the order. At no point is the Government obligated to pay EIS for training units the ordering activity does not use during the performance period of the order.

8. FORMAT AND CONTENT OF TRAINING

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

b. For hands-on training courses, there must be a one-to-one assignment of IT equipment to students, except that with respect to any SAS Onsite Training, due to the nature of Onsite (Customer Site) Training the ordering activity is responsible for providing IT equipment to the students.

c. The Contractor shall provide each student with a Certificate of Training at the completion of each training course. With respect to SAS Training, Contractor will provide each student with a Certificate of Training provided that the ordering activity furnishes to the Contractor a roster of the students attending the SAS Onsite Training.

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

- (1) The course title and a brief description of the course content, to include the course format (e.g., lecture, discussion, hands-on training);
- (2) The length of the course;
- (3) Mandatory and desirable prerequisites for student enrollment;
- (4) The minimum and maximum number of students per class;
- (5) The locations where the course is offered;
- (6) Class schedules; and
- (7) Price (per student, per class (if applicable)).

The foregoing information is currently provided through the website referenced in subparagraph b of the first paragraph of Section 10 below.

e. For those courses conducted at the ordering activity's location, instructor travel charges (if applicable), including mileage and daily living expenses, must be indicated below. Rates paid as a result of travel must comply with the Federal Travel Regulation or Joint Travel Regulations, as applicable, in effect on the date(s) the travel is performed. Contractors cannot use GSA city pair contracts.

Roundtrip coach airfare; rental car, including gas, or local transportation; hotel and per diem meal expenses; taxes

9. "NO CHARGE" TRAINING

The Contractor shall describe any training provided with equipment and/or software provided under this contract, free of charge, in the space provided below.

NOT APPLICABLE

10. SUPPLEMENTAL TERMS

With respect to SAS Training Services the following additional terms shall apply:

- a) With respect to SAS Training Services identified as "SAS Onsite Training," the maximum number of students that may attend an Onsite training course shall be twenty (20) students. Additional charges shall apply for each additional student in excess of twenty (20) students attending any such on-site training course to be a maximum of five (5) additional students.
- b) SAS Training Services do not include any customized content for any training. The fees for on-site training do not include fees for presenting an on-site course at a SAS training facility. The training courses that may be ordered pursuant to the Contract No. GS-35F-0170K shall be separately identified by SAS Institute. Currently a listing of such courses is available at <http://support.sas.com/training/us/gsa.html>

With respect to SAS Training Services identified as "SAS Training Points" the following additional terms shall apply:

Guidelines

The Customer must designate a representative to serve as the contact to register employees for public courses, on-site courses, Business Knowledge Series (BKS) courses, Live Web courses, Six Sigma courses, license fees for all e-Learning products, SAS Certification exam vouchers, training development, SAS training center rental fees, or selected conferences (collectively "SAS Training Points-Eligible Products and Services").

The SAS Training Points offer applies only to courses and events scheduled in the United States.

For students using SAS Training Points units to attend courses in certain states, an additional state tax may be applicable unless an exemption applies. A separate invoice will be sent for payment remittal. This amount is not included in SAS Training Points pricing.

SAS Training Points units can be used to register for SAS Training Points-Eligible Products and Services. These events will have varying SAS Training Points assigned to them according to their registration or license fees or standard charges.

SAS Training Points units may not be used to satisfy partial billing for a registration.

Class and conference sizes are limited and space is not guaranteed. Onsite classes are limited to 20 students per class. An additional fee per student per day will be charged for each student over 20, not to exceed 25 students in total in the class.

SAS reserves the right to cancel or reschedule any and all SAS Training Points-Eligible Products and Services at its discretion. SAS is not responsible for airline penalties related to the cancellation of SAS courses or events. Please be aware of all airline restrictions regarding nonrefundable airline tickets when purchasing an airline ticket.

The SAS Training Points Administrator will issue an account number to the designated contact upon receipt of an SAS Training Points order. The contact may begin using its SAS Training Points units as soon as it receives an account number, but not before then.

No other discounts are applicable. SAS Training Points fees are non-refundable.

For on-site courses, travel expenses for EIS' vendor's staff are additional. Expenses include roundtrip coach airfare; rental car, including gas or local transportation; taxes; hotel and per diem meal expenses.

CANCELLATION POLICY

SAS Training Points may be reinstated to the account if cancellations are received by phone, mail or e-mail at least 3 (three) calendar days prior to the scheduled start date of an event; after that (7 calendar days or less), SAS Training Points accounts will be charged and invoiced for the full number of corresponding SAS Training Points. Substitutions (name changes) are accepted at any time prior to the event. Transfers are accepted, but they must be received no later than 24 hours from the start date of the event.

The Customer may cancel on-site courses without charge if notification is received by EIS' vendor by phone or in writing no later than 21 days prior to the course start date. Rescheduling a course less than 21 calendar days prior to course start date is considered a cancellation, and a cancellation fee of \$500 will be charged and invoiced separately. In addition, if non-refundable airline tickets have been purchased for EIS vendor's personnel with the Customer's approval, the Customer will be responsible for the cost of these tickets and if less than 21 calendar days notice is provided.

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

1. SCOPE

- a. The prices, terms and conditions stated under Special Item Number 132-51 Information Technology Professional Services apply exclusively to IT Services within the scope of this Information Technology Schedule.
- b. The Contractor shall provide services at the Contractor's facility and/or at the ordering activity location, as agreed to by the Contractor and the ordering activity.

2. PERFORMANCE INCENTIVES

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

3. ORDERING PROCEDURES FOR SERVICES (REQUIRING A STATEMENT OF WORK)
(G-FCI-920) (MAR 2003)

FAR 8.402 contemplates that GSA may occasionally find it necessary to establish special ordering procedures for individual Federal Supply Schedules or for some Special Item Numbers (SINs) within a Schedule. GSA has established special ordering procedures for services that require a Statement of Work. These special ordering procedures take precedence over the procedures in FAR 8.404 (b)(2) through (b)(3).

When ordering services over \$100,000, Department of Defense (DOD) ordering offices and non-DOD agencies placing orders on behalf of the DOD must follow the policies and procedures in the Defense Federal Acquisition Regulation Supplement (DFARS) 208.404-70 – Additional ordering procedures for services. When DFARS 208.404-70 is applicable and there is a conflict between the ordering procedures contained in this clause and the additional ordering procedures for services in DFARS 208.404-70, the DFARS procedures take precedence. GSA has determined that the prices for services contained in the contractor's price list applicable to this Schedule are fair and reasonable. However, the ordering activity using this contract is responsible for considering the level of effort and mix of labor proposed to perform a specific task being ordered and for making a determination that the total firm-fixed price or ceiling price is fair and reasonable.

- (a) When ordering services, ordering activities shall—
 - (1) Prepare a Request (Request for Quote or other communication tool):
 - (i) A statement of work (a performance-based statement of work is preferred) that outlines, at a minimum, the work to be performed, location of work, period of performance, deliverable schedule, applicable standards, acceptance criteria, and any special requirements (i.e., security clearances, travel, special knowledge, etc.) should be prepared.

- (ii) The request should include the statement of work and request the contractors to submit either a firm-fixed price or a ceiling price to provide the services outlined in the statement of work. A firm-fixed price order shall be requested, unless the ordering activity makes a determination that it is not possible at the time of placing the order to estimate accurately the extent or duration of the work or to anticipate cost with any reasonable degree of confidence. When such a determination is made, a labor hour or time-and-materials proposal may be requested. The firm-fixed price shall be based on the rates in the schedule contract and shall consider the mix of labor categories and level of effort required to perform the services described in the statement of work. The firm-fixed price of the order should also include any travel costs or other incidental costs related to performance of the services ordered, unless the order provides for reimbursement of travel costs at the rates provided in the Federal Travel or Joint Travel Regulations. A ceiling price must be established for labor-hour and time-and-materials orders.
 - (iii) The request may ask the contractors, if necessary or appropriate, to submit a project plan for performing the task, and information on the contractor's experience and/or past performance performing similar tasks.
 - (iv) The request shall notify the contractors what basis will be used for selecting the contractor to receive the order. The notice shall include the basis for determining whether the contractors are technically qualified and provide an explanation regarding the intended use of any experience and/or past performance information in determining technical qualification of responses. If consideration will be limited to schedule contractors who are small business concerns as permitted by paragraph (2) below, the request shall notify the contractors that will be the case.
- (2) Transmit the Request to Contractors:
- Based upon an initial evaluation of catalogs and price lists, the ordering activity should identify the contractors that appear to offer the best value (considering the scope of services offered, pricing and other factors such as contractors' locations, as appropriate) and transmit the request as follows:
- NOTE: When buying IT professional services under SIN 132—51 ONLY, the ordering office, at its discretion, may limit consideration to those schedule contractors that are small business concerns. This limitation is not applicable when buying supplies and/or services under other SINs as well as SIN 132-51. The limitation may only be used when at least three (3) small businesses that appear to offer services that will meet the agency's needs are available, if the order is estimated to exceed the micro-purchase threshold.
- (i) The request should be provided to at least three (3) contractors if the proposed order is estimated to exceed the micro-purchase threshold, but not exceed the maximum order threshold.
 - (ii) For proposed orders exceeding the maximum order threshold, the request should be provided to additional contractors that offer services that will meet the ordering activity's needs.
 - (iii) In addition, the request shall be provided to any contractor who specifically requests a copy of the request for the proposed order.
 - (iv) Ordering activities should strive to minimize the contractors' costs associated with responding to requests for quotes for specific orders. Requests should be tailored to the minimum level necessary for adequate evaluation and selection for order placement. Oral presentations should be considered, when possible.
- (3) Evaluate Responses and Select the Contractor to Receive the Order:

After responses have been evaluated against the factors identified in the request, the order should be placed with the schedule contractor that represents the best value. (See FAR 8.404)

- (b) The establishment of Federal Supply Schedule Blanket Purchase Agreements (BPAs) for recurring services is permitted when the procedures outlined herein are followed. All BPAs for services must define the services that may be ordered under the BPA, along with delivery or performance time frames, billing procedures, etc. The potential volume of orders under BPAs, regardless of the size of individual orders, may offer the ordering activity the opportunity to secure volume discounts. When establishing BPAs, ordering activities shall—
 - (1) Inform contractors in the request (based on the ordering activity's requirement) if a single BPA or multiple BPAs will be established, and indicate the basis that will be used for selecting the contractors to be awarded the BPAs.
 - (i) SINGLE BPA: Generally, a single BPA should be established when the ordering activity can define the tasks to be ordered under the BPA and establish a firm-fixed price or ceiling price for individual tasks or services to be ordered. When this occurs, authorized users may place the order directly under the established BPA when the need for service arises. The schedule contractor that represents the best value should be awarded the BPA. (See FAR 8.404)
 - (ii) MULTIPLE BPAs: When the ordering activity determines multiple BPAs are needed to meet its requirements, the ordering activity should determine which contractors can meet any technical qualifications before establishing the BPAs. When establishing the BPAs, the procedures in (a)(2) above must be followed. The procedures at (a)(2) do not apply to orders issued under multiple BPAs. Authorized users must transmit the request for quote for an order to all BPA holders and then place the order with the Schedule contractor that represents the best value.
 - (2) Review BPAs Periodically: Such reviews shall be conducted at least annually. The purpose of the review is to determine whether the BPA still represents the best value. (See FAR 8.404)
- (c) The ordering activity should give preference to small business concerns when two or more contractors can provide the services at the same firm-fixed price or ceiling price.
- (d) When the ordering activity's requirement involves both products as well as executive, administrative and/or professional, services, the ordering activity should total the prices for the products and the firm-fixed price for the services and select the contractor that represents the best value. (See FAR 8.404)
- (e) The ordering activity, at a minimum, should document orders by identifying the contractor from which the services were purchased, the services purchased, and the amount paid. If other than a firm-fixed price order is placed, such documentation should include the basis for the determination to use a labor-hour or time-and-materials order. For ordering activity requirements in excess of the micro-purchase threshold, the order file should document the evaluation of Schedule contractors' quotes that formed the basis for the selection of the contractor that received the order and the rationale for any trade-offs made in making the selection.

4. ORDER

- a. Agencies may use written orders, EDI orders, blanket purchase agreements, individual purchase orders, or task orders for ordering services under this contract. Blanket Purchase Agreements shall not extend beyond the end of the contract period; all services and delivery shall be made and the contract terms and conditions shall continue in effect until the completion of the order. Orders for tasks which extend beyond the fiscal year for which funds are available shall include FAR

52.232-19 Availability of Funds for the Next Fiscal Year. The purchase order shall specify the availability of funds and the period for which funds are available.

- b. All task orders are subject to the terms and conditions of the contract. In the event of conflict between a task order and the contract, the contract will take precedence.

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

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

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

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

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

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

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

6. PERFORMANCE OF SERVICES

- a. The Contractor shall commence performance of services on the date agreed to by the Contractor and the ordering activity.
- b. The Contractor agrees to render services only during normal working hours, unless otherwise agreed to by the Contractor and the ordering activity.
- c. The ordering activity should include the criteria for satisfactory completion for each task in the Statement of Work or Delivery Order. EIS warrants that services shall be completed in a good and workmanlike manner. If the services do not substantially conform to the foregoing warranty, EIS will choose to make them conform or refund the current fee paid for the services at issue. This is the exclusive remedy for breach of this warranty.

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

7. INSPECTION OF SERVICES

The Inspection of Services–Fixed Price (AUG 1996) clause at FAR 52.246-4 applies to firm-fixed price orders placed under this contract. The Inspection–Time-and-Materials and Labor-Hour (JAN 1986) clause at FAR 52.246-6 applies to time-and-materials and labor-hour orders placed under this contract.

8. RESPONSIBILITIES OF THE CONTRACTOR

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character. If the end product of a task order is software, then FAR 52.227-14 Rights in Data – General, may apply.

9. RESPONSIBILITIES OF THE ORDERING ACTIVITY

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

10. INDEPENDENT CONTRACTOR

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

11. ORGANIZATIONAL CONFLICTS OF INTEREST

a. Definitions.

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

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

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

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

12. INVOICES

The Contractor, upon completion of the work ordered, shall submit invoices for IT services. Progress payments may be authorized by the ordering activity on individual orders if appropriate. Progress payments shall be based upon completion of defined milestones or interim products. Invoices shall be submitted monthly for recurring services performed during the preceding month.

13. PAYMENTS

For firm-fixed price orders the ordering activity shall pay the Contractor, upon submission of proper invoices or vouchers, the prices stipulated in this contract for service rendered and accepted. Progress payments shall be made only when authorized by the order. For time-and-materials orders, the Payments under Time-and-Materials and Labor-Hour Contracts at FAR 52.232-7 (DEC 2002), Alternate I (APR 1984) applies to time-and-materials orders placed under this contract. For labor-hour orders, the Payment under Time-and-Materials and Labor-Hour Contracts at FAR 52.232-7 (DEC 2002), Alternate II (DEC 2002) applies to labor-hour orders placed under this contract.

14. RESUMES

Resumes shall be provided to the GSA Contracting Officer or the user ordering activity upon request.

15. INCIDENTAL SUPPORT COSTS

Incidental support costs are available outside the scope of this contract. The costs will be negotiated separately with the ordering activity in accordance with the guidelines set forth in the FAR.

16. APPROVAL OF SUBCONTRACTS

The ordering activity may require that the Contractor receive, from the ordering activity's Contracting Officer, written consent before placing any subcontract for furnishing any of the work called for in a task order.

17. DESCRIPTION OF IT SERVICES AND PRICING (See next page)

18. SUBSTITUTIONS

Executive Information Systems, LLC reserves the right to make the following substitutions in the education and/or experience requirements of any of the service skill categories set forth herein.

1. One year of experience is the equivalent of one year of education.
2. One year of education is the equivalent of one year of experience.
3. Certification related to the technology is equivalent to two years of experience or education requirement.

**EXECUTIVE INFORMATION SYSTEMS, LLC'S
INFORMATION TECHNOLOGY LABOR CATEGORY
DESCRIPTIONS**

Part#	GSA Title	Description	GSA Rate
EXP-GSA	Expert Consultant	Expert knowledge of SAS products and the proven ability to create solutions in complex environments. Provides global counsel on the application of SAS products into a customer environment. Vast knowledge of open and proprietary systems aids in the selection, design, and implementation of a complete SAS software solution. Minimum years of experience for performance of this service is 12 years. Minimum educational requirement is a bachelor's degree or directly related work experience and/or competencies may be considered in place of the above requirements.	\$268.69
PSA-GSA	Principal Solutions Architect	Provides senior leadership and consulting for SAS technical, architectural, analytical, government, and business solutions. May provide senior program and project management or subject matter expertise. Provides strategic SAS consulting services, including assessment, solution development, and implementation. Minimum 10 years of experience for performance of these services. Minimum educational requirement is a bachelor's degree or directly related work experience and/or competencies may be considered in place of the above requirements.	\$242.42
PR-GSA	Principal Consultant	Provides specialized subject matter expertise, guidance, and project direction in one or more of the following areas: compliance consultation and legislative and regulatory issues; review and improvement to planning and budget submission processes; Congressional consultation in support of agency strategic and performance plans; data warehousing and data mining including predictive modeling; and decision technology application at the enterprise and group level. Minimum years of experience for performance of this service is 10 years. Minimum educational requirement is a bachelor's degree or directly related work experience and/or competencies may be considered in place of the above requirements.	\$214.95
MG-GSA	Managing Consultant	Provides project management and high level technical direction. Supports the definition and implementation of planning processes and systems at the enterprise or group level including both strategic and operational activities. Manages and coordinates project activities and serves as the technical lead and liaison for the client. Minimum years of experience for performance of this service is 8 years. Minimum educational requirement is a bachelor's degree or directly related work experience and/or competencies may be considered in place of the above requirements.	\$188.08
SR-GSA	Senior Systems Consultant	Provides direction, facilitation, planning analysis, performance measurement analysis, and technical analysis and design for executive information and decision support technologies in support of enterprise or group level planning. Serves as the technical and team lead for the project. Minimum years of experience for performance of this service is 4 years. Minimum educational requirement is a bachelor's degree or directly related work experience and/or competencies may be considered in place of the above requirements.	\$161.22

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

PREAMBLE

Executive Information Systems, LLC 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 Charles M. Mathews, Jr., 301-581-8594; Fax: 301-581-2573; e-mail: sales@execinfosys.com.

BEST VALUE
BLANKET PURCHASE AGREEMENT
FEDERAL SUPPLY SCHEDULE

(Insert Customer Name)

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

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

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

Signatures

Ordering Activity Date

Contractor Date

BPA NUMBER _____

(CUSTOMER NAME)
BLANKET PURCHASE AGREEMENT

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

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

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

- (2) Delivery:

DESTINATION	DELIVERY SCHEDULES / DATES
_____	_____
_____	_____
_____	_____

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

- (4) This BPA does not obligate any funds.

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

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

OFFICE	POINT OF CONTACT
_____	_____
_____	_____
_____	_____

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

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

- (a) Name of Contractor;
- (b) Contract Number;
- (c) BPA Number;
- (d) Model Number or National Stock Number (NSN);
- (e) Purchase Order Number;
- (f) Date of Purchase;

(g) Quantity, Unit Price, and Extension of Each Item (unit prices and extensions need not be shown when incompatible with the use of automated systems; provided, that the invoice is itemized to show the information); and

(h) Date of Shipment.

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

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

BASIC GUIDELINES FOR USING
"CONTRACTOR TEAM ARRANGEMENTS"

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

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

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

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

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

Here is a general outline on how it works:

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

Customers make a best value selection.