SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS

OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, AND 30

1. REQUISITION NUMBER: SEE SCHEDULE

2. CONTRACT NO.	3. AWARD/EFFECTIVE DATE	4. ORDER NUMBER	5. SOLICITATION NUMBER	6. SOLICITATION ISSUE DATE
N00039-12-C-0088	01-Apr-2012		N00039-12-R-0024	09-Mar-2012

7. FOR SOLICITATION INFORMATION CALL:	a. NAME	b. TELEPHONE NUMBER (No Collect Calls)	8. OFFER DUE DATE/LOCAL TIME
	DAVE CHESNUT	858-537-0364	04:00 PM 20 Mar 2020

9. ISSUED BY CODE N00039

COMMANDER, SPACE AND NAVAL WARFARE
SYSTEMS COMMAND
02 CONTRACTS
4301 PACIFIC HIGHWAY
SAN DIEGO CA 92110-3127

TEL:
FAX:

10. THIS ACQUISITION IS
- [X] UNRESTRICTED
- [ ] SET ASIDE: % FOR
  - [ ] SB
  - [ ] HUBZONE SB
  - [ ] 8(A)
  - [ ] SVC-DISABLED VET-OWNED SB
  - [ ] EMERGING SB

SIZE STD: NAICS: 423430

11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED
- [ ] SEE SCHEDULE

12. DISCOUNT TERMS

- [ ] 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)

13b. RATING

14. METHOD OF SOLICITATION
- [ ] RFQ
- [ ] IFB
- [X] RFP

15. DELIVER TO CODE N00039
COMMANDER, SPACE AND NAVAL WARFARE
UZA ISORENA
SYSTEMS COMMAND
PMW790
4301 PACIFIC HIGHWAY
SAN DIEGO CA 92110

16. ADMINISTERED BY CODE S4402A
DCMA TEXAS
600 N PEARL STREET
SUITE 1630
DALLAS TX 75201-2843

SCD: C

17a. CONTRACTOR/OFFEROR CODE 3DMD3

DELL MARKETING L.P.
ONE DELL WAY
ROUND ROCK TX 78682-0001

TEL. 800-727-1100 FACILITY CODE

18a. PAYMENT WILL BE MADE BY CODE HQ0339

DFAS COLUMBUS CENTER
DFAS-CO/WEST ENTITLEMENT OPERATIONS
P.O. BOX 182381
COLUMBUS OH 43218-2381

- [ ] 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER

18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a. UNLESS BLOCK BELOW IS CHECKED [ ] SEE ADDENDUM

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/ SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
	SEE SCHEDULE				

25. ACCOUNTING AND APPROPRIATION DATA

See Schedule

26. TOTAL AWARD AMOUNT (For Govt. Use Only)

$810,423.00

- [ ] 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1. 52.212-4. FAR 52.212-3. 52.212-5 ARE ATTACHED. ADDENDA [ ] ARE [ ] ARE NOT ATTACHED
- [X] 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA [X] ARE [ ] ARE NOT ATTACHED

28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN 1 COPIES
- [X] TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.

REF: Quote # EMB12031301-R03

29. AWARD OF CONTRACT: REFERENCE
- [ ] OFFER DATED . YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS: SEE SCHEDULE

30a. SIGNATURE OF OFFEROR/CONTRACTOR

31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)

David J Chesnut

31c. DATE SIGNED: 30-Mar-2012

30b. NAME AND TITLE OF SIGNER (TYPE OR PRINT)

30c. DATE SIGNED

31b. NAME OF CONTRACTING OFFICER (TYPE OR PRINT)

DAVE CHESNUT / CONTRACTING OFFICER

TEL: 858-537-0364 EMAIL: david.chesnut@navy.mil

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS

OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, AND 30

1. REQUISITION NUMBER: SEE SCHEDULE

2. CONTRACT NO.	3. AWARD/EFFECTIVE DATE	4. ORDER NUMBER	5. SOLICITATION NUMBER	6. SOLICITATION ISSUE DATE
N00039-12-C-0088	01-Apr-2012		N00039-12-R-0024	09-Mar-2012

7. FOR SOLICITATION INFORMATION CALL:	a. NAME	b. TELEPHONE NUMBER (No Collect Calls)	8. OFFER DUE DATE/LOCAL TIME
	DAVE CHESNUT	858-537-0364	04:00 PM 20 Mar 2020

9. ISSUED BY CODE N00039

COMMANDER, SPACE AND NAVAL WARFARE
SYSTEMS COMMAND
02 CONTRACTS
4301 PACIFIC HIGHWAY
SAN DIEGO CA 92110-3127

TEL:
FAX:

10. THIS ACQUISITION IS
- [X] UNRESTRICTED
- [ ] SET ASIDE: % FOR
  - [ ] SB
  - [ ] HUBZONE SB
  - [ ] 8(A)
  - [ ] SVC-DISABLED VET-OWNED SB
  - [ ] EMERGING SB

SIZE STD: NAICS: 423430

11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED
- [ ] SEE SCHEDULE

12. DISCOUNT TERMS

- [ ] 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)

13b. RATING

14. METHOD OF SOLICITATION
- [ ] RFQ
- [ ] IFB
- [X] RFP

15. DELIVER TO CODE N00039
COMMANDER, SPACE AND NAVAL WARFARE
UZA ISORENA
SYSTEMS COMMAND
PMW 790
4301 PACIFIC HIGHWAY
SAN DIEGO CA 92110

16. ADMINISTERED BY CODE S4402A
DCMA TEXAS
600 N PEARL STREET
SUITE 1630
DALLAS TX 75201-2843

SCD: C

17a. CONTRACTOR/OFFEROR CODE 3DMD3

DELL MARKETING L.P.
ONE DELL WAY
ROUND ROCK TX 78682-0001

TEL. 800-727-1100 FACILITY CODE

18a. PAYMENT WILL BE MADE BY CODE HQ0339

DFAS COLUMBUS CENTER
DFAS-CO/WEST ENTITLEMENT OPERATIONS
P.O. BOX 182381
COLUMBUS OH 43218-2381

- [ ] 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER

18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a. UNLESS BLOCK BELOW IS CHECKED [ ] SEE ADDENDUM

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/ SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
	SEE SCHEDULE				

25. ACCOUNTING AND APPROPRIATION DATA

See Schedule

26. TOTAL AWARD AMOUNT (For Govt. Use Only)

$810,423.00

- [ ] 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1. 52.212-4. FAR 52.212-3. 52.212-5 ARE ATTACHED. ADDENDA [ ] ARE [ ] ARE NOT ATTACHED
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- [X] TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.

REF: Quote # EMB12031301-R03

29. AWARD OF CONTRACT: REFERENCE
- [ ] OFFER DATED . YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS: SEE SCHEDULE

30a. SIGNATURE OF OFFEROR/CONTRACTOR

Stephanie Lendecky

Digitally signed by Stephanie Lendecky
DN: cn=Stephanie Lendecky, o=Dell, ou=Contracts Manager, email=Stephanie_lendecky@dell.com, c=US
Date: 2012.03.30 13:21:55 -05'00'

30b. NAME AND TITLE OF SIGNER (TYPE OR PRINT)

30c. DATE SIGNED: 3-30-12

31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)

31b. NAME OF CONTRACTING OFFICER (TYPE OR PRINT)

TEL: EMAIL:

31c. DATE SIGNED

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS

OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, AND 30

1. REQUISITION NUMBER: SEE SCHEDULE

2. CONTRACT NO.	3. AWARD/EFFECTIVE DATE	4. ORDER NUMBER	5. SOLICITATION NUMBER	6. SOLICITATION ISSUE DATE
N00039-12-C-0088	01-Apr-2012		N00039-12-R-0024	09-Mar-2012

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	DAVE CHESNUT	858-537-0364	04:00 PM 20 Mar 2020

9. ISSUED BY CODE N00039

COMMANDER, SPACE AND NAVAL WARFARE
SYSTEMS COMMAND
02 CONTRACTS
4301 PACIFIC HIGHWAY
SAN DIEGO CA 92110-3127

TEL:
FAX:

10. THIS ACQUISITION IS
- [X] UNRESTRICTED
- [ ] SET ASIDE: % FOR
  - [ ] SB
  - [ ] HUBZONE SB
  - [ ] 8(A)
  - [ ] SVC-DISABLED VET-OWNED SB
  - [ ] EMERGING SB

SIZE STD: NAICS: 423430

11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED
- [ ] SEE SCHEDULE

12. DISCOUNT TERMS

- [ ] 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)

13b. RATING

14. METHOD OF SOLICITATION
- [ ] RFQ
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15. DELIVER TO CODE N00039

COMMANDER, SPACE AND NAVAL WARFARE
LIZA ISORENA
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PMW 790
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16. ADMINISTERED BY CODE S4402A

DCMA TEXAS
600 N PEARL STREET
SUITE 1630
DALLAS TX 75201-2843

SCD: C

17a. CONTRACTOR/ OFFEROR CODE 3DMD3

DELL MARKETING L.P.
ONE DELL WAY
ROUND ROCK TX 78682-0001

TEL. 800-727-1100

FACILITY CODE

18a. PAYMENT WILL BE MADE BY CODE HQ0339

DFAS COLUMBUS CENTER
DFAS-CO/WEST ENTITLEMENT OPERATIONS
P.O. BOX 182381
COLUMBUS OH 43218-2381

- [ ] 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER

18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a. UNLESS BLOCK BELOW IS CHECKED [ ] SEE ADDENDUM

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/ SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
	SEE SCHEDULE				

25. ACCOUNTING AND APPROPRIATION DATA

See Schedule

26. TOTAL AWARD AMOUNT (For Govt. Use Only)

$810,423.00

- [ ] 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1. 52.212-4. FAR 52.212-3. 52.212-5 ARE ATTACHED. ADDENDA [ ] ARE [ ] ARE NOT ATTACHED
- [X] 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA [X] ARE [ ] ARE NOT ATTACHED

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REF: Quote # EMB12031301-R03

29. AWARD OF CONTRACT: REFERENCE
- [ ] OFFER DATED . YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS: SEE SCHEDULE

30a. SIGNATURE OF OFFEROR/CONTRACTOR

31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)

31c. DATE SIGNED

30b. NAME AND TITLE OF SIGNER *(TYPE OR PRINT)*

30c. DATE SIGNED

31b. NAME OF CONTRACTING OFFICER *(TYPE OR PRINT)*

TEL: EMAIL:

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS (CONTINUED)

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/ SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
	SEE SCHEDULE				

32a. QUANTITY IN COLUMN 21 HAS BEEN

☐ RECEIVED ☐ INSPECTED ☐ ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED: _____

32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32c. DATE	32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE

32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE
	32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE

33. SHIP NUMBER	34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR	36. PAYMENT	37. CHECK NUMBER
☐ PARTIAL ☐ FINAL			☐ COMPLETE ☐ PARTIAL ☐ FINAL	

38. S/R ACCOUNT NUMBER	39. S/R VOUCHER NUMBER	40. PAID BY

41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT		42a. RECEIVED BY *(Print)*	
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER	41c. DATE	42b. RECEIVED AT *(Location)*	
		42c. DATE REC'D *(YY/MM/DD)*	42d. TOTAL CONTAINERS

Section SF 1449 - CONTINUATION SHEET

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001 FFP		1	Lot	$810,423.00	$810,423.00
	VMware Enterprise License Agreement Licenses per VMware P/N 11-ELA-014 and EXHIBIT A, VMware-PMW 790 Enterprise License Agreement FOB: Destination				

ITEM NO	SUPPLIES/SERVICES
000101	
	vCenter Server Foundation DJC2 PR Number: 1300259009
	ACRN: AA Funded Amount: $14,527.25

ITEM NO	SUPPLIES/SERVICES
000102	
	vSphere Standard DJC2 PR Number: 1300259009
	ACRN: AA Funded Amount: $35,930.29

ITEM NO	SUPPLIES/SERVICES
000103	
	vCenter Server Foundation DJC2 PR Number: 1300259009
	ACRN: AB Funded Amount: $2,905.45

ITEM NO	SUPPLIES/SERVICES
000104	
	vSphere Standard DJC2 PR Number: 1300259009
	ACRN: AB Funded Amount: $7,186.06

ITEM NO	SUPPLIES/SERVICES
000105	
	vCenter Server Foundation DJC2 PR Number: 1300259009
	ACRN: AB Funded Amount: $2,905.45

ITEM NO	SUPPLIES/SERVICES
000106	
	vSphere Standard DJC2 PR Number: 1300259009
	ACRN: AB Funded Amount: $7,186.06

ITEM NO	SUPPLIES/SERVICES
000107	
	vCenter Server Foundation DJC2 PR Number: 1300259009
	ACRN: AC Funded Amount: $23,243.60

ITEM NO	SUPPLIES/SERVICES
000108	
	vSphere Standard DJC2 PR Number: 1300259009
	ACRN: AC Funded Amount: $57,488.46

ITEM NO	SUPPLIES/SERVICES
000109	
	vCenter Server Foundation DJC2 PR Number: 1300259009
	ACRN: AD Funded Amount: $5,810.90

ITEM NO	SUPPLIES/SERVICES
000110	
	vSphere Standard DJC2 PR Number: 1300259009
	ACRN: AD Funded Amount: $14,372.11

ITEM NO	SUPPLIES/SERVICES
000111	
	vCenter Site Recovery Mngr DMS PR Number: 1300258136
	ACRN: AE Funded Amount: $17,262.05

ITEM NO	SUPPLIES/SERVICES
000112	
	vCenter Standard DMS PR Number: 1300258136
	ACRN: AE Funded Amount: $35,373.84

ITEM NO	SUPPLIES/SERVICES
000113	
	vSphere Enterprise Plus DMS PR Number: 1300258136
	ACRN: AE Funded Amount: $123,757.53

ITEM NO	SUPPLIES/SERVICES
000114	
	vCenter Standard TSw PR Number: 1300258136
	ACRN: AF Funded Amount: $17,686.92

ITEM NO	SUPPLIES/SERVICES
000115	
	vSphere Enterprise Plus TSw PR Number: 1300258136
	ACRN: AF Funded Amount: $346,521.09

ITEM NO	SUPPLIES/SERVICES
000116	
	vCenter Standard DJC2 PR Number: 1300258136
	ACRN: AG Funded Amount: $17,686.92

ITEM NO	SUPPLIES/SERVICES
000117	
	vSphere Enterprise DJC2 PR Number: 1300258136
	ACRN: AG Funded Amount: $61,083.59

ITEM NO	SUPPLIES/SERVICES
000118	
	vSphere Standard DJC2 PR Number: 1300258136
	ACRN: AH Funded Amount: $10,779.09

ITEM NO	SUPPLIES/SERVICES
000119	
	vCenter Server Foundation DJC2 PR Number: 1300258136
	ACRN: AH Funded Amount: $8,716.35

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0002 FFP		1	Lot		NSP
	VMware Enterprise License Agreement Support and Subscription (SnS) Services for CLIN 0001 per VMware P/N 11-ELA-014 and EXHIBIT A, VMware-PMW 790 Enterprise License Agreement FOB: Destination				

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0003 FFP		1	Lot		$0.00 TBN
OPTION	VMware Enterprise License Agreement Licenses per VMware P/N 11-ELA-014 and EXHIBIT A, VMware-PMW 790 Enterprise License Agreement FOB: Destination				

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0004 FFP		1	Lot		$0.00 TBN
OPTION	VMware Enterprise License Agreement Support and Subscription (SnS) Services per VMware P/N 11-ELA-014 and EXHIBIT A, VMware-PMW 790 Enterprise License Agreement FOB: Destination				

DELIVERY INFORMATION

CLIN	DELIVERY DATE	QUANTITY	SHIP TO ADDRESS	UIC
0001	POP 01-APR-2012 TO 31-MAR-2013	N/A	COMMANDER, SPACE AND NAVAL WARFARE LIZA ISORENA SYSTEMS COMMAND PMW 790 4301 PACIFIC HIGHWAY SAN DIEGO CA 92110 858-537-0293 FOB: Destination	N00039

000101	N/A	N/A	N/A	N/A
000102	N/A	N/A	N/A	N/A
000103	N/A	N/A	N/A	N/A
000104	N/A	N/A	N/A	N/A
000105	N/A	N/A	N/A	N/A
000106	N/A	N/A	N/A	N/A
000107	N/A	N/A	N/A	N/A
000108	N/A	N/A	N/A	N/A
000109	N/A	N/A	N/A	N/A
000110	N/A	N/A	N/A	N/A
000111	N/A	N/A	N/A	N/A
000112	N/A	N/A	N/A	N/A
000113	N/A	N/A	N/A	N/A
000114	N/A	N/A	N/A	N/A
000115	N/A	N/A	N/A	N/A
000116	N/A	N/A	N/A	N/A
000117	N/A	N/A	N/A	N/A
000118	N/A	N/A	N/A	N/A
000119	N/A	N/A	N/A	N/A
0002	POP 01-APR-2012 TO 31-MAR-2013	N/A	COMMANDER, SPACE AND NAVAL WARFARE LIZA ISORENA SYSTEMS COMMAND PMW 790 4301 PACIFIC HIGHWAY SAN DIEGO CA 92110 858-537-0293 FOB: Destination	N00039
0003	POP 01-APR-2013 TO 31-MAR-2014	N/A	(SAME AS PREVIOUS LOCATION) FOB: Destination	N00039
0004	POP 01-APR-2013 TO 31-MAR-2014	N/A	(SAME AS PREVIOUS LOCATION) FOB: Destination	N00039

INSPECTION AND ACCEPTANCE TERMS

Supplies/services will be inspected/accepted at:

CLIN	INSPECT AT	INSPECT BY	ACCEPT AT	ACCEPT BY
0001	Destination	Government	Destination	Government
000101	N/A	N/A	N/A	N/A
000102	N/A	N/A	N/A	N/A
000103	N/A	N/A	N/A	N/A
000104	N/A	N/A	N/A	N/A
000105	N/A	N/A	N/A	N/A
000106	N/A	N/A	N/A	N/A
000107	N/A	N/A	N/A	N/A
000108	N/A	N/A	N/A	N/A
000109	N/A	N/A	N/A	N/A
000110	N/A	N/A	N/A	N/A
000111	N/A	N/A	N/A	N/A
000112	N/A	N/A	N/A	N/A
000113	N/A	N/A	N/A	N/A
000114	N/A	N/A	N/A	N/A
000115	N/A	N/A	N/A	N/A
000116	N/A	N/A	N/A	N/A
000117	N/A	N/A	N/A	N/A
000118	N/A	N/A	N/A	N/A
000119	N/A	N/A	N/A	N/A
0002	Destination	Government	Destination	Government
0003	Destination	Government	Destination	Government
0004	Destination	Government	Destination	Government

ACCOUNTING AND APPROPRIATION DATA

AA: 97X4930 NH1D 260 77777 0 050120 2F 000000
COST CODE: A00001121050
AMOUNT: $50,457.54
CIN 130025900900001: $14,527.25
CIN 130025900900002: $35,930.29

AB: 97X4930 NH1D 260 77777 0 050120 2F 000000
COST CODE: A10001121050
AMOUNT: $20,183.02
CIN 130025900900003: $2,905.45
CIN 130025900900004: $7,186.06
CIN 130025900900005: $2,905.45
CIN 130025900900006: $7,186.06

AC: 97X4930 NH1D 260 77777 0 050120 2F 000000

COST CODE: A20001121050
AMOUNT: $80,732.06
CIN 130025900900007: $23,243.60
CIN 130025900900008: $57,488.46

AD: 97X4930 NH1D 260 77777 0 050120 2F 000000
COST CODE: A30001121050
AMOUNT: $20,183.01
CIN 130025900900009: $5,810.90
CIN 130025900900010: $14,372.11

AE: 1721810 M2D6 310 00039 0 050120 2D 000000
COST CODE: A00001114173
AMOUNT: $176,393.42
CIN 130025813600001: $17,262.05
CIN 130025813600002: $35,373.84
CIN 130025813600003: $123,757.53

AF: 1721810 M2PQ 310 00039 0 050120 2D 000000
COST CODE: A10001114173
AMOUNT: $364,208.01
CIN 130025813600004: $17,686.92
CIN 130025813600005: $346,521.09

AG: 1711810 M2JH 310 00039 0 050120 2D 000000
COST CODE: A20001114173
AMOUNT: $78,770.51
CIN 130025813600006: $17,686.92
CIN 130025813600007: $61,083.59

AH: 1721810 M2JH 310 00039 0 050120 2D 000000
COST CODE: A30001114173
AMOUNT: $19,495.44
CIN 130025813600008: $10,779.09
CIN 130025813600009: $8,716.35

CLAUSES INCORPORATED BY REFERENCE

52.212-4 Contract Terms and Conditions--Commercial Items JUN 2010

CLAUSES INCORPORATED BY FULL TEXT

52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (AUG 2011)

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(1) 52.222-50, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)).

___ Alternate I (Aug 2007) of 52.222-50 (22 U.S.C. 7104(g)).

(2) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).

(3) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items: (Contracting Officer check as appropriate.)

___ (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).

____ (2) 52.203-13, Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

____ (3) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (June 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

___ (4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (Jul 2010) (Pub. L. 109-282) (31 U.S.C. 6101 note).

___ (5) 52.204-11, American Recovery and Reinvestment Act—Reporting Requirements (Jul 2010) (Pub. L. 111-5).

___ (6) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Dec 2010) (31 U.S.C. 6101 note).

____ (7) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (section 740 of Division C of Pub. L. 111-117, section 743 of Division D of Pub. L. 111-8, and section 745 of Division D of Pub. L. 110-161).

____ (8) 52.219-3, Notice of Total HUBZone Set-Aside or Sole-Source Award (Jan 2011) (15 U.S.C. 657a).

____ (9) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Jan 2011) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).

____ (10) [Reserved]

____ (11)(i) 52.219-6, Notice of Total Small Business Set-Aside (June 2003) (15 U.S.C. 644).

____ (ii) Alternate I (Oct 1995) of 52.219-6.

____ (iii) Alternate II (Mar 2004) of 52.219-6.

____ (12)(i) 52.219-7, Notice of Partial Small Business Set-Aside (June 2003) (15 U.S.C. 644).

____ (ii) Alternate I (Oct 1995) of 52.219-7.

____ (iii) Alternate II (Mar 2004) of 52.219-7.

____ (13) 52.219-8, Utilization of Small Business Concerns (Jan 2011) (15 U.S.C. 637(d)(2) and (3)).

____ (14)(i) 52.219-9, Small Business Subcontracting Plan (Jan 2011) (15 U.S.C. 637(d)(4)).

____ (ii) Alternate I (Oct 2001) of 52.219-9.

____ (iii) Alternate II (Oct 2001) of 52.219-9.

____ (iv) Alternate III (Jul 2010) of 52.219-9.

____ (15) 52.219-14, Limitations on Subcontracting (Dec 1996) (15 U.S.C. 637(a)(14)).

____ (16) 52.219-16, Liquidated Damages—Subcon-tracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).

____ (17)(i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (Oct 2008) (10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).

____ (ii) Alternate I (June 2003) of 52.219-23.

____ (18) 52.219-25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (Dec 2010) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

____ (19) 52.219-26, Small Disadvantaged Business Participation Program— Incentive Subcontracting (Oct 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

____ (20) 52.219-27, Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside (May 2004) (15 U.S.C. 657 f).

____ (21) 52.219-28, Post Award Small Business Program Rerepresentation (Apr 2009) (15 U.S.C. 632(a)(2)).

____ (22) 52.219-29 Notice of Total Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (Apr 2011).

____ (23) 52.219-30 Notice of Total Set-Aside for Women-Owned Small Business (WOSB) Concerns Eligible Under the WOSB Program (Apr 2011).

____ (24) 52.222-3, Convict Labor (June 2003) (E.O. 11755).

____ (25) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (Jul 2010) (E.O. 13126).

____ (26) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).

____ (27) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).

____(28) 52.222-35, Equal Opportunity for Veterans (Sep 2010)(38 U.S.C. 4212).

____ (29) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).

____ (30) 52.222-37, Employment Reports on Veterans (Sep 2010) (38 U.S.C. 4212).

____ (31) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).

____ (32) 52.222-54, Employment Eligibility Verification (Jan 2009). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)

____ (33)(i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA–Designated Items (May 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

____ (ii) Alternate I (May 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

____ (34) 52.223-15, Energy Efficiency in Energy-Consuming Products (Dec 2007) (42 U.S.C. 8259b).

____ (35)(i) 52.223-16, IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products (Dec 2007) (E.O. 13423).

____ (ii) Alternate I (Dec 2007) of 52.223-16.

____ (36) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (Aug 2011) (E.O. 13513).

____ (37) 52.225-1, Buy American Act—Supplies (Feb 2009) (41 U.S.C. 10a-10d).

____ (38)(i) 52.225-3, Buy American Act—Free Trade Agreements—Israeli Trade Act (June 2009) (41 U.S.C. 10a-10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, Pub. L. 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, and 110-138).

____ (ii) Alternate I (Jan 2004) of 52.225-3.

____ (iii) Alternate II (Jan 2004) of 52.225-3.

____ (39) 52.225-5, Trade Agreements (Aug 2009) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).

____ (40) 52.225-13, Restrictions on Certain Foreign Purchases (June 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

____ (41) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150

____ (42) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

____ (43) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

____ (44) 52.232-30, Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

____ (45) 52.232-33, Payment by Electronic Funds Transfer—Central Contractor Registration (Oct 2003) (31 U.S.C. 3332).

____ (46) 52.232-34, Payment by Electronic Funds Transfer—Other than Central Contractor Registration (May 1999) (31 U.S.C. 3332).

____ (47) 52.232-36, Payment by Third Party (Feb 2010) (31 U.S.C. 3332).

____ (48) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

____ (49)(i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631).

____ (ii) Alternate I (Apr 2003) of 52.247-64.

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items: (Contracting Officer check as appropriate.)

_____ (1) 52.222-41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, et seq.).

_____ (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (May 1989) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

_____ (3) 52.222-43, Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts) (Sep 2009) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

_____ (4) 52.222-44, Fair Labor Standards Act and Service Contract Act—Price Adjustment (Sep 2009) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

_____ (5) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (Nov 2007) (41 351, et seq.).

_____ (6) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services—Requirements (Feb 2009) (41 U.S.C. 351, et seq.).

_____ (7) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (Mar 2009) (Pub. L. 110-247).

_____ (8) 52.237-11, Accepting and Dispensing of $1 Coin (Sept 2008) (31 U.S.C. 5112(p)(1)).

(d) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records--Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) (1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (e)(1)in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (APR 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note).

(ii) 52.219-8, Utilization of Small Business Concerns (DEC 2010) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds $650,000 ($1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(iii) Reserved.

(iv) 52.222-26, Equal Opportunity (MAR 2007) (E.O. 11246).

(v) 52.222-35, Equal Opportunity for Veterans (SEP 2010) (38 U.S.C. 4212).

(vi) 52.222-36, Affirmative Action for Workers with Disabilities (OCT 1998) (29 U.S.C. 793).

(vii) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause 52.222-40.

(viii) 52.222-41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, et seq.).

(ix) 52.222-50, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)).

Alternate I (AUG 2007) of 52.222-50 (22 U.S.C. 7104(g)).

(x) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment--Requirements (Nov 2007) (41 U.S.C. 351, et seq.).

(xi) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services--Requirements (FEB 2009) (41 U.S.C. 351, et seq.).

(xii) 52.222-54, Employment Eligibility Verification (JAN 2009).

(xiii) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (MAR 2009) (Pub. L. 110-247). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(xiv) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

(2) While not required, the contractor May include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of clause)

252.212-7001 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (SEP 2011)

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

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

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

(1) ____ 252.203-7000, Requirements Relating to Compensation of Former DoD Officials (JAN 2009) (Section 847 of Pub. L. 110-181).

(2) ____ 252.203-7003, Agency Office of the Inspector General (SEP 2010)(section 6101 of Pub. L. 110-252, 41 U.S.C. 3509).

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

(4) ____ 252.219-7003, Small Business Subcontracting Plan (DoD Contracts) (OCT 2010) (15 U.S.C. 637).

(5) ____ 252.219-7004, Small Business Subcontracting Plan (Test Program) (JAN 2011) (15 U.S.C. 637 note).

(6)(i) ____ 252.225-7001, Buy American Act and Balance of Payments Program (JAN 2009) (41 U.S.C. chapter 83, E.O. 10582).

(ii) ____ Alternate I (DEC 2010) of 252.225-7001.

(7) ____ 252.225-7008, Restriction on Acquisition of Specialty Metals (JUL 2009) (10 U.S.C. 2533b).

(8) ____ 252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals (JAN 2011) (10 U.S.C. 2533b).

(9) ____ 252.225-7012, Preference for Certain Domestic Commodities (JUN 2010) (10 U.S.C. 2533a).

(10) ____ 252.225-7015, Restriction on Acquisition of Hand or Measuring Tools (JUN 2005) (10 U.S.C. 2533a).

(11) ____ 252.225-7016, Restriction on Acquisition of Ball and Roller Bearings (JUN 2011) (Section 8065 of Pub. L. 107-117 and the same restriction in subsequent DoD appropriations acts).

(12)(i) ____ 252.225-7021, Trade Agreements (JUN 2011) (19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note).

(ii) ____ Alternate I (SEP 2008) of 252.225-7021.

(iii) ____ Alternate II (DEC 2010) of 252.225-7021.

(13) ____ 252.225-7027, Restriction on Contingent Fees for Foreign Military Sales (APR 2003) (22 U.S.C. 2779).

(14) ____ 252.225-7028, Exclusionary Policies and Practices of Foreign Governments (APR 2003) (22 U.S.C. 2755).

(15)(i) ____ 252.225-7036, Buy American Act—Free Trade Agreements—Balance of Payments Program (DEC 2010) (41 U.S.C. chapter 83 and 19 U.S.C. 3301 note).

(ii) ____ Alternate I (JUL 2009) of 252.225-7036.

(iii) ____ Alternate II (DEC 2010) of 252.225-7036.

(iv) ____ Alternate III (DEC 2010) of 252.225-7036.

(16) ____ 252.225-7039, Contractors Performing Private Security Functions (AUG 2011) (Section 862 of Pub. L. 110-181, as amended by section 853 of Pub. L. 110-417 and sections 831 and 832 of Pub. L. 111-383).

(17) ____ 252.225-7038, Restriction on Acquisition of Air Circuit Breakers (JUN 2005) (10 U.S.C. 2534(a)(3)).

(18) ____ 252.226-7001, Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (SEP 2004) (Section 8021 of Pub. L. 107-248 and similar sections in subsequent DoD appropriations acts).

(19) ____ 252.227-7013, Rights in Technical Data--Noncommercial Items (SEP 2011), if applicable (see 227.7103-6(a)).

(20) ____ 252.227-7015, Technical Data—Commercial Items (SEP 2011) (10 U.S.C. 2320).

(21) ____ 252.227-7037, Validation of Restrictive Markings on Technical Data ((SEP 2011), if applicable (see 227.7102-4(c)))(10 U.S.C. 2321).

(22) ____ 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports (MAR 2008) (10 U.S.C. 2227).

(23) ____ 252.237-7010, Prohibition on Interrogation of Detainees by Contractor Personnel (NOV 2010) (Section 1038 of Pub. L. 111-84)

(24) ____ 252.237-7019, Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Pub. L. 108-375).

(25) ____ 252.243-7002, Requests for Equitable Adjustment (MAR 1998) (10 U.S.C. 2410).

(26) ____ 252.246-7004, Safety of Facilities, Infrastructure, and Equipment For Military Operations (OCT 2010) (Section 807 of Pub. L. 111-84).

(27) ____ 252.247-7003, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (SEP 2010) (Section 884 of Pub. L. 110-417).

(28)(i) ____ 252.247-7023, Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).

(ii) ____ Alternate I (MAR 2000) of 252.247-7023.

(iii) ____ Alternate II (MAR 2000) of 252.247-7023.

(iv) ____ Alternate III (MAY 2002) of 252.247-7023.

(29) ____ 252.247-7024, Notification of Transportation of Supplies by Sea (MAR (2000) (10 U.S.C. 2631).

c) In addition to the clauses listed in paragraph (e) of the Contract Terms and Conditions Required to Implement Statutes or Executive Orders--Commercial Items clause of this contract (FAR 52.212-5), the Contractor shall include the terms of the following clauses, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

(1) 252.225-7039, Contractors Performing Private Security Functions (AUG 2011) (Section 862 of Pub. L. 110-181, as amended by section 853 of Pub. L. 110-417 and sections 831 and 832 of Pub. L. 111-383).

2) 252.227-7013, Rights in Technical Data--Noncommercial Items (SEP 2011), if applicable (see 227.7103-6(a)).

(3) 252.227-7015, Technical Data--Commercial Items (SEP 2011), if applicable (see 227.7102-4(a)).

(4) 252.227-7037, Validation of Restrictive Markings on Technical Data (SEP 2011), if applicable (see 227.7102-4(c)).

(5) 252.237-7010, Prohibition on Interrogation of Detainees by Contractor Personnel (NOV 2010) (Section 1038 of Pub. L. 111-84).

(6) 252.237-7019, Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Pub. L. 108-375).

(7) 252.247-7003, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (SEP 2010) (Section 884 of Pub. L. 110-417).

(8) 252.247-7023, Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).

(9) 252.247-7024, Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

(End of clause)

LIST OF ATTACHMENTS

DOCUMENT	**DATE**
EXHIBIT A, VMware-PMW 790 Enterprise License Agreement	April 1, 2012

ENTERPRISE LICENSE AGREEMENT

This Enterprise License Agreement ("ELA") is entered into as of the Effective Date (defined below) by UNITED STATES GOVERNMENT, as represented by NAVY PEO C4I PMW790, located at 4301 Pacific Highway, San Diego, CA 92110 ("Customer") and VMware, Inc., a Delaware corporation, located at 3401 Hillview Avenue, Palo Alto, CA 94304 ("VMware"). The Software provided hereunder is governed by the terms of this ELA and the terms of the applicable End User License Agreements ("EULA") accompanying or embedded in the Software, copies of which are located at www.vmware.com/downloads/eula.

1. Scope of Software

(a) Subject to the terms herein, Customer shall purchase licenses to the software, including corresponding updates and upgrades provided in connection with the Services (as defined herein) ("**Software**"), as set forth in the attached schedule ("**ELA Schedule**"), as it exists as of the Effective Date, and corresponding technical support and subscription services ("**Services**"), from Customer's preferred reseller, in accordance with the terms herein.

(b) Upon payment of the applicable fees by Customer, and subject to the terms of this ELA, Customer shall have a license to Deploy (as defined herein) the Software internally, as set forth in the ELA Schedule, for a period of one (1) year following the Effective Date ("**ELA Period**"). For the avoidance of doubt, upon expiration of the ELA Period, Customer may continue to use the Software that it has Deployed as of such date, except as otherwise expressly set forth herein, subject to the terms of this ELA, but may not Deploy additional copies of the Software. As used in this ELA, a license to the Software shall be deemed "**Deployed**" if the Software has been installed, and Customer has entered a software license key, if necessary, enabling the Software to perform its function at, or prior to, the expiration of the ELA Period.

(c) For purposes of this ELA only, "Customer" means such **UNITED STATES GOVERNMENT, as represented by NAVY PEO C4I PMW790,** as it exists as of the Effective Date. "Customer" shall not include:

> (i) any party for which Customer permits any use of or access to the Software by any third party, or operate the Software on behalf of or for the benefit of any third party, including the operation of any service that is accessed by a third party, other than Customer support contractors as defined in 10 USC §2320; or,

(ii) the business of any third party corporation or other entity which purchases a part or all of the business of Customer by way of divestiture, acquisition, or similar transaction.

(d) This ELA and any rights or obligations of Customer under it may not be assigned or otherwise transferred by Customer, in whole or in part, whether voluntary or by operation of law, including by way of sale of assets, merger or consolidation, without the prior written consent of VMware, and any attempt to assign this ELA by Customer without such consent shall be null and void and of no force and effect. For purposes of this paragraph: (i) the acquisition by any person, entity or group directly or indirectly, of beneficial ownership of more than fifty percent (50%) of the total voting power of the capital stock or other securities of the Customer; or (ii) any merger, consolidation, change of control or similar transaction by the Customer with or into any person or entity (even if the Customer is the surviving entity) other than in a transaction in which the holders of a majority of the outstanding voting stock prior to such transaction continue to hold majority of the outstanding voting stock of the surviving or continuing entity following such transaction, shall each constitute an assignment for which the prior written consent of VMware is required. Subject to the foregoing, this ELA will be binding upon and will inure to the benefit of the parties and their respective successors and assigns.

2. Fees

(a) In connection with this ELA, Customer agrees to pay a fee to VMware through Customer's preferred reseller ("**Fee**"). This Fee comprises the following:

(i) License fees for Deployment of the Software as set forth in Section 1(b) during the ELA Period;

(ii) Services fees for such Software Deployed during the ELA Period;

(b) At any time prior to the expiration of the ELA Period, the Support and Subscription for the Software may be renewed by Customer for one (1) additional year beginning on the expiration of the ELA Period.

(c) Within thirty (30) days following expiration of the ELA Period, Customer shall report to VMware the total number of Software licenses Deployed by Customer as of the expiration date of the ELA Period. Further, Customer shall provide to VMware such other information reasonably requested by VMware to ensure Customer's compliance with the terms of this ELA. Such report shall be provided via e-mail to Licensecompliance@vmware.com, or as otherwise specified by VMware in writing. Customer will maintain accurate records as to its use of the Software, as authorized hereunder, sufficient to provide evidence of compliance with the terms of this ELA.

3. Level of Services

During the ELA Period, VMware shall provide Customer with VMware, Inc. Production level Support and Subscription Services "SnS" Terms and Conditions. The Services shall be provided in accordance with VMware's standard Support and Subscription Services "SnS" Terms and Conditions, dated April 2011, located at http://www.vmware.com/support/policies.

4. Delivery

In consideration of the fees paid by Customer in connection with the ELA, the software license key(s) necessary for Customer to activate and Deploy the Software as set forth herein shall be provided to Customer electronically.

5. Miscellaneous

(a) During the term of this ELA, Customer may, on a one-time basis, request an amendment to this ELA to incorporate the software licensed by Customer prior to the ELA Effective Date ("Pre ELA Installed Software") solely for the purpose of acknowledging that the Services for such Pre-ELA Installed Software shall be made coterminous with the ELA Period. VMware agrees to negotiate one such amendment in good faith and without regard to the minimum dollar purchase threshold normally required by VMware for such amendment. All subsequent amendments must contain $100,000 or more in net new licensing (based off VMware list pricing).

(b) The terms and conditions of this ELA are subordinate to any additional or conflicting terms included on any parent contract instrument issued to VMware by Customer, under which this ELA is executed. However, the terms of this ELA shall supersede any conflicting terms of the EULA embedded in the Software, as well as the terms of the services licenses referred to in Paragraph 3, Level of Services. Unless otherwise modified herein, the remaining terms of the EULA shall remain in full force and effect. In the event of a conflict between the terms of the EULA, this ELA, and any other document provided with the Software and/or the Services, the terms of this ELA shall control. In the event of a conflict between the Terms of Service, this ELA (other than the contract incorporating the ELA), and any other document provided with the Hosted Service, the terms of this ELA shall control. This ELA may not be modified or rescinded except in writing signed by the parties.

(c) Third Party Beneficiary: VMware is a direct and intended third party beneficiary of the provisions of this ELA and entitled to enforce the terms of this ELA directly against End User

(d) Customer agrees that VMware may reference Customer as a customer of VMware, subject to Customer's trademark and logo usage guidelines provided by Customer. HOWEVER, THIS AGREEMENT DOES NOT, IN ANY MANNER, CONSTITUTE AN ENDORSEMENT BY GOVERNMENT

OF ANY RESULTS, RESULTING DESIGNS, HARDWARE, SOFTWARE OR ANY OTHER APPLICATIONS RESULTING FROM THE USE OF THE VMWARE SOFTWARE AND/OR SERVICES UNDER THIS ELA. THIS ELA DOES NOT OBLIGATE THE GOVERNMENT IN ANY WAY, SHAPE OR FORM TO AWARD FUTURE PROCUREMENTS TO VMWARE.

(e) This ELA may be executed and delivered by e-mailing a signed scanned document and the parties agree that such e-mail execution and delivery shall have the same force and effect as delivery of an original document with original signatures, and that each party may use such e-mailed signatures as evidence of the execution and delivery of this ELA by all parties to the same extent that an original signature could be used. For the avoidance of doubt, if the parties require documents with original signatures for record purposes, these documents will be provided for replication purposes only (of the executed e-mail document) and will not constitute a new agreement.

(f) This ELA must be signed by Customer, dated, and returned to VMware on or before VMware's close of business on March 31, 2012. If this ELA is not signed by Customer, dated, and returned to VMware on or before close of business on such date, VMware shall have the option to cancel this ELA and the terms set forth herein shall be null and void. In addition, if Customer does not issue a contract instrument incorporating this ELA to Customer's preferred reseller by March 31, 2012, VMware shall have the option to cancel this ELA and the terms set forth herein shall be null and void.

(g) All disputes between VMware and Customer shall be governed by the Disputes clause in the parent contract incorporating this ELA.

(h) This ELA is subject solely to United States Federal law for all purposes, including, but not limited to, determining the validity of this ELA, the meaning of its provisions, and the rights, obligations and remedies of the parties.

(i) Nothing in this ELA excuses or relieves VMware from its performance of any contractual requirements with or contractual obligation to Customer that is beyond the scope of this ELA.

6. Government Warranty Information

VMware recognizes United States Government Customers may require additional warranties to address specific Governmental requirements. As such VMware has provided the following Government specific warranties in addition to the standard VMware End Use License Agreement (ELUA) warranties. The additional United States Government warranties are available via the VMware US Government Price List (Government SKU) only. Notwithstanding any contrary terms contained in the applicable product EULA with regard to the Software distributed under valid VMware government SKUs, the following additional warranty terms shall apply:

(i) VMware warrants, as follows, to customers who have purchased the VMware Software or Services through an applicable VMware government SKU: As of the date of purchase of said goods and services (a) the Software designated by VMware and posted at http://www.vmware.com/help/accessibility.html (or a VMware successor site) is, to VMware's knowledge, compliant with Section 508 of the Rehabilitation Act (29 USC 794d) as amended by the Workforce Investment Act of 1998, except where VMware has otherwise identified in its published Voluntary Product Accessibility Template (VPAT), posted at the aforementioned site; and (b) VMware will make available a U.S. Person as defined by 22 CFR Parts 120-130, International Traffic in Arms Regulations (ITAR) to provide technical support as a part of the Services If the applicable Software and/or Services purchased through an applicable VMware government SKU do not substantially conform to the aforementioned warranties, your sole remedy will be that VMware shall, at it option, correct the defects in such Software and/or Services or refund the license or service fees you paid, if any, provided that (a) such Software has been properly installed and used at all times and in accordance with the instructions in the applicable end user documentation; (b) no modification, alteration or addition has been made to such Software product by persons other than VMware or VMware's authorized representative; and (c) VMware receives prompt written notice of the nonconformity following shipment (in the case of Software) and/or following commencement of the Services (in the case of Services). EXCEPT FOR THE EXPRESS LIMITED WARRANTIES PROVIDED IN THE APPLICABLE PRODUCT EULA AND AS SPECIFIED ABOVE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE MANDATORY LAW, VMWARE AND ITS LICENSORS PROVIDE SUCH SOFTWARE AND/OR SERVICES WITHOUT ANY WARRANTIES OF ANY KIND, EXPRESS, IMPLIED, STATUTORY, OR IN ANY OTHER PROVISION OF THIS EULA OR COMMUNICATION WITH YOU.

IN WITNESS WHEREOF, each party hereto warrants and represents that this ELA has been executed by a duly authorized representative of such party, and it constitutes the legal, valid and binding obligation of such party.

CARAHSOFT TECHNOLOGY CORP,

as Authorized Agent for VMware

By:

Name: Chris Harrison

Title: Sales Manager

Date: March 12, 2012

E-Mail: chris.harrison@carahsoft.com

UNITED STATES GOVERNMENT,

as represented by NAVY PEO C4I PMW790

By: David J Chesnut

Name: DAVID J CHESNUT

Title: CONTRACTING OFFICER

Date: MARCH 9, 2012

E-Mail: DAVID.CHESNUT@NAVY.MIL

Effective Date: APRIL 1, 2012 (if blank, then the Effective Date is the last indicated date of execution)

DESCRIPTION OF SOFTWARE	MAXIMUM AUTHORIZED DEPLOYMENT DURING THE ELA PERIOD	NOTES
VMWARE VCENTER SERVER		
VMware vCenter Server Standard (including VMware vCenter Converter)	Not to Exceed Sixteen (16) License(s)	
VMware vCenter Server Foundation (including VMware vCenter Converter)	Not to Exceed Forty (40) License(s)	
VMWARE VSPHERE		

DESCRIPTION OF SOFTWARE	MAXIMUM AUTHORIZED DEPLOYMENT DURING THE ELA PERIOD	NOTES
VMware vSphere, Enterprise Plus	Not to Exceed One Hundred Fifty Two (152) License(s)	Note: End User may not use VMware vSphere, Enterprise Plus to create a virtual desktop infrastructure (e.g., hosted desktop solution).
VMware vSphere, Enterprise	Not to Exceed Twenty Four (24) License(s)	Note: End User may not use VMware vSphere, Enterprise to create a virtual desktop infrastructure (e.g., hosted desktop solution).
VMware vSphere, Standard	Not to Exceed One Hundred Forty Eight (148) License(s)	Note: End User may not use VMware vSphere, Standard to create a virtual desktop infrastructure (e.g., hosted desktop solution).
VMWARE VCENTER SITE RECOVERY MANAGER		
VMware vCenter Site Recovery Manager	Not to Exceed Four (4) Pack(s) (25 VM Pack)	

VMware vCenter Server End User License Agreement

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1. DEFINITIONS

1.1 " **Documentation**" means, collectively, the operation instructions, release notes, user manuals and/or help files for the Software in electronic or written form.

1.2 **"Guest Operating Systems"** means instances of third-party operating systems licensed separately by You and installed in a Virtual Machine.

1.3 **"Software"** means software products that are licensed to You under this EULA, including, but not limited to, any related components purchased or provided with the Software, Documentation, and any maintenance releases thereto.

1.4 **"Software License Key"** means a valid serial number issued to You to activate and use the Software.

1.5 **"Open Source Software"** means various software components including open source software, that may be part of the Software, each licensed to You under its own applicable license terms and conditions, which can be found in the open_source_licenses.txt file, the Documentation or as applicable, the corresponding source files for the Software available at http://www.vmware.com/download/open_source.html.

1.6 **"Virtual Machine"**means a software container that can run its own operating system and execute applications like a physical machine.

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2.5 **Third-party Software.** You are responsible for separately obtaining and complying with any licenses necessary to operate third-party software, including but not limited to, Guest Operating Systems and application programs which the Software enables You to run.

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7.1 **Entire Agreement.** This EULA represents the entire agreement between the parties with respect to the Software, and supersedes any prior or contemporaneous oral or written agreements concerning the subject matter contained herein.

7.2 **Headings.** Headings under this EULA are intended only for convenience and shall not affect the interpretation of this EULA.

7.3 **Waiver and Modification**. No failure of either party to exercise or enforce any of its rights under this EULA will act as a waiver of those rights. This EULA may only be modified, or any rights under it waived, by a written agreement executed by the party against which it is asserted.

7.4 **Severability.** If any provision of this EULA is found illegal or unenforceable, it will be enforced to the maximum extent permissible, and the legality and enforceability of the other provisions of this EULA will not be affected.

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7.8 **Contact Information.** Please direct legal notices or other correspondence to VMware, Inc., 3401 Hillview Avenue, Palo Alto, California 94304, United States of America. If You have any questions concerning this EULA, please send an email to info@vmware.com.

8. SOFTWARE-SPECIFIC TERMS AND CONDITIONS. In addition to the above sections, the Software is subject to the following terms and conditions. In the event of any conflict between the Software-specific terms and conditions and sections 1-7 of the EULA, the Software-specific terms and conditions shall control.

VMware vCenter Server

" **Instance**" means a single installation of the Software on a physical server or Virtual Machine.

" **Pool**" means the aggregate amount of vRAM licensed for all vSphere licenses that are: (1) all of the same edition, and (2) all managed by a single instance of vCenter Server or by multiple vCenter Servers operating in linked mode.

" **Server**" means a hardware system capable of running the Software. A hardware partition or blade is considered a separate hardware system.

“ **VMware Virtualization Software Product**” means a VMware product that enables Virtual Machines to run on a Server, including, VMware vSphere, VMware ESX, VMware ESXi, GSX Server and VMware Server.
“ **vRAM**” means the virtual memory configured to a single Virtual Machine.
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VMware grants You a nonexclusive, non-transferable license, without rights to sublicense, to use the Software for information processing and computing purposes to perform management operations on distributed Servers that are activated for management by the Software, provided that a validly licensed copy of a VMware Virtualization Software Product is installed on each such Server.
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The Microsoft Windows Preinstallation Environment software included with the Software is limited for use as a boot, diagnostic, disaster recovery, setup, restoration, emergency services, installation, test and/or configuration utilities program, and not for use as a general purpose operating system or as a substitute for a fully functional version of any operating system product; and contains a security feature that will cause your computer system to reboot without prior notification after 24 hours of continuous use.
VMware vSphere Essentials and VMware vSphere Essentials Plus (collectively, the “ **Essentials Kit**”):
You may only use VMware vCenter Server, included in the Essential Kit, solely to manage up to three (3) Servers, with each Server having up to two (2) Processors.
The amount of vRAM managed by the VMware vCenter Server included with the Essentials Kit cannot exceed 192 GB of vRAM in its Pool at any time.
VMware vSphere Essentials for Retail and Branch Offices and VMware vSphere Essentials Plus for Retail and Branch Offices(collectively, the " **ROBO Kit**")
You may only use VMware vCenter Server, included in the ROBO Kit, solely to manage up to three (3) Servers per physical building, with each Server having up to two (2) Processors or use a separately purchased VMware vCenter Server Standard to manage such Servers. The number of physical buildings with Servers may not exceed the number of ROBO Kit licenses purchased.
The amount of vRAM managed by the VMware vCenter Server included with the ROBO Kit cannot exceed 192 GB of vRAM in its Pool at any time.

VMware View
" **Desktop Virtual Machine**" is a hosted Virtual Machine with one of the following Windows operating systems: XP, Vista, and 7.
" **Powered On Desktop Virtual Machine**" means a Desktop Virtual Machine receiving a remote connection from a device or running locally on a device.
Your use of VMware vCenter Server, included in any VMware View edition, is limited to managing servers that are solely hosting Desktop Virtual Machines and VMware products which are included in the applicable View edition, or third party connection brokers and desktop management and monitoring tools. Your use of individual features included in a specific View edition is limited to that edition. The use of individual features interchangeably between View editions is strictly prohibited.
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7,428,636, 7,433,951, 7,434,002, 7,447,854, 7,447,903, 7,467,067, 7,475,002, 7,478,173, 7,478,180, 7,478,218, 7,478,388, 7,484,208, 7,487,313, 7,487,314, 7,490,216, 7,500,048, 7,506,122, 7,516,453, 7,529,897, 7,543,301, 7,555,747, 7,565,527, 7,571,471, 7,577,722, 7,581,064, 7,590,715, 7,590,982, 7,594,111, 7,596,594, 7,596,697, 7,599,493, 7,603,704, 7,606,868, 7,620,523, 7,620,766, 7,620,955, 7,624,240, 7,630,493, 7,636,831, 7,657,659, 7,657,937, 7,665,088; 7,672,814, 7,680,919, 7,689,986, 7,693,996, 7,694,101, 7,702,843, 7,707,185, 7,707,285, 7,707,578, 7,716,446, 7,734,045, 7,734,911, 7,734,912, 7,735,136, 7,743,389; 7,761,917; 7,765,543; 7,774,391; 7,779,091; 7,783,779; 7,783,838; 7,793,279; 7,797,748; 7,801,703, 7,802,000; 7,802,248; 7,805,676; 7,814,495; 7,823,145; 7,831,661; 7,831,739; 7,831,761; 7,831,773; 7,840,790; 7,840,839; 7,840,993; 7,844,954; 7,849,098; 7,853,744; 7,853,960; 7,856,419; 7,856,531; 7,856,637; 7,865,663; 7,869,967; 7,886,127; 7,886,148; 7,886,346; 7,890,754; 7,895,437; 7,908,646; 7,912,951; 7,921,197; 7,925,850; 7,933,981; 7,934,017; 7,934,020; 7,941,401; 7,941,470; 7,941,827; 7,945,436; 7,945,761; 7,945,908; 7,945,958; 7,958,558; 7,962,647; 7,966,315; 7,966,615; 7,970,938; 7,971,015; 7,971,047; 7,971,182; 7,975,165; 7,984,254; 7,984,264; 7,984,304; 8,001,083; 8,001,322; 8,005,787; 8,006,043; 8,010,667; 8,010,701; 8,013,859; 8,015,367; 8,015,388; 8,019,861; 8,024,506; 8,024,779; 8,028,071; 8,037,032; 8,037,227; 8,037,280; 8,046,468; 8,056,076; 8,060,342; 8,060,722; 8,060,875; 8,060,877; 8,060,883; 8,069,250; 8,074,045; 8,086,822; 8,095,525; 8,095,929; 8,095,931; 8,099,607; 8,099,568; 8,117,410; 8,127,014; 8,127,107; 8,127,301; patents pending.

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VMware vSphere

" **Processor**" means a single, physical chip that houses a central processing unit that can execute computer programs.

" **Server**" means a hardware system capable of running the Software. A hardware partition or blade is considered a separate hardware system.

" **vRAM**" means the virtual memory configured to a single Virtual Machine.

Additional License Terms

You may install and use the Software on a Server that contains up to the maximum number of Processors for which you have paid the applicable license fees.

Hosting Rights and Restrictions. Notwithstanding anything to the contrary in this EULA, You may use the Software to deliver "internally developed applications" as a service to third parties via an internal or external network. An "internally developed application" is: (i) a computer application that You have

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vRAM Limitation. Your vRAM entitlement per Processor is determined by the edition of the Software that You have licensed and the total amount of configured vRAM cannot exceed the available amount of vRAM specified by the Software edition.

Pooling of vRAM. Subject to Section 2.1 of this EULA, You may aggregate the total amount of vRAM licensed for all vSphere licenses (the **"Pool"**), as long as those vSphere licenses are: (1) all of the same edition, and (2) all managed by a single instance of vCenter Server or by multiple vCenter Servers operating in linked mode. The 365-day moving average of "Daily vRAM Usage" cannot exceed the aggregate total licensed vRAM for the vSphere licenses in the Pool (" **Moving Average Restriction**"). "Daily vRAM Usage" means the maximum amount of vRAM configured to all powered-on Virtual Machines in a Pool, in aggregate, that is recorded at any time during a day. For purposes of calculating Daily vRAM Usage, the amount of vRAM configured to each individual Virtual Machine is deemed to be the lesser of (a) the amount of virtual memory actually configured to such Virtual Machine, or, (b) 96 gigabytes.

If at any given time when the configured vRAM exceeds the available amount of vRAM, You must purchase additional Software licenses based on the difference between 1) the highest amount of vRAM configured and 2) the available vRAM in order to remain compliant with the vRAM limitation.

vStorage API for Array Integration (VAAI). You may use storage arrays that are certified for VAAI only with VMware vSphere Enterprise or Enterprise Plus editions.

Third Party Multipathing. You may use multipathing extensions module only with VMware vSphere Enterprise or Enterprise Plus editions.

vSphere Auto Deploy. You may use this feature only if You have licensed vSphere Enterprise Plus edition.

vSphere View Accelerator. You may use this feature only if You have licensed vSphere Enterprise Plus edition.

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In addition to the above license terms, You may install and use vSphere, included in the Essential Kit for up to three (3) Servers, with each Server having up to two (2) Processors.

Notwithstanding the terms of the Moving Average Restriction set forth above, the amount of vRAM managed by the VMware vCenter Server included with the Essentials Kit cannot exceed 192 GB of vRAM in its Pool at any time.

VMware vSphere Essentials for Retail and Branch Offices and VMware vSphere Essentials Plus for Retail and Branch Offices(collectively, the " **ROBO Kit**")

In addition to the above license terms, You may install and use vSphere, included in the ROBO Kit for up to three (3) Servers per physical building, with each Server having up to two (2) Processors. The number of physical buildings with Servers may not exceed the number of ROBO Kit licenses purchased.

Notwithstanding the terms of the Moving Average Restriction set forth above, the amount of vRAM managed by the VMware vCenter Server included with the ROBO Kit cannot exceed 192 GB of vRAM in its Pool at any time.

VMware vSphere Hypervisor

You may only install and use vSphere Hypervisor on a Server that has up to 32GB of physical RAM and the vRAM entitlement for each Server is limited to 32 gigabytes.

VMware vSphere Desktop

You may only install and use vSphere Desktop to host (i) a virtual desktop infrastructure for up to the number of Desktop Virtual Machines (as defined below in VMware View) for which You have paid the applicable license fees, and (ii) associated desktop management and monitoring tools. vSphere Desktop is not subject to a vRAM limitation.

VMware View

" **Desktop Virtual Machine**" is a hosted Virtual Machine with one of the following Windows operating systems: XP, Vista, and 7.

" **Powered On Desktop Virtual Machine**" means a Desktop Virtual Machine receiving a remote connection from a device or running locally on a device.

In addition to the above license terms, You may use the Software for up to the total number of Powered On Desktop Virtual Machines for which You have paid the applicable license fees. The VMware vSphere, included in any VMware View edition, is not subject to a vRAM limitation, and your use of vSphere for VMware View is limited to hosting Desktop Virtual Machines and running VMware products which are included in the applicable View edition, or third party connection brokers and desktop management and monitoring tools. Your use of individual features included in a specific View edition is limited to that edition. The use of individual features interchangeably between View editions is strictly prohibited. Customers who (i) purchased licenses for vSphere 4.x (or previous versions) prior to September 30, 2011, (ii) use such licensed software to host Desktop Virtual Machines or desktop management and monitoring tools, and (iii) hold current SnS agreements covering such licensed software, may upgrade to vSphere 5.0 while retaining their current licensing metric and associated restrictions and will not be required to adopt the vRAM restricted per-processor licensing model. Desktop licenses covered by this provision, however, may not be managed by the same instance of Virtual Center which is being used to manage non-Desktop Virtual Machines.

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5. TERMINATION. VMware may terminate this EULA immediately upon notice if You fail to comply with any term of this EULA. In the event of termination, You must remove and destroy all copies of the Software and Software License Key(s), including all backup copies, from the server and all computers and terminals You own, possess or control and on which the Software is installed. Any obligations to pay fees incurred prior to termination and Sections 1, 2, 3, 6, and 7 of this EULA shall survive termination for any reason.

6. LIMITED WARRANTY AND LIMITATION OF LIABILITY

6.1 **Limited Warranty.** VMware warrants that (i) the physical media, if any, on which the Software is delivered will be free of defects in materials and workmanship; and (ii) that the Software will substantially conform to the functional description set forth in the standard Documentation accompanying the Software for a period of 90 days after the date of delivery of the Software License Key to You (" **Warranty Period**"). If the physical media is defective and is returned to VMware within the Warranty Period, your exclusive remedy will be VMware's option to repair or replace the defective physical media.. To return the defective physical media, send an email to sales@vmware.com to request a return authorization number. If during the Warranty Period the Software does not substantially conform to the functional description set forth in the Documentation, your exclusive remedy will be that VMware shall, at its sole option, correct the defects in the Software or refund the license fees You paid, if any, for the Software provided that (i) the Software has been properly installed and used at all times and in accordance with the Documentation; (ii) no modification, deletion or addition has been made to the Software by persons other than VMware or its authorized representative; and (iii) VMware receives written notice of the non-conformity within the Warranty Period. EXCEPT FOR THE PRECEDING EXPRESS LIMITED WARRANTY, TO THE MAXIMUM EXTENT MANDATED BY LAW, VMWARE AND ITS LICENSORS PROVIDE THE SOFTWARE WITHOUT ANY WARRANTIES OF ANY KIND, EXPRESS, IMPLIED, STATUTORY, OR IN ANY OTHER PROVISION OF THIS EULA OR COMMUNICATION WITH YOU, AND VMWARE AND ITS LICENSORS SPECIFICALLY DISCLAIM ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

6.2 **LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT MANDATED BY LAW, IN NO EVENT WILL VMWARE AND ITS LICENSORS BE LIABLE FOR ANY LOST PROFITS OR BUSINESS OPPORTUNITIES, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, OR ANY OTHER INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES UNDER ANY THEORY OF LIABILITY, WHETHER BASED IN CONTRACT, TORT, NEGLIGENCE, PRODUCT LIABILITY, OR OTHERWISE. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE PRECEDING LIMITATION MAY NOT APPLY TO YOU. VMWARE'S AND ITS LICENSORS' LIABILITY UNDER THIS EULA WILL NOT, IN ANY EVENT, EXCEED THE LICENSE FEES YOU PAID FOR THE SOFTWARE, IF ANY. THE FOREGOING LIMITATIONS SHALL APPLY REGARDLESS OF WHETHER VMWARE OR ITS LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

7. GENERAL

7.1 **Entire Agreement.** This EULA represents the entire agreement between the parties with respect to the Software, and supersedes any prior or contemporaneous oral or written agreements concerning the subject matter contained herein.

7.2 **Headings.** Headings under this EULA are intended only for convenience and shall not affect the interpretation of this EULA **.**

7.3 **Waiver and Modification**. No failure of either party to exercise or enforce any of its rights under this EULA will act as a waiver of those rights. This EULA may only be modified, or any rights under it waived, by a written agreement executed by the party against which it is asserted.

7.4 **Severability.** If any provision of this EULA is found illegal or unenforceable, it will be enforced to the maximum extent permissible, and the legality and enforceability of the other provisions of this EULA will not be affected.

7.5 **Export Controls.** The Software is of United States origin and is provided subject to the U.S. Export Administration Regulations. Diversion contrary to U.S. law is prohibited. Without limiting the foregoing, you agree that (1) you are not, and are not acting on behalf of, any person who is a citizen, national, or resident of, or who is controlled by the government of, Cuba, Iran, North Korea, Sudan, or Syria, or any other country to which the United States has prohibited export transactions; (2) you are not, and are not acting on behalf of, any person or entity listed on the U.S. Treasury Department list of Specially Designated Nationals and Blocked Persons, or the U.S. Commerce Department Denied Persons List or Entity List; and (3) you will not use the Software for, and will not permit the Software to be used for, any purposes prohibited by law, including, without limitation, for any prohibited development, design, manufacture or production of missiles or nuclear, chemical or biological weapons.

7.6 **U.S. Government Restricted Rights.** The Software and Documentation are deemed to be "commercial computer software" and "commercial computer software documentation," respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212(b), as applicable. Any use, modification, reproduction, release, performance, display, or disclosure of the Software by the U.S. Government shall be governed solely by the terms of this EULA.

7.7 **Governing Law.** This EULA is governed by the laws of the State of California, United States of America, unless mandated by other law. The United Nations Convention for the International Sale of Goods shall not apply.

7.8 **Contact Information.** Please direct legal notices or other correspondence to VMware, Inc., 3401 Hillview Avenue, Palo Alto, California 94304, United States of America. If You have any questions concerning this EULA, please send an email to info@vmware.com.

8. SOFTWARE-SPECIFIC TERMS AND CONDITIONS. In addition to the above sections, the Software is subject to the following terms and conditions. In the event of any conflict between the Software-specific terms and conditions and sections 1-7 of the EULA, the Software-specific terms and conditions shall control.

VMware vCenter Site Recovery Manager

" **Managed Virtual Machine**" means a Protected Virtual Machine.

" **Protected Virtual Machine"** means a Virtual Machine that is part of a vCenter Site Recovery Manager protection group.

" **Storage Replication Adapters**" means, software created by third party storage partners and distributed under its respective end user license agreements that enables communication between the Software and such partners' replication products.

Except as otherwise authorized by a previous VMware-approved license model, You may use the Software for up to the number of Protected Virtual Machines as determined by the edition of the Software. For vCenter Site Recovery Manager Standard Edition, you may use the Software subject to

the following restrictions: (a) protect up to seventy-five (75) Virtual Machines within a physical facility or building; and (b) for each running copy of vCenter Site Recovery Manager Standard Edition, manage up to seventy-five (75) Protected Virtual Machines. If at any given time, the number of Protected Virtual Machines in subsections (a) or (b) exceeds seventy-five (75), You are required to upgrade the Software to vCenter Site Recovery Manager Enterprise Edition.

In no event will VMware be liable for any lost profits or business opportunities, loss of use, business interruption, loss of data, or any other direct or indirect, special, incidental, or consequential damages under any theory of liability, whether based in contract, tort, negligence, product liability or otherwise arising from the Storage Replication Adapters.

Copyright © 1998-2012 VMware, Inc. All rights reserved. VMware software products are protected by one or more U.S. Patent Numbers D617,808, D617,809, D617,810, D617,811, 6,075,938, 6,397,242, 6,496,847, 6,704,925, 6,711,672, 6,725,289, 6,735,601, 6,785,886, 6,789,156, 6,795,966, 6,880,022, 6,883,095, 6,940,980, 6,944,699, 6,961,806, 6,961,941, 6,970,562, 7,017,041, 7,055,032, 7,065,642, 7,069,413, 7,069,435, 7,082,598, 7,089,377, 7,111,086, 7,111,145, 7,117,481, 7,149,310, 7,149,843, 7,155,558, 7,222,221, 7,260,815, 7,260,820, 7,269,683, 7,275,136, 7,277,998, 7,277,999, 7,278,030, 7,281,102, 7,290,253, 7,343,599, 7,356,679, 7,386,720, 7,409,487, 7,412,492, 7,412,702, 7,424,710, 7,428,636, 7,433,951, 7,434,002, 7,447,854, 7,447,903, 7,467,067, 7,475,002, 7,478,173, 7,478,180, 7,478,218, 7,478,388, 7,484,208, 7,487,313, 7,487,314, 7,490,216, 7,500,048, 7,506,122, 7,516,453, 7,529,897, 7,543,301, 7,555,747, 7,565,527, 7,571,471, 7,577,722, 7,581,064, 7,590,715, 7,590,982, 7,594,111, 7,596,594, 7,596,697, 7,599,493, 7,603,704, 7,606,868, 7,620,523, 7,620,766, 7,620,955, 7,624,240, 7,630,493, 7,636,831, 7,657,659, 7,657,937, 7,665,088; 7,672,814, 7,680,919, 7,689,986, 7,693,996, 7,694,101, 7,702,843, 7,707,185, 7,707,285, 7,707,578, 7,716,446, 7,734,045, 7,734,911, 7,734,912, 7,735,136, 7,743,389; 7,761,917; 7,765,543; 7,774,391; 7,779,091; 7,783,779; 7,783,838; 7,793,279; 7,797,748; 7,801,703, 7,802,000; 7,802,248; 7,805,676; 7,814,495; 7,823,145; 7,831,661; 7,831,739; 7,831,761; 7,831,773; 7,840,790; 7,840,839; 7,840,993; 7,844,954; 7,849,098; 7,853,744; 7,853,960; 7,856,419; 7,856,531; 7,856,637; 7,865,663; 7,869,967; 7,886,127; 7,886,148; 7,886,346; 7,890,754; 7,895,437; 7,908,646; 7,912,951; 7,921,197; 7,925,850; 7,933,981; 7,934,017; 7,934,020; 7,941,401; 7,941,470; 7,941,827; 7,945,436; 7,945,761; 7,945,908; 7,945,958; 7,958,558; 7,962,647; 7,966,315; 7,966,615; 7,970,938; 7,971,015; 7,971,047; 7,971,182; 7,975,165; 7,984,254; 7,984,264; 7,984,304; 8,001,083; 8,001,322; 8,005,787; 8,006,043; 8,010,667; 8,010,701; 8,013,859; 8,015,367; 8,015,388; 8,019,861; 8,024,506; 8,024,779; 8,028,071; 8,037,032; 8,037,227; 8,037,280; 8,046,468; 8,056,076; 8,060,342; 8,060,722; 8,060,875; 8,060,877; 8,060,883; 8,069,250; 8,074,045; 8,086,822; 8,095,525; 8,095,929; 8,095,931; 8,099,607; 8,099,568; 8,117,410; 8,127,014; 8,127,107; 8,127,301; patents pending.

VMware, Inc. Support and Subscription Services "SnS" Terms and Conditions

VMware, Inc., a Delaware corporation, or VMware International Limited, a company organized under the laws of Ireland, as applicable (**"VMware"**), shall provide Technical Support and Subscription Services (as defined herein) (collectively, the **"Services")**, per the terms of this Agreement and as set forth at http://www.vmware.com/support/services/ to Customer, for the specific Services level purchased. The applicable VMware entity, **Effective Date**, **Software**, and Services level will be set forth on the SnS order form, Customer's purchase Order, or, if Customer has purchased support on a per incident basis (**"Per Incident"**), in the registration form completed by Customer upon such purchase (collectively the **"Order"**).

1. Definitions

A. "Technical Support" means the provision of technical assistance by VMware to the Customer Support Administrator(s) with respect to installation, analysis of problem reports, and Errors, at the corresponding support level purchased by the Customer.

B. "Subscription Services" means the provision of Major Releases, Minor Releases, Maintenance Releases, if any, to the Software, as well as corresponding Documentation to Customer's License Administrator.

1. "Major Release" also known generally as an "Upgrade" means a generally available release of the Software that contains functional enhancements or extensions, designated by VMware by means of a change in the digit to the left of the first decimal point **(e.g. Software 5.0 >> Software 6.0).**

2. "Minor Release" means a generally available release of the Software that introduces a limited amount of new features and functionality, designated by VMware by means of a change in the digit to the right of the decimal point **(e.g. Software 5.0>>Software 5.1).**

3. "Maintenance Release" or „Update" means a generally available release of the Software that typically provides maintenance corrections or fixes only, designated by VMware by means of a change in the digit to the right of the second decimal point **(e.g. Software 5.0 >> Software 5.0.1),** or for certain Software, by means of a change in the digit of the Update number **(e.g. Software 5.0 Update 1)**.

C. "Services Period" means the period for which Customer has purchased the Services and any subsequent renewal periods and shall commence: (a) for Software licenses for which Services are mandatory: on the date of shipment of the applicable Software license, and (b) for Software licenses for which Services are optional: on the date of purchase of the Services.

D. "Documentation" means any user instructions, manuals or other materials, and on-line help files regarding the use of the Software, as revised by VMware from time to time, that are generally provided by VMware in connection with the Software.

E. "Error" means a failure in the Software to materially conform to the specifications as described in the applicable Documentation.

F. "Services Fees" means those fees that are applicable for the Services as specified in a corresponding VMware or reseller invoice.

G. "License Administrator" means the Customer-specified employee on the Order who is responsible for: (a) facilitating election, purchase, and, if applicable, renewal of the Services; (b) receiving and administering Software licenses, Major, Minor and Maintenance Releases from VMware; and (c) Customer adherence to the license restrictions of this Agreement. Customer may change its License Administrator upon reasonable advance written notice to VMware.

H. "Modified Code" means any modification, addition and/or development of code scripts (whether created by VMware, Customer or any third party) that deviates from the predefined product code tree(s)/module(s) developed by VMware for production deployment and/or use, and specifically excludes customizable Software options made generally available by VMware and for which Services are available.

I. "Open Source Software" means components provided with the Software, for which the source code is generally available and are licensed under the terms of various published open source software license agreements or copyright notices accompanying such software components in addition to any vendor specific license terms provided with the Open Source Software.

J. "Software" means one or more individual VMware software products or software product suites made generally available by VMware and specified in the Order. Software does not include Third Party Products, Modified Code or customized deliverables that VMware creates specifically for Customer.

K. "Support Administrator" means the Customer-specified contact designated on the Order responsible for communicating and engaging VMware for Technical Support services with respect to problem reports. Customer's primary License Administrator is responsible for the administration of authorized Support Administrators via the VMware support website.

L. "Third Party Products" means any third party proprietary software or hardware that is manufactured by a party other than VMware or its affiliates and has not been incorporated into VMware Software or Services offerings of VMware or its affiliates.

2. Service Terms

2.1 Provision of Services. VMware shall provide the Services at the Service level purchased during the Services Period, subject to Section 2.2 below. Detailed information on service level objectives, response times, business hours and contact numbers is located at www.vmware.com/support.

2.2 End of Availability. VMware may, at its discretion, decide to retire Software and/or Services at any time upon notice ("End of Availability"). Notice of End of Availability, last date of general commercial availability and applicable support lifecycle policies and timelines for discontinuance shall be provided via the VMware Support Services website at www.vmware.com/support.

2.3 Requirements. Customer may purchase initial Services only for the most current, generally available release of the Software. Limited exceptions may apply for specific Software as provided for at www.vmware.com/support.

(a) For all current and additional Software licenses purchased for a particular VMware Software product or suite, including those where SnS is not required at the time of purchase of the applicable Software license (including but not limited to Workstation and VMware vSphere Hypervisor), Customer must purchase and/or renew Services at the same Services level in a given functional discipline (e.g. Test, Development, QA, Production).

(b) For most Software, a minimum of one (1) year of Services must be purchased. For Software-specific support requirements, refer to www.vmware.com/files/pdf/support/software_specific_support_requirements.pdf. Subject to Section 2.2, VMware may update Services terms after the first year of the Services Period with thirty (30) days advance notice to Customer of any changes deemed by VMware to have potential adverse and/or material impacts to the Customer. Upon any renewal, VMware's then current terms and conditions for the Services will apply. Except as otherwise expressly set forth herein or in the applicable Order, Services will automatically renew for successive one (1) year terms unless either party gives written notice of its intent not to renew at least thirty (30) days prior to the end of the current Services Term. A decision to terminate Services or otherwise not renew Services will not terminate the applicable Software licenses.

(c) VMware, during the course of providing Technical Support, may be required to analyze whether or not a reported problem is related to Modified Code. Where VMware suspects that a problem may be related to Modified Code, VMware in its sole discretion, reserves the right to request that the Modified Code be removed. If VMware cannot directly identify the root cause of a problem, or reasonably suspects that the problem is related to Modified Code, Customer shall be informed that additional assistance may be obtained by Customer directly from various product discussion forums or via engagement for an additional fee with VMware's consulting services group.

2.4 Eligibility. Problems caused by the following situations are not included in Services but may be addressed separately upon request at VMware's then-current hourly rates for consulting, subject to the then-current standard consulting services terms and conditions:

(a) accident; unusual physical, electrical or electromagnetic stress; neglect; misuse; failure of electric power, air conditioning or humidity control; failure of rotation media not furnished by VMware; operation of the Software with other media not in accordance with the manufacturer's specifications; or causes other than ordinary use; or

(b) improper installation by Customer or use of the Software that deviates from any operating procedures as specified in the Documentation; or

(c) actual or attempted modification, alteration or addition to the Software undertaken by Customer or any third party; or

(d) Third Party Products, other than the interface of the Software with the Third Party Products; or

(e) Modified Code; or

(f) any customized deliverables created by VMware specifically for Customer as part of consulting services; or

(g) any technical issue unrelated to an Error (please see the VMware Technical Support Guide available at www.vmware.com/support for examples).

2.5 Open Source Software Support. VMware's general policy is that a Customer is not entitled to receive Services for Open Source Software not provided with the Software package, unless VMware specifically makes available Services for such Open Source Software on its Services price list and as detailed at www.vmware.com/support. The VMware Open Source Project Support Policy is located at http://www.vmware.com/support/policies and shall govern performance of Services for Open Source Software.

To the extent VMware provides Services for Open Source Software, this Agreement shall apply, and VMware will provide Services for the Open Source Software, pursuant to the terms herein, provided such Open Source Software has not been modified by Customer, its employees or agents.

2.6 Customer Responsibilities. Customer's obligations regarding Services are subject to the following:

(a) Customer agrees to receive from VMware communications via e-mail, telephone, and other formats, regarding renewals, quotes, and other topics relating to Services (such as communications concerning an Error or other technical issue and the availability of new releases). Customer's Support Administrator shall cooperate to enable VMware to deliver the Services.

(b) Customer is solely responsible for the use of the Software by its personnel and shall properly train its personnel in the use and application of the Software.

(c) Customer shall promptly report to VMware all problems with the Software, and shall implement any corrective procedures provided by VMware reasonably promptly after receipt.

(d) Customer is solely responsible for protecting and backing up the data and information stored on the computers on which the Software is used and should confirm that such data and information is protected and backed up before contacting VMware for Technical Support; VMware is not responsible for lost data or information in the event of Errors or other malfunction of the Software or computers on which the Software is used.

3. Services Fees

3.1 Services Fee Schedule

(a) Unless otherwise indicated on the Order, Services Fees are payable on the Effective Date or, in the case of a renewal term, no later than the date of commencement of the applicable Services Period, and due in accordance with Section 3.3 below. Services Fees are non-refundable upon payment.

(b) The Services Fees, including renewals, are at the then-current list price. VMware may increase applicable Services Fees for renewals. If Customer elects not to renew the Services or, in the case of Software that may initially be purchased without Services, if Customer elects not to purchase the Services when Customer acquires the Software license, Customer may later re-enroll or enroll, as the case may be, for the Services, subject to Subsection 3.1(d) below.

(c) For any renewal or addition of Services, which requires a minimum purchase of one (1) year, Customer may elect to make Services for all or a portion of its Software licenses coterminous, in which case, VMware will prorate the applicable Services Fees for the current Services Period based on the number of full or partial months remaining in the current Services Period.

(d) If Customer purchases Services after acquiring the Software licenses, or had elected not to renew Services and later wishes to re-enroll in the Services, Customer must move to the then-current latest Major Release of the Software, and must pay:

(i) the applicable Services Fees for the current Services Period, , and

(ii) the amount of Services Fees that would have been paid for the period of time that Customer had not enrolled in the Services, and

(iii) a 20% reinstatement fee on the sum of the Services Fees in (i) and (ii).

(e) In cases where Customer purchases a license to migrate up from one edition of the Software to another (e.g. VMware vSphere Standard to VMware vSphere Enterprise Plus), any unused period of the Services Period on the original license will be converted and used to extend the Services Period for the newly purchased upgraded license.

3.2 Taxes. All Services Fees are exclusive of any taxes, duties, or similar charges imposed by any government. Customer shall pay or reimburse VMware for all federal, state, dominion, provincial, or local sales, use, personal property, excise, value added, withholding or other taxes, fees, or duties relating to the transactions contemplated by this Agreement (other than taxes on the net income of VMware).

3.3 Invoicing and Late Payments. All invoices issued hereunder by VMware are due and payable within thirty (30) days of the date of the invoice. All amounts that are not paid on time by Customer shall be subject to a late charge equal to one and one-half percent (1.5%) per month, or, if less, the maximum amount allowed by applicable law. If payment of any Fee is overdue, VMware may also suspend performance until such delinquency is corrected.

4. Limited Warranty. VMware warrants that the Services to be performed hereunder will be done in a workmanlike manner and shall conform to industry standards. Upon Customer providing VMware with a reasonably detailed written notice to cure within thirty (30) days of occurrence of the nonconformance, VMware will re-perform the Services to achieve commercially reasonable conformance with the above warranty. TO THE MAXIMUM EXTENT MANDATED BY LAW, THIS WARRANTY IS GIVEN EXPRESSLY AND IN PLACE OF ALL OTHER WARRANTIES, STATUTORY, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. TO THE

MAXIMUM EXTENT MANDATED BY LAW, THIS REMEDY WILL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO NONCONFORMANCE OF SERVICES.

5. Limitation of Liability. TO THE MAXIMUM EXTENT MANDATED BY LAW, VMWARE SHALL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, WHETHER BASED UPON CONTRACT, TORT OR ANY OTHER LEGAL THEORY, ARISING FROM ITS PERFORMANCE OR NON-PERFORMANCE UNDER THIS AGREEMENT. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE PRECEDING LIMITATION MAY NOT APPLY TO CUSTOMER. VMWARE'S LIABILITY UNDER THIS AGREEMENT WILL NOT, IN ANY EVENT, EXCEED THE SERVICES FEES PAID BY CUSTOMER TO VMWARE UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE DATE OF THE EVENT MOST DIRECTLY GIVING RISE TO THE CLAIM.

6. Termination. VMware may suspend performance of Services if Customer fails to meet its obligations as set forth under this Agreement. VMware may terminate Services if such failure continues for thirty (30) days after VMware's written request to meet these obligations. VMware may terminate the Agreement and all Services at any time if (1) it is discovered that Customer is currently in breach of its Software license restrictions, pursuant to Customer's Software license or (2) Customer is in material breach of this Agreement.

7. Miscellaneous. Customer may not assign or delegate this Agreement to any third party without the prior written consent of VMware. This Agreement shall be governed by the laws of the State of California without regard to conflict of laws principles. The parties consent to the exclusive jurisdiction of the state and federal courts located in Santa Clara County, California. This Agreement constitutes the entire agreement of the parties with respect to the provision of the Services by VMware to Customer, and supersedes all prior written or oral communications, understandings and agreements. This Agreement may not be amended by Customer except in a written document signed by both parties. Any waiver of the provisions of this Agreement must be in writing to be effective. Except as expressly set forth herein, no terms of any purchase order or other business form that Customer may use will affect the obligations of the parties under this Agreement, and any such purchase order or other business form of Customer which contains additional or conflicting terms are hereby rejected by VMware. Customer agrees that purchase orders do not have to be signed to be valid and enforceable. If any provision of this Agreement is found to be invalid or unenforceable, the remaining terms will continue to be valid and enforceable to the fullest extent permitted by law. The version of the Technical Support guide found at www.vmware.com/support is the governing version of such document; any translation into other languages is for convenience only. VMware may update the Technical Support guide periodically, without prior notice.

Attachment 1
VMware Support Programs and Subscription Services Fee Addendum

(a) Annual Services Fees for initial Services, as well as renewals, if any, will be based on the following schedule, pursuant to Customer's elected level of Services for the Software, and subject to Subsection 1(c) below:

Services Level	**Services Fee**
Silver Support and Subscription ("SnS") (VMware Workstation only)	18% of the then-current list price of the Software (no longer available as of 1 April 2010)
Basic SnS	21% of the then-current list price of the Software
Production SnS	25% of the then-current list price of the Software
For Zimbra Products only- Zimbra Advantage and Zimbra Premium**	Zimbra Advantage - 16% of the then-current list price of the Software Zimbra Premium – 20% of the then-current list price of the Software

*The foregoing does not apply to term-based Software licenses which are covered in the table below.
** Zimbra products include but are not limited to: Zimbra Collaboration Suite, Zimbra Connector for Blackberry, Zimbra Connector for Outlook, Zimbra Collaboration Suite Appliance and Zimbra Desktop; see subsection (j) below for additional details on support offerings. The foregoing listing of Zimbra products may be modified from time to time at VMware,,s discretion.

(b) A Customer that originally purchased Services from a VMware Authorized Service Provider and is renewing only Technical Support through the VMware Authorized Service Provider may purchase Subscription Services separately on a renewal basis from VMware. In this case, the renewal fee for such Subscription Services shall be fourteen (14%) of the list price of the Software at the time the Software was purchased. "Authorized Service Provider" means a third party that is authorized under contract by VMware to provide first and/or second level Technical Support for VMware products.

(c) The prices of Services (initial as well as renewals, if any) for the Software and Services levels listed below are not priced based on a percentage of list price of such Software; such prices are as reflected in the then-current applicable VMware standard price list, and Service levels are defined in the Technical Support guide:

Software	**Services Level**
VirtualCenter for VMware Server (version 1.4)	Per Incident Support
VMware vCenter Converter Standalone	Per Incident Support
VMware vSphere Standard Edition	Basic and Production SnS
VMware vCenter Server 4 Foundation for vSphere	Basic and Production SnS
VMware Workstation	Per Incident Support
VMware Fusion	Subscription Services Only; No Technical Support, Per Incident Support, or Desktop Standard Support
VMware vSphere ESXi Single Server	Basic and Production SnS (for one year only at point of sale) or Per Incident Support
VMware ThinApp Suite VMware ThinApp Client	Basic and Production SnS
VMware Capacity Planner	Production SnS for worldwide partners only (complimentary web based support available for trained partners only)
VMware vSphere Essentials Edition	Per Incident Support
vFabric Products	Developer(*), Basic and Production SnS on Term Licenses

* as further detailed at www.vmware.com/support

(d) Business Critical Support (BCS) is available for a fixed price (including renewals thereof), based on VMware's then-current list price, for an annual contract covering each supported BCS Customer Team. Additional technical contacts (including renewals thereof) beyond six may be added to the BCS Customer Team for a fixed annual fee. A discount of twenty (20) percent off the then-current list price for Business Critical Support for a Customer that has contracted for, and currently has, one or more VMware Technical Account Managers shall apply to Business Critical Support, including renewals thereof. A BCS Customer Team means a Customer team that (i)consists of no more than six technical contacts, (ii)has at least one individual who has passed the relevant certification examinations and has been certified by VMware as a VMware Certified Professional, (iii) is centrally responsible for managing and supporting the Customer's virtual infrastructure, (iv) develops and implements standards and processes for the management of all virtual systems supported, and (v) provides front line support for the virtual systems supported, making use of available technical repositories and experience to resolve known issues.

(e) Mission Critical Support (MCS) is available for a fixed price (including renewals thereof), based on VMware's then- current list price for an annual contract and is offered as a supplement to Production Support. MCS provides global, 24 X 7 support for Severity 1 issues as well as priority access to senior level Technical Support engineers for an unlimited number of Support Administrators. More details about the offering are available at www.vmware.com/support.

(f) Desktop Standard Support is available for certain products and is priced at a flat rate per license, with a minimum of ten (10) licenses. Desktop Standard Support services include Technical SnS Services delivered to a Desktop Support Customer Team. A Desktop Standard Support Customer Team shall: (i) consist of no more than four (4) technical contacts, (ii) provide front line support for the desktop and virtual systems supported, making use of available technical repositories and experience to resolve known issues.

(g) VMware Complimentary Update Service. For both the Fusion and Workstation products, VMware agrees to provide, for a period of eighteen (18) months from product purchase, Maintenance Releases and Minor Releases, if any, to Customer's License Administrator. This Complimentary Update Service does not include the provision of any Major Releases. Limited complimentary installation assistance will also be made for these products as further detailed at http://www.vmware.com/support/services/complimentary.html.

(h) Customers may purchase Basic or Production Support only when a minimum of ten (10) licenses of VMware Workstation are purchased simultaneously.

(i) With respect to Services for Zimbra products, VMware shall offer only Zimbra Advantage and Zimbra Premium level support and subscription. Such Advantage and Premium Support offerings are distinct and different from VMware's Basic and Production Support and Subscription Services in several key areas, including but not limited to: support response times, business hours and coverage, management of support contacts, support processes, escalation and resolution issues, urgency definitions, support exclusions, upgrades, maintenance and end of life policies. Details regarding Advantage and Premium level support and subscription are as further detailed at http://www.zimbra.com/support/support_overview.html.