

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. Contract ID Code
Firm-Fixed-Price

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2. Amendment/Modification No. P00001	3. Effective Date 2012AUG13	4. Requisition/Purchase Req No. SEE SCHEDULE	5. Project No. (If applicable)
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6. Issued By ROCK ISLAND CONTRACTING CENTER CCRC-TA STEVEN A. SZALO (309)782-8568 ROCK ISLAND, IL 61299-8000 BLDGS 60 & 390 EMAIL: STEVEN.A.SZALO.CIV@MAIL.MIL	Code W52P1J	7. Administered By (If other than Item 6)	Code
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8. Name And Address Of Contractor (No., Street, City, County, State and Zip Code) FOUR POINTS TECHNOLOGY, L.L.C. 14900 CONFERENCE CENTER DR STE 100 CHANTILLY, VA 20151-3813 TYPE BUSINESS: Other Small Business Performing in U.S.	<input type="checkbox"/> <input checked="" type="checkbox"/>	9A. Amendment Of Solicitation No.	9B. Dated (See Item 11)	9C. Modification Of Contract/Order No. W52P1J-12-A-0018	9D. Dated (See Item 13) 2012AUG03
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Code 1YS78 Facility Code

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

The above numbered solicitation is amended as set forth in item 14. The hour and date specified for receipt of Offers is extended, is not extended.
Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended by one of the following methods:
(a) By completing items 8 and 15, and returning _____ copies of the amendments; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. **FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER.** If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. Accounting And Appropriation Data (If required)
NO CHANGE TO OBLIGATION DATA

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

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

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

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

SEE SECOND PAGE FOR DESCRIPTION

BPA Expiration Date: 2016MAR02

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

15A. Name And Title Of Signer (Type or print)	16A. Name And Title Of Contracting Officer (Type or print) JILL M. SOMMER JILL.M.SOMMER.CIV@MAIL.MIL (309)782-3582		
15B. Contractor/Offeror _____ (Signature of person authorized to sign)	15C. Date Signed	16B. United States Of America By _____ /SIGNED/ (Signature of Contracting Officer)	16C. Date Signed 2012AUG13

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SECTION A - SUPPLEMENTAL INFORMATION

This modification replaces the language formally identified in Contract W52P1J-12-A-0018 with Four Points Technology, LLC dated 3 August 2012.

1. In the spirit of the Federal Acquisition Streamlining Act, the Army and the Department of the Navy and Four Points Technology, LLC enter into this Blanket Purchase Agreement (BPA) which includes the Attachments identified under Paragraph 2.

This BPA is entered to reduce the administrative costs of acquiring commercial products and services from the General Service Administration (GSA) Federal Supply Schedule (FSS) Contract GS-35F-0265X for Windchill products.

All orders placed against this BPA are subject to this BPA, the FSS Contract, and the applicable Order.

2. List of Attachments to the BPA:

- 0001 Supplemental Pricelist Information and Terms
- 0002 Product and Price List
- 0003 Ordering Guide
- 0004 Applicable DFARS Provisions
- 0005 Report of Sales Format with Instructions

3. Obligation of Funds.

This BPA does not obligate any funds. Funds will be obligated on each delivery order. The Government is obligated only to the extent of authorized purchases actually made through orders issued under this BPA.

4. Authorized Users

4.1. Army and Department of the Navy Components.

4.1.1. The Agreement is open for ordering by all Army and Department of the Navy Components.

4.2. Government Contractors

4.2.1. Government contractors performing work for an Army or Department of the Navy Component may place Delivery Orders under this Agreement on behalf of and for the benefit of the Army / Department of the Navy entity if authorized by their cognizant Contracting Officer in accordance with the requirements of FAR 51(Use of Government Sources by Contractors) and/or DFARS 251 (Use of Government Sources by Contractors) as appropriate.

5. Effective Date and Duration of BPA.

5.1 The effective date of this BPA shall coincide with the effective period of GSA Schedule GS-35F-0265X. The ordering period for all items under this BPA shall be the same.

If orders issued within the BPA Ordering Period include options, the order options may be exercised after the BPA ordering end date provided that:

- (a) The initial order that includes the option was issued during the BPA ordering period,
- (b) The Ordering Office determines that the underlying GSA Schedule is still valid at the time the order option is exercised and still includes the applicable products, and
- (c) The Ordering Office satisfies all other applicable regulations for exercise of options.

5.2. GSA Federal Supply Schedule Succession

5.2.1. This BPA is based on the Contractors current GSA 70 schedule contract number GS-35F-0265X. In the event the current GSA 70 schedule contract is cancelled or expires and a new GSA 70 schedule contract is awarded, this BPA shall be modified to transfer to the new GSA 70 schedule contract to the extent the new schedule contract includes the same scope and items as the cancelled or expired GSA contract.

5.3. Annual Review for Best Value

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

5.4. Survival

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ID).

\b7For Mathcad products, you may proceed directly to the software installation step and the software installer will assist you with license installation process.

\b7For Integrity and Implementer products, you will receive a separate email containing instructions regarding your license codes. Creating a PTC.COM account is optional for these products, which are supported through the *HYPERLINK "<http://www.MKS.com>" www.MKS.com web site. The Serial Numbers associated with these products appear on the next page below the item descriptions. Software downloads, if needed, are available by visiting the Downloads section of the customer community.\~ *HYPERLINK "<http://www.mks.com/community>"<http://www.mks.com/community>

If you need technical assistance, please contact MKS Customer Care via email at *HYPERLINK "<mailto:support@mks.com>" support@mks.com or by phone:

North America: 800-219-4842 or 519-884-2270

Globally: 800-2194-8424 (outside North America)

Fax: 519-884-8861 / 630-629-9167

\b7For MKS Toolkit products, if you requested that media be shipped, your license codes will be enclosed inside the media case. If you requested a download, you will receive a separate email containing instructions regarding your license codes and download links. Creating a PTC.COM account is optional for these products, which are supported through the *HYPERLINK "<http://www.mkssoftware.com>" www.mkssoftware.com web site.\~ If you need technical assistance, please contact MKS Toolkit Customer Support using any of the following:

Technical Support Form: *HYPERLINK "<http://www.mkssoftware.com/support/support.asp>"<http://www.mkssoftware.com/support/support.asp>Email: *HYPERLINK "mailto:tk_support@mkssoftware.com" tk_support@mkssoftware.comTelephone: +1-703-803-7660Fax: +1-703-803-3344

7.1.4.2\~ Via Telephone or Fax

Have the following information available: Sales Order # (SON), CPU ID (host ID), installation address and contact person. Go to the Contact Us page at *HYPERLINK "<http://www.ptc.com/olm/contacts.htm>"<http://www.ptc.com/olm/contacts.htm>

For instructions on finding your CPU ID (host ID) click *HYPERLINK

"http://www.ptc.com/appserver/wcms/standards/freefull_cskdb.jsp?&im_dbkey=90575&im_language=en"http://www.ptc.com/appserver/wcms/standards/freefull_cskdb.jsp?&im_dbkey=90575&im_language=en.

7.1.5\~ Begin Software Installation

Please refer to the installation guide for your particular software package which can be found on the PTC Reference Documents page at *HYPERLINK "<http://www.ptc.com/appserver/cs/doc/refdoc.jsp>"<http://www.ptc.com/appserver/cs/doc/refdoc.jsp>.

7.1.6 Maintenance Plan; Levels of Maintenance Services.\~ Upon Contractors acceptance of Customers order for Maintenance Services in respect of the Licensed Products, Contractor and/or its authorized subcontractors shall provide Maintenance Services in accordance with these terms for a time period of twelve (12) months or for such other period specified in Customers order accepted by Contractor (a [Maintenance Plan](#)).\~ All Maintenance Services are provided subject to Customers payment for such services at rates quoted by Contractor. If Customer does not order Maintenance Services to commence on shipment of the Licensed Product(s), or if Customer at any time discontinues Maintenance Services, and in either case subsequently wishes to obtain Maintenance Services, Customer must pay (i) the then current fees for Maintenance Services and (ii) the fees for Maintenance Services for any period for which Customer has not purchased Maintenance Services. The then current levels of Maintenance Services offered and the corresponding services provided thereunder are described on *HYPERLINK "<http://www.ptc.com>"<http://www.ptc.com> at *HYPERLINK "http://www.ptc.com/support/maintenance/maintenance_support_policies.htm"http://www.ptc.com/support/maintenance/maintenance_support_policies.htm

Without impairing the Governments right to terminate a contract for its own convenience, a Maintenance Plan may not be cancelled by Customer following Contractors acceptance of an order for such Maintenance Plan.\~ With respect to Registered User Products, e-Learning products and Integrity Concurrent User and Server Licensed Products, annual Maintenance Services ordered by Customer must cover all Licenses granted to Customer for such Licensed Products.\~ Contractor is obligated to provide Maintenance Services only during periods for which Customer has paid the applicable Maintenance fees and only in accordance with the level of Maintenance Services Customer has purchased.

7.1.6.1. Telephone Support.\~ If Customer purchases Maintenance Services at a level that includes telephone support, Customer may utilize Contractors telephone support service to report problems and seek assistance in use of the Licensed Products.\~ The hours during which Contractor will provide telephone support will vary depending upon the level of Maintenance Services ordered by Customer. For all levels of Maintenance Services that include telephone support, Contractor will provide telephone support in the languages, and during normal business hours for the countries, listed on Contractors website at the website URL listed above.\~ For levels of Maintenance Services that include telephone support during non-business hours, Contractor will provide such support in the English language only.\~

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Regardless of the total number of the Licensed Products licensed by Customer. Customer is entitled to telephone support only in direct connection with Licenses that are covered by a Maintenance Plan at a level that includes telephone support.

7.1.6.2 Repair of Errors.\~ If Customers Maintenance Plan includes repair or workaroud of Errors, Contractor shall use diligent efforts to repair Errors or provide workarounds as required in such Maintenance Plan, provided notice of the Error is received by Contractor during the term of a Maintenance Plan and Customer supplies such additional information regarding the Error as Contractor may reasonably request.

7.1.6.3 New Releases.\~ Contractor will provide Customer with one copy of each New Release for each Licensed Product for which Customer is entitled to Maintenance Services at the time the applicable language version of the New Release is made generally available.\~ Subject to different terms for particular products set forth at *HYPERLINK "http://www.ptc.com/support/maintenance/maintenance_support_policies.htm"http://www.ptc.com/support/maintenance/maintenance_support_policies.htm, following shipment of the New Release, the previous release shall remain current for purposes of this Agreement for a period of ninety (90) days; thereafter only such New Release will be current.

7.1.6.4 Exclusions.

(1) Contractor is not obligated to perform investigation and/or repair of Errors (i) found by Contractor to be in other than a current (as described above), unaltered release of the Licensed Products; (ii) caused by changes to the Customers operating systems,\~ environment, databases or other system components which adversely affect the Licensed Products; (iii) caused by Customers modification of the Licensed Product or use thereof in combination or interconnection with software not provided by Contractor; (iv) use of the Licensed Product on a computer, operating system, software or peripherals other than a computer, operating system, software or peripherals for which such Licensed Product was designed for and licensed for use on; (v) caused by improper or unauthorized use of the Licensed Products; (vi) due to external causes such as, but not limited to, power failures or electric power surges; or (vii)\~due to a failure by the Customer to implement recommendations in respect of solutions to Errors previously provided by Contractor to Customer.

(2) Contractor shall only be responsible for responding to problems reported by one of the two (2) technical contacts for Customers main location (which technical contacts and main location have previously been identified in writing to Contractor by Customer), and for sending New Releases to the Central Support Location designated by Customer in writing.\~ Customer is responsible for the distribution of New Releases to any of Customers additional locations where Licensed Products are authorized to be used.\~ Customer is responsible for providing to Contractor in writing the name, address, phone number, fax number, and e-mail address for each of Customers designated contacts and Customers Central Support Location.

(3) Contractor is not obligated to perform any Maintenance Services with respect to modifications or customizations of the Licensed Products, nor with respect to any developments resulting from Customers use, development or customization of functionality contained within the Licensed Products, all of which are Customers sole responsibility.

8. Pricing Terms**8.1. Base Pricing**

8.1.1. Prices for commercial products and services are specified in Attachment 0002. BPA prices shall only escalate in accordance with the GSA Economic Price Adjustment clause. The same discount relationship (Discount Percentage off GSA Schedule price) shall be maintained during the term of this BPA.

8.1.2. The prices in Attachment 0002 will be reviewed annually or as required to determine whether a reduction is appropriate in accordance with section 8.2.

8.2. Most Favored Customer

8.2.1. Contractor shall ensure the prices under this BPA are as low as the prices Contractor has under any other contract instrument with any customer under like terms and conditions. If at any time the prices under any other contract instrument with any customer become lower than the prices in this BPA, this BPA will be immediately modified to include the lower prices.

8.3. Additional Price and Discount Terms

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

8.3.2. Special solutions and voluntary price reductions may be negotiated for individual orders. ARMY / Department of the NAVY customers are encouraged to consolidate their purchases of PTC WINDCHILL products prior to releasing requests for quotes under a CHESSE Enterprise Licensing Agreement (ELA). Ordering Officers should contact CHESSE for further details. CHESSE will evaluate consolidated requirements and may negotiate special terms/solutions and price reductions for specific orders as warranted by large volume purchases or other special circumstances.

9. Product and Pricing Data Submission

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9.1. Data Submission Format

9.1.1. Contractor shall submit and keep current all products, service and pricing data in the format described in Attachment 0002 (amended as required) for publication in all web and other methods for public and private display and access.

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

10. Ordering

10.1. Ordering Guide

10.1.1. Attachment 0003 contains the ordering process and instructions that shall be followed by Ordering Offices and Contractor.

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

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

10.2. Applicability of FAR and DFARS Provisions

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

10.2.2. Orders issued against this BPA are subject to the DFARS clauses as indicated by a check mark in Attachment 0004. Additional DFARS clauses may apply to the Delivery Order.

10.2.3. The DFARS clauses listed in Attachment 0004 are those in effect as of the effective date of this BPA. Ordering Offices are responsible for incorporating the most current version of the applicable DFARS clauses in the Delivery Order as appropriate.

10.2.4. Any additional DFARS clauses not checked in Attachment 0004 should be considered by the Ordering Offices for inclusion in the Delivery Order.

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

10.3. Web Sites and Electronic Ordering

10.3.1. This BPA will be posted to the PD CHESS website as part of the CHESS program. The web site can be viewed at `*HYPERLINK "http://www.chess.army.mil" http://www.chess.army.mil` and is publicly accessible.

10.3.2. It is the intention of the Government to use existing and future capability of the DoD Standard Procurement System, Electronic Data Interchange (EDI) capability, Government procurement card, and Contractor electronic ordering capability to create a paper-less ordering, invoicing and payment process. During the term of the BPA, the Contractor shall participate to achieve this objective.

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

10.3.2.2. The Contractor shall ensure that the data and information relating to Contractors products, technical specifications, services, prices and other information related to this BPA is current, accurate, complete, and delivered by the Contractor in the standard format(s) described in Attachment 0002.

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

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

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

10.4. Delivery Schedule.

10.4.1. The Contractor shall be required to deliver all products within 30 business days of receipt of order. More expedient delivery

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terms may be proposed on individual orders, and are encouraged. Deliveries will be made to the address specified on the delivery orders issued against the BPA.

10.5. Delivery Notice.

10.5.1 Unless otherwise agreed to, all deliveries ordered under this BPA must be accompanied by a delivery notice, ticket or sales slips that must contain at a minimum the following information:

- a. Name of Contractor
- b. GSA Contract Number
- c. BPA Number
- d. Product Description/Model numbers
- e. Delivery order number
- f. Date of purchase
- g. Quantity, unit price and extension of each item (unit prices need not be shown when incompatible with the use of automated systems; provided that the invoice is itemized to show the information)
- h. Date of shipment

10.6. BPA Ordering Suspension

10.6.1. There may be occasions where the Government may suspend ordering (by CLIN up to and including the entire BPA) or cancel the BPA for cause. Reasons for suspension or cancellation can include but are not limited to delinquent sales report submission, non-compliance to BPA terms and conditions, failure to maintain PTC WINDCHILL Authorized Licensing Center CHES reseller status; and/or PTC WINDCHILL partnering or teaming program Gold maintenance certification. (Note: Upon launch of the PTC WINDCHILL BPA, Contractor must hold a Gold level maintenance to retain their BPA. Any BPA holder that fails to retain a BPA will not have an opportunity for another BPA for the remaining duration of the BPA Ordering Period, inclusive of any exercised option ordering periods.) If a suspension is announced, the Contractor shall adhere to this suspension by not accepting or processing delivery orders for the suspended item(s).

11. Contractor BPA Management Obligations

11.1. Report of Sales

11.1.1. The Contractor shall provide a Report of Sales to the SPM and the PCO in electronic format within fifteen (15) days following completion of the quarterly reporting period, or as otherwise requested by the SPM. The report shall be submitted in the standard format shown in Attachment 0005. Sales reports are required even in those instances where no sales are made. The SPM or PCO shall provide written approval of each report to the Contractor.

11.2. Centralized Administration

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

11.3. Records

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

11.4. Program Management Reviews (PMR)

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

11.5. Sales Leakage Prevention

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

11.5.2. The Contractor shall establish a process to regularly audit sales to Government buyers, determine where sales outside the CHES

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vehicle are occurring, and take appropriate action to direct further sales through the CHESS vehicle. Results of these audits will be presented as an agenda item during PMRs.

12. Personal Data and Personally Identifiable Information (PII)

12.1. Compliance with Privacy Act

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

13. Termination

13.1. Effect of Termination.

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

13.2. Surviving Provisions.

13.2.1. The following sections shall survive the termination or expiration of this Agreement: Section 5 (Term & Survival); Section 13 (Personal Data and Personally Identifiable Information); Section 14.1 (Effect of Termination); Section 13.2 (Surviving provisions); Section 16 (General Provisions) and any software licenses acquired pursuant to this BPA where usage rights are perpetual.

14. Relationship of the Parties

14.1. Independent Contractors.

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

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

15. On Ramp Procedures.

15.1 The Government reserves the right to reopen competition at any time during the term of the BPA. The Government will review the need for additional Contractors as needed. When an on-ramp is used, the Government will advertise the reopening of the competition on FedBizOpps and GSA ebuy, and awardees shall meet the criteria established in the initial solicitation. The evaluation and selection of awardees for any on-ramp will be exactly the same as the evaluation and award criteria used for the initial basic BPA awards. Any new awardees will compete with any existing or remaining Contractors for all delivery orders.

16. General Provisions

16.1. YEAR 2000 Compliance

16.1.1. All products provided under this BPA shall be Y2K compliant as defined in FAR 39.002.

16.2. Headings

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

16.3. Notices

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

16.4. Reference to Days

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

16.5. Severability

16.5.1. If any term or provision of this Agreement is held to be illegal or unenforceable, the validity or enforceability of the remainder of this Agreement shall not be affected. In such event, the parties will negotiate a valid, enforceable substitute provision that most nearly achieves the parties original intent in entering into this Agreement or provide an equitable adjustment in the event no such provision can be added.

16.5.2. The Government does not agree to any Terms and Conditions that violate federal law or regulations including any Terms and Conditions contained in any third party software license agreement.

16.6. Waiver

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

16.7. Dispute Resolution

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

16.8. Entire Agreement

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

*** END OF NARRATIVE A0002 ***

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SECTION J - LIST OF ATTACHMENTS

<u>List of</u> <u>Addenda</u>	<u>Title</u>	<u>Date</u>	<u>Number</u> <u>of Pages</u>	<u>Transmitted By</u>
Attachment 0001	SUPPLEMENTAL PRICELIST INFORMATION AND TERMS	13-AUG-2012	007	DATA
Attachment 0002	PRODUCT & PRICE LIST FROM RFQ	30-JUL-2012	189	EMAIL
Attachment 0003	ORDERING GUIDE	13-AUG-2012	005	DATA
Attachment 0004	APPLICABLE DFARS PROVISIONS	13-AUG-2012	004	DATA
Attachment 0005	REPORT OF SALES W/INSTRUCTIONS EXAMPLE	13-AUG-2012	001	EMAIL

ATTACHMENT 0001
CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS
Parametric Technology CORPORATION (PTC)
PTC License, warranty and support terms

Definitions

Manufacturer means Parametric Technology Corporation (PTC).

Customer means Ordering Activity. For the avoidance of doubt, an Ordering Activity under this BPA may be any activity within the Army or Navy (which includes military, civilian, and contractor personnel) that is authorized to place orders under a GSA Schedules. Additionally, the Ordering Activity may be any authorized Army or Navy Contractor(s) purchasing on behalf of the Army or Navy. The coverage of this definition applies to Continental United States (CONUS) and Outside the Continental United States (OCONUS) sites.

Concurrent User Products means the Licensed Products licensed on a concurrent user basis.

Designated Computer means the central processing unit(s) designated by Customer in connection with the installation of the Licensed Products (as may be modified in accordance with Section 3.3 hereof).

Designated Country means the country of the installation address specified on the applicable Product Schedule. The Designated Country may be changed only in accordance with Sections 3.2 and 3.3 hereof.

Designated Network means the network designated by Customer in connection with the installation of the Licensed Products (as may be modified in accordance with Section 3.3 hereof).

Designated Server means a computer server designated by Customer in connection with the installation of the Licensed Products (as may be modified in accordance with Section 3.5 hereof) that has one unique instance of the applicable installed Licensed Product application.

Designated Server Products means the Licensed Products licensed on a Designated Server basis.

Documentation means the applicable Licensed Software user manuals provided or made available by electronic means at the time of shipment of the Licensed Software.

Error means a failure of the Licensed Software to conform substantially to the applicable Documentation, provided that Customer informs Contractor or Manufacturer of such failure in writing and Contractor through the Manufacturer is able to replicate such failure after making reasonable efforts.

License means the non-exclusive, non-transferable right, without any right to sub-license, to use a Licensed Product during the applicable License Term subject to the terms and conditions hereof and in accordance with the applicable restrictions set forth in the Product Schedule.

License Term means the time period during which the License shall be in effect as specified in the applicable Product Schedule (subject to earlier termination pursuant to the terms hereof).

Licensed Products means collectively the Licensed Software and the Documentation.

Licensed Software means, collectively, the computer software products specified in a Product Schedule as well as (i) any Error corrections pursuant to Attachment A hereof, (ii) any updates, Error corrections and/or New Releases provided to Customer by PTC pursuant to Maintenance Services purchased by Customer and (iii) any computer software provided to Customer in the course PTC's delivery of Training Services.

Maintenance Services means the provision of New Releases and, depending on the level of Maintenance Services ordered, may also include telephone support, web-based support tools, and correction of Errors, all as more fully described on this Attachment A.

New Release means a modified or enhanced version of a Licensed Product that is designated by PTC as a new release of that product and that PTC makes generally available to its Maintenance Services customers.

Permitted User means an individual who is authorized by Customer to use the Licensed Products, such use to be solely in accordance with the terms and conditions hereof. Permitted Users are limited to Customer's employees, consultants, subcontractors, suppliers, business partners and customers who are directly involved in the utilization of the Licensed Products solely in support of Customer's internal product development and information management operations. Customer shall at all times be responsible for its Permitted Users compliance with this Attachment.

Product Schedule means order form as may be submitted by Customer that specifies (i) the Licensed Products and/or Services ordered; and

(ii) for Licensed Products, the installation address (including the Designated Country) and the License Term.

Registered User means a Permitted User for whom Customer has purchased a License to use a Registered User Product and for whom Customer has issued a password or other unique identifier to enable such individual to use the Registered User Product.

Registered User Products means the Licensed Products licensed on a Registered User basis.

Services means collectively, Maintenance Services and Training Services.

Subscription License Fee or Usage License Fee mean a periodic fee payable beginning upon shipment of Licensed Products that are specified in the applicable Product Schedule as being subject to a Subscription License Fee or Usage License Fee and that, only during the period for which the Subscription License Fee or Usage License Fee is paid, entitles Customer to (i) use the Licensed Products pursuant to the applicable License and (ii) if applicable, receive Maintenance Services at the Maintenance Services level specified in the applicable Product Schedule.

Training Services means instruction or other training in the use of the Licensed Products.

Uplift Fee means a fee based upon the difference between the License fee applicable to installation in the original Designated Country and the License fee applicable to the installation in the Designated Country to which Customer is transferring the Licensed Product.

License to Licensed Products.

License Grant. Contractor grants to Customer a License to install and use the Licensed Products solely for Customers internal product development and information management operations during the applicable License Term. The License shall be subject to the applicable restrictions in this Attachment A, to the other terms and conditions hereof, and to any limitations or other terms and conditions contained in the Product Schedule.

Certain Restrictions on Use Applicable to All Licensed Products. Customer may only install and operate Licensed Products on computer systems and networks situated in the applicable Designated Country. Customer may, from time to time, change the Designated Country in which Customer seeks to install or operate a Licensed Product, provided that (i) in each case Customer shall give prior written notice of any such change, and (ii) upon transferring the Licensed Products to a different Designated Country, Customer shall pay all applicable transfer fees and/or Uplift Fees, as well as any taxes, tariffs or duties that may be payable on such transfer (collectively, the Relocation Charges).

Only Permitted Users may access or operate the Licensed Products. Customer shall not and shall not permit any third party to:

- (i) modify or create any derivative work of any part of the Licensed Products;
- (ii) rent, lease, or loan the Licensed Products;
- (iii) use the Licensed Products, or permit them to be used, for third-party training, commercial time-sharing or service bureau use;
- (iv) disassemble, decompile, reverse engineer the Licensed Products or otherwise attempt to gain access to its source code;
- (v) sell, license, sublicense, loan, assign, or otherwise transfer (whether by sale, exchange, gift, operation of law, or otherwise) to a third party the Licensed Products, any copy thereof, or any License or other rights thereto, in whole or in part, without prior written consent;
- (vi) alter, remove, or obscure any copyright, trade secret, patent, trademark, logo, proprietary and/or other legal notices on or in copies of the Licensed Products; and
- (vii) copy or otherwise reproduce the Licensed Products in whole or in part, except as may be required for their installation into computer memory for the purpose of executing the Licensed Products in accordance with this Section 3, and except to make a reasonable number of copies solely for back-up purposes (provided that any such permitted copies shall be the property of Manufacturer and shall reproduce all copyright, trade secret, patent, trademark, logo, proprietary and/or other legal notices contained in the original copy.

Additional Restrictions on Use Applicable to Concurrent User Products. Customer may only install and operate Concurrent User Products on the applicable Designated Computers or Designated Networks on computer systems and networks situated in the applicable Designated Country. Only Permitted Users located in the Designated Country may access or operate the Licensed Products. Permitted Users who are not employees of Customer shall use the Concurrent User Products on Customers site only. The number of Permitted Users accessing or operating a Concurrent User Product at any point in time may not exceed the number of Licenses in effect at such time for that particular Licensed Product. Customer may, from time to time, change the Designated Computer or the Designated Network for a Licensed Product, and/or the location thereof, provided that in each case (a) Customer shall give prior written notice of any such change, and (b) upon transferring the Licensed Products to a different Designated Country, Customer pays all applicable Relocation Charges.

Additional Restrictions on Use Applicable to Registered User Products. Registered User Products may only be used by Registered Users. Customer may add and/or substitute from time to time new Registered Users as long as the aggregate number of Registered Users does not exceed at any point in time the number of Licenses in effect at such time for that particular Licensed Product and, provided further, that if a person who was previously a Registered User returns to Registered User status, a new License fee must be paid.

Additional Restrictions on Use Applicable to Designated Server Products. Customer may only install and operate Designated Server Products on the applicable Designated Server(s) situated in the applicable Designated Country. Customer may, from time to time, change the Designated Server(s) for a Designated Server Product, and/or the location thereof, provided that in each case (a) Customer shall give prior written notice of any such change, and (b) upon transferring the Designated Server Products to a different Designated Country, Customer pays all applicable Relocation Charges.

Warranty; Disclaimer of Warranties.

Warranty. Contractor warrants to Customer that it is authorized to grant the License(s) and that, subject to this Attachment A, for a period of ninety (90) days following initial shipment to Customer or Customers designee of the computer software described in a Product Schedule (the Warranty Period), such computer software will be free from errors.

Warranty. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in the task order or delivery order issued.

Warranty Exceptions. Contractor shall have no warranty obligations hereunder with respect to (i) New Releases (for which the terms of Maintenance Services shall apply), (ii) computer software provided to Customer in the course of delivery of Training Services; (iii) any Error attributable to the use of the Licensed Product in an application or environment for which it was not designed or contemplated, or attributable to modifications of the Licensed Product by anyone other than Contractor, Manufacturer or its employees or agents; and/or (iv) Bundled Third Party Products.

Remedy. Contractors and its licensors entire liability and Customers remedy for any breach of the warranty given in Attachment A shall be, at Contractors sole discretion, either to (a) replace the Licensed Product(s) or (b) use diligent efforts to repair the Error. Contractors obligations set forth in the preceding sentence shall apply only if notice of the Error is received within the Warranty Period and Customer supplies such additional information regarding the Error as may be reasonably requested. If Contractor does not replace the applicable Licensed Product(s) and/or does not repair the Error (either by providing a bug fix, a workaround or otherwise) within a reasonable time after notice of the Error and associated information from Customer is received by Contractor through the Manufacturer, Contractor will provide a refund of the license fees paid by Customer for the applicable Licensed Product(s) upon return of such Licensed Product(s) and any copies made thereof.

Disclaimer of Warranties. EXCEPT AS EXPRESSLY STATED IN THIS ATTACHMENT A, CONTRACTOR DISCLAIMS (AND CUSTOMER WAIVES) ALL WARRANTIES, INCLUDING NON-INFRINGEMENT, AND/OR ANY WARRANTY THAT CUSTOMER WILL ACHIEVE ANY PARTICULAR RETURN ON INVESTMENT. THE LICENSED PRODUCTS ARE INTENDED TO BE USED BY TRAINED PROFESSIONALS AND ARE NOT A SUBSTITUTE FOR PROFESSIONAL JUDGMENT, TESTING, SAFETY AND UTILITY. CUSTOMER IS SOLELY RESPONSIBLE FOR ANY RESULTS OBTAINED FROM USING THE LICENSED PRODUCTS, INCLUDING THE ADEQUACY OF INDEPENDENT TESTING OF RELIABILITY AND ACCURACY OF ANY ITEM DESIGNED USING LICENSED PRODUCTS. Contractor does not warrant that the operation or other use of the Licensed Products will be uninterrupted or error free or will not cause damage or disruption to Customers data, computers or networks. Contractor disclaims all warranties of any kind, express or implied, with respect to Sun Software, Oracle Software and any Bundled Third Party Products (described in the Schedule B, Third Party Terms), and if any such products are supplied by Contractor through the Manufacturer, they are provided without any warranties except as expressly stated above.

Maintenance Services

Maintenance Plan; Levels of Maintenance Services. Contractor through the Manufacturer shall provide Maintenance Services in accordance with these terms for a time period of twelve (12) months or for such other period specified in Customers order (a Maintenance Plan). All Maintenance Services are provided subject to Customers payment for such services. If Customer does not order Maintenance Services to commence on shipment of the Licensed Product(s) and on a continuing basis thereafter, and subsequently wishes to obtain Maintenance Services, Customer must pay (i) the then current fees for Maintenance Services and (ii) the fees for Maintenance Services for any period for which Customer has not purchased Maintenance Services. With respect to Registered User Products, annual Maintenance Services ordered by Customer must cover all Licenses granted to Customer for such Licensed Products. Contractor through the Manufacturer is obligated to provide Maintenance Services only during periods for which Customer has paid the applicable Maintenance fees and only in accordance with the level of Maintenance Services Customer has purchased. The services offered under any Maintenance Plan may change from time to time, and Contractor may cease to offer such maintenance or Maintenance Plans at any time without notice, subject only to the obligation to refund to Customer the unused portion of any previously paid applicable maintenance fee (on a prorated basis). Notwithstanding the foregoing, PTC will remain obligated to perform services during the entire period of any Maintenance Plan for which PTC has accepted an order from Customer.

(a) Telephone Support. If Customer purchases Maintenance Services at a level that includes telephone support, Customer may utilize Manufacturers telephone support service to report problems and seek assistance in use of the Licensed Products. The hours during which telephone support will be provided vary depending upon the level of Maintenance Services ordered by Customer. Regardless of the total number of the Licensed Products licensed by Customer. Customer is entitled to telephone support only in direct connection with Licenses that are covered by a Maintenance Plan at a level that includes telephone support.

(b) Repair of Errors. If Customers Maintenance Plan includes repair of Errors, Contractor through the Manufacturer shall use diligent

efforts to repair Errors or provide workarounds, provided notice of the Error is received during the term of a Maintenance Plan and Customer supplies such additional information regarding the Error as may be reasonably requested.

(c) New Releases. Contractor through the Manufacturer will provide Customer with one copy of each New Release for each Licensed Product for which Customer is entitled to Maintenance Services at the time the applicable language version of the New Release is made generally available. Outside the scope of this contract, Contractor reserves the right to charge a nominal amount for computer media, shipping and handling with respect to New Releases. Following shipment of the New Release, the previous release shall remain current for purposes of this Attachment for a period of ninety (90) days; thereafter only such New Release will be current.

(d) Exclusions.

(1) Contractor through the Manufacturer is not obligated to perform investigation and/or repair of Errors (i) found by Manufacturer to be in other than a current, unaltered release of the Licensed Products; (ii) caused by Customers modification of the Licensed Product or use thereof in combination with software not provided by Contractor or Manufacturer; (iii) caused by improper or unauthorized use of the Licensed Products; or (iv) due to external causes such as, but not limited to, power failures or electric power surges.

(2) Contractor through the Manufacturer shall only be responsible for responding to problems reported by one of the two (2) technical contacts for Customers main location (which technical contacts and main location have previously been identified in writing by Customer), and for sending New Releases to the Central Support Location designated by Customer in writing. Customer is responsible for the distribution of New Releases to any of Customers additional locations where Licensed Products are authorized to be used. Customer is responsible for providing in writing the name, address, phone number, fax number, and e-mail address for each of Customers designated contacts and Customers Central Support Location.

(3) Contractor through the Manufacturer is not obligated to perform any Maintenance Services with respect to modifications or customizations of the Licensed Products, nor with respect to any developments resulting from Customers use, development or customization of functionality contained within the Licensed Products, all of which are Customers sole responsibility.

Third Party Component Terms

Sun Components

The following terms apply to software and documentation provided by Sun Microsystems, Inc. (Sun) to the extent any Sun software or documentation (Sun Software) is included in the Licensed Products, including without limitations Java™ Runtime Environment, Java Naming and Directory Interface™ 1.2.1, JavaMail™ 1.2, JavaBeans™ Activation Framework 1.0.1, Java™ Secure Socket Extension 1.0.2, and Java™ Software Developers Kit:

Customer may not modify the Java Platform Interface (JPI, identified as classes contained within the java package or any subpackages of the java package), by creating additional classes within the JPI or otherwise causing the addition to or modification of the classes in the JPI.

In the event that Customer creates an additional class and associated API(s) which (i) extends the functionality of a Java platform and (ii) is exposed to third party software developers for the purpose of developing additional software which involves such additional API, Customer must promptly publish broadly an accurate specification for such API for free use by all developers. However, this publication requirement does not apply to Customers who do not expose any such additional API to third party software developers for the purpose of developing additional software which involves such additional API.

Sun Software is confidential copyrighted information of Sun and title to all copies is retained by Sun and/or its licensors. Sun Software is not designed, licensed or intended for use in the design, construction, operation or maintenance of any nuclear facility and Sun expressly disclaims any implied warranty of fitness for such uses.

SUN SOFTWARE MAY NOT BE FAULT TOLERANT AND WHEN USED IN CONNECTION WITH EQUIPMENT OR SYSTEMS IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, SUCH AS IN THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION, AIR TRAFFIC CONTROL, DIRECT LIFE SUPPORT MACHINES, OR WEAPONS SYSTEMS, THE FAILURE OF THE LICENSED PRODUCTS COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE.

Sun disclaims all express or implied conditions, representations and warranties, including any implied warranty of merchantability, fitness for a particular purpose or non-infringement, except to the extent that these disclaimers are held to be legally invalid. To the extent not prohibited by law, in no event will Sun or its licensors be liable for any lost revenue, profit or data, or for direct, indirect, special, consequential, incidental or punitive damages, however caused and regardless of the theory of liability, arising out of or related to the use of or inability to use Sun Software, even if Sun has been advised of the possibility of such damages.

Oracle Components

The following terms apply to software and documentation provided by Oracle Corporation (Oracle) to the extent any Oracle software or documentation is included in or with the Licensed Products (the Oracle Software): Customer understands and agrees that the Oracle Software may only be used in conjunction with the Licensed Products and that Customer will not modify the Oracle Software or publish the

results of any benchmark tests run on the Oracle Software.

Open Source Components

If any open source software is included in the Licensed Products, such open source software is identified in the notices which accompany the Licensed Products. The warranty and support services provided herein apply to such open source software and are provided by Contractor through the Manufacturer alone and not by the original licensor. The original licensor of the open source software provides it on an as is basis and without any liability whatsoever to Customer.

Bundled Third Party Product Terms

Certain third party products that are provided with the License Products are provided under a separate license directly from the manufacturer of the applicable third party products (Bundled Third Party Products). Use of third party products is optional. Customer agrees and acknowledges that, to the extent that any such Bundled Third Party Products are provided with the Licensed Products: (i) such Bundled Third Party Products are provided on an as-is, pass-through basis, and as such are provided to Customer without warranty, indemnification, support or other representation by Contractor or Manufacturer; (ii) Contractor bears no liability with respect to such Bundled Third Party Products and Maintenance Services for such software will be provided at Contractor or Manufacturers discretion; and (iii) Customer may be required to purchase new versions of such Bundled Third Party Products as they become available and supported by their respective manufacturer.

Currently the following Bundled Third Party Products are provided by Contractor through the Manufacturer with certain of the Licensed Products as integrated components or as optional applications by separate purchase:

- Adobe\ae Acrobat\ae Reader. Customer agrees that any copies of Adobe\ae Acrobat\ae Reader it receives from Contractor through the Manufacturer are subject to the terms and conditions of the Adobe\ae Systems Incorporated Electronic End-User License Agreement for Adobe\ae Acrobat\ae Reader included therewith.

- Citrix Systems Presentation Manager and Lakeside Software SysTrack are available as optional applications furnished with certain Arbortext Licensed Products. Customer agrees that any copies of Citrix Systems Presentation Manager and/or of Lakeside Software SysTrack it purchases from Contractor are subject to the terms and conditions of the respective Citrix Systems and Lakeside Software license agreements furnished therewith.

New Releases of Manufacturer Licensed Products may be accompanied by additional Bundled Third Party Products.

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This attachment can be mailed to you if necessary. It is the same document you supplied with your RFQ containing your products and pricing.

ATTACHMENT 0003

ARMY and Department of the NAVY BPA ORDERING GUIDE

This Ordering Guide has been developed by the Government procurement team to assist IT buyers and contracting officials to order technology products and/or services from the BPA holder. This Guide contains essential information about the BPA, identifies the authorized users of the BPA, summarizes the products and services available under the BPA and instructions for users to place an order, and provides Points of Contact information to provide support.

Contents	Paragraph
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3. Products and Services Overview	3
4. Ordering Officer Responsibilities	4
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1. BPA CONTRACTOR / VENDOR: FOUR POINTS TECHNOLOGY, INC.

GSA SCHEDULE NUMBER AND WEB LINK : GS-35F-0265X *HYPERLINK
"https://www.gsaadvantage.gov/ref_text/GS35F0265X.PDF" https://www.gsaadvantage.gov/ref_text/GS35F0265X.PDF

BPA NUMBER AND WEB LINK(S): W52P1J12A0018 *HYPERLINK "http://www.chess.army.mil" www.chess.army.mil

BPA EFFECTIVE DATE: 8/3/2012

BPA ORDERING PERIODS *

This BPA includes a ONE-year base ordering period, with FOUR (one-year) option ordering periods.

BPA Base Period: Ordering Period 8/3/2012 8/2/2013

BPA Option 1: Ordering Period 8/3/2013 8/2/2014

BPA Option 2: Ordering Period 8/3/2014 8/2/2015

BPA Option 1: Ordering Period 8/3/2015 8/2/2016

BPA Option 2: Ordering Period 8/3/2016 8/2/2017

* (Subject to Annual Review)

2. Authorized BPA Users

a. The BPA is open for ordering by all ARMY and Department of the NAVY components.

3. Products and Services

Products and Services Overview Category : Office Systems

Publisher(s) : PTC

Product Line : WINDCHILL Products to include Licenses, Upgrade Licenses, Upgrade Plan, Renewal Upgrade Plan and Support products.

PTC WINDCHILL Items (Refer to vendors pricelist): Software, licenses and maintenance

(Full list is available at *HYPERLINK "www.CHESS" www.CHESS. ARMY.mil)

4. Ordering Officer Responsibilities

a. Ordering is decentralized. Orders are to be prepared by a Government Ordering Officer (a duly warranted Contracting Officer whose warrant authorizes purchases from the GSA Schedule) in accordance with the terms and conditions of the BPA and the GSA Schedule.

b. This is a multiple award BPA established competitively against GSA Schedule. Refer to the CHESS website at *HYPERLINK "www.CHESS.ARMY.mil" www.CHESS.ARMY.mil for the listing of the multiple award vendors.

c. It is the responsibility of the Ordering Officer to:

i. Comply with the ordering procedures of FAR 8.4 (Federal Supply Schedules) and DFARS 208.4 (Required Sources of Supply)

ii. Obtain competition and/or execute and publish brand name or limited source justifications as applicable.

iii. Provide fair opportunity to be considered for each order to all BPA holders who offer the applicable product and/or service required;

- iv. Ensure compliance with all fiscal laws prior to issuing an order under the BPA;
- v. Incorporate into the order any regulatory and statutory requirements that are applicable to the agency for which the order is placed, if pertinent requirements are not already included in the BPA; [Note: The DFARS clauses listed in Attachment 0003 of the BPA are those in effect as of the effective date of the BPA. Ordering Offices are responsible for incorporating the most current version of the applicable DFARS clauses in the Delivery Order as appropriate.]
- vi. Obtain the required authorization to acquire the products or services through the CHESB BPA in accordance with FAR Part 51 (Use of Government Sources by Contractors) when a third party is ordering on behalf of a Government component;
- vii. Ensure the vendor selected for the order represents the best value and the lowest overall cost alternative. (Note that the BPA terms encourage spot discounting.);
- viii. Review the terms and conditions recommended for ordering software, services or hardware provided in the BPA Attachments and secures the additional terms and conditions that represent the best value for the government.

5. Ordering Process

a. DFARS Regulation 208.74 Enterprise Software Agreements (ESA)

i. The BPA is an Enterprise Software Agreement (ESA) as defined in DFARS 208.74, which directs DoD software buyers and requiring officials to check the CHESB website (*HYPERLINK "www.CHESB.ARM.Y.mil"www.CHESB.ARM.Y.mil) for CHESB inventory or the availability of an ESA or component specific Enterprise Agreement (EA) before using another method of acquisition. These steps are summarized as follows from the DFARS:

1. Check the Enterprise Agreement Summary Table at *HYPERLINK "www.CHESB.ARM.Y.mil"www.CHESB.ARM.Y.mil to determine if commercial IT products or services have already been purchased and are available through an Enterprise License Agreement (ELA). If they are available, purchase the designated software from CHESB inventory and reimburse the SPM or through the ELA process, if available, which will be provided on the CHESB website *HYPERLINK "https://chesb.arm.y.mil"https://chesb.arm.y.mil .

2. If the required commercial products or services are not available from inventory or from an enterprise software agreement, the ARMY and Department of the NAVY component may use an alternate method of acquisition, subject to applicable laws and policy.

3. If the required commercial products or services are not available from inventory but are available from an Enterprise Software Agreement (ESA) and/or ELA, buyers must follow the procedure in the DFARS Section 208.74.

4. If an ARMY and Department of the NAVY component must obtain the commercial products or services outside the CHESB BPA, the component may seek a waiver from a management official designated by the ARMY and Department of the NAVY Component.

a. Ordering.

i. Orders are subject to the ordering offices local policy, the underlying GSA Federal Supply Schedule, and the terms of the BPA and may be placed directly with the vendor after compliance with the ordering procedures specified in paragraph 4 above by: 1. Execution of delivery/task order (SF1449) through the servicing base contracting office.

b. Contractor / Vendor Information

SF1449 Ordering Address

Four Points Technology, Inc
14900 Conference Center Drive, Ste 100
Chantilly, VA 20151

Remit To

Four Points Technology, Inc
14900 Conference Center Drive, Ste 100
Chantilly, VA 20151

CAGE 1YS78

DUNS 089896737

TIN 03-0433660

Business Size Service Disabled Veteran Owned Small Business

c. Place BPA number W52P1J-12-A-0018 in Block 2 and a locally assigned delivery order number in Block 4.

5. Or, place GSA Contract Number GS-35F-0265X in Block 2 and a locally assigned GSA delivery order number in Block 4. When the GSA Contract Number appears in Block 2, Block 20 of the SF1449 must include a statement that the order is subject to the terms and

conditions of BPA W52P1J-12-A-0018. *Delivery order number assignment is determined by the Ordering Office internal procedures.

a. The completed SF1449 will be forwarded (fax or mail) to the contractor at the following address:

Mail Orders to:

Four Points Technology, Inc
14900 Conference Center Drive, Ste 100
Chantilly, VA 20151

FAX ORDERS to: 703.657-6135

A copy of SF1449 must be sent to the servicing DFAS center.

b. Information Required from the Ordering Office

- i. End User and Name
- ii. End User Email Address
- iii. End User Phone Number

6. BPA Points of Contact

a. Contracting Office

Procuring Contracting Officer (PCO)

POC Jill M. Sommer

Voice 309.782.3582

Email *HYPERLINK "mailto:jill.m.sommer.civ@mail.mil" jill.m.sommer.civ@mail.mil

Alternate Point of Contact

Steven A. Szalo, Contract Specialist

309-782-8568

steven.a.szalo.civ@mail.mil

c. Vendor Points Of Contact

Program Manager Tom Flynn

Email: tflynn@4points.com

Voice: 703-657-6112

*HYPERLINK "http://www.4Points.com" www.4Points.com

Alternate Vendor Points Of Contact

Program Manager Geoff Geronimo

Email: ggeronimo@4points.com

Voice: 703-657-6112

*HYPERLINK "http://www.4Points.com" www.4Points.com

ATTACHMENT 0004

APPLICABLE DFARS PROVISIONS

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

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

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

1.1.2.1. *HYPERLINK

"<http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html>"<http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html>

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

1.1.2.3. *HYPERLINK "<http://farsite.hill.af.mil/>"<http://farsite.hill.af.mil/>

1.2. 252.204-7000 Disclosure of Information (DEC 1991)

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

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

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

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

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

1.8. 252.212-7001 Contract Terms and Conditions Required Implementing Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items (JUN 2012)

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

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

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

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

252.203-7003, Agency Office of the Inspector General (APR 2012)(section 6101 of Pub. L. 110-252, 41 U.S.C. 3509).

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

252.219-7003, Small Business Subcontracting Plan (DoD Contracts) (JUN 2012) (15 U.S.C. 637).

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

252.225-7001, Buy American Act and Balance of Payments Program (JUN 2012) (41 U.S.C. chapter 83, E.O. 10582).

Alternate I (OCT 2011) of 252.225-7001.

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

252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals (JUN 2012) (10 U.S.C. 2533b).

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

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

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).

- ___ 252.225-7017, Photovoltaic Devices (MAY 2012) (Section 846 of Pub. L. 111-383).
- _ X_ 252.225-7021, Trade Agreements (JUN 2012) (19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note).
- ___ Alternate I (OCT 2011) of 252.225-7021.
- ___ Alternate II (OCT 2011) of 252.225-7021.
- _ X_ 252.225-7027, Restriction on Contingent Fees for Foreign Military Sales (APR 2003) (22 U.S.C. 2779).
- _ X_ 252.225-7028, Exclusionary Policies and Practices of Foreign Governments (APR 2003) (22 U.S.C. 2755).
- _ X_ 252.225-7036, Buy American ActFree Trade Agreements Balance of Payments Program (JUN 2012) (41 U.S.C. chapter 83 and 19 U.S.C. 3301 note).
- ___ Alternate I (JUN 2012) of 252.225-7036.
- ___ Alternate II (JUN 2012) of 252.225-7036.
- ___ Alternate III (JUN 2012) of 252.225-7036.
- ___ Alternate IV (JUN 2012) of 252.225-7036.
- ___ Alternate V (JUN 2012) of 252.225-7036.
- ___ 252.225-7038, Restriction on Acquisition of Air Circuit Breakers (JUN 2005) (10 U.S.C. 2534(a)(3)).
- ___ 252.225-7039, Contractors Performing Private Security Functions (JUN 2012) (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).
- _ X_ 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).
- ___ 252.227-7013, Rights in Technical DataNoncommercial Items (FEB 2012), if applicable (see 227.7103-6(a)).
- _ X_ 252.227-7015, Technical DataCommercial Items (DEC 2011) (10 U.S.C. 2320).
- _ X_ 252.227-7037, Validation of Restrictive Markings on Technical Data (JUN 2012), if applicable (see 227.7102-4(c)).
- _ X_ 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports (MAR 2008) (10 U.S.C. 2227).
- ___ 252.237-7010, Prohibition on Interrogation of Detainees by Contractor Personnel (NOV 2010) (Section 1038 of Pub. L. 111-84).
- ___ 252.237-7019, Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Pub. L. 108-375).
- _ X_ 252.243-7002, Requests for Equitable Adjustment (MAR 1998) (10 U.S.C. 2410).
- ___ 252.246-7004, Safety of Facilities, Infrastructure, and Equipment For Military Operations (OCT 2010) (Section 807 of Pub. L. 111-84).
- ___ 252.247-7003, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (SEP 2010) (Section 884 of Pub. L. 110-417).
- _ X_ 252.247-7023, Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).
- ___ Alternate I (MAR 2000) of 252.247-7023.
- ___ Alternate II (MAR 2000) of 252.247-7023.
- ___ Alternate III (MAY 2002) of 252.247-7023.
- _ X_ 252.247-7024, Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

____ 252.247-7027, Riding Gang Member Requirements (OCT 2011) (Section 3504 of Pub. L. 110-417).

1.8.3. In addition to the clauses listed in paragraph (e) of the Contract Terms and Conditions Required to Implement Statutes or Executive Orders--Commercial Items clause of this contract (FAR 52.212-5), 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:

252.225-7039, Contractors Performing Private Security Functions (JUN 2012) (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).

252.227-7013, Rights in Technical DataNoncommercial Items (FEB 2012), if applicable
(see 227.7103-6(a)).

252.227-7015, Technical DataCommercial Items (DEC 2011), if applicable (see 227.7102-4(a)).

252.227-7037, Validation of Restrictive Markings on Technical Data (JUN 2012), if applicable
(see 227.7102-4(c)).

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

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

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

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

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

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An example of a Report of sales with instructions can be obtained by requesting from Steve Szalo at steven.a.szalo.civ@mail.mil