

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

**SPECIAL ITEM NO. 132-3 LEASING OF PRODUCT**

No Code or Class

**SPECIAL ITEM NO. 132-8 PURCHASE OF EQUIPMENT**

FSC CLASS 5810 - COMMUNICATIONS SECURITY EQUIPMENT AND COMPONENTS

Communications Security Equipment

**SPECIAL ITEM NO. 132-12 MAINTENANCE OF EQUIPMENT, REPAIR SERVICE, AND REPAIR PARTS/SPARE PARTS**

FPDS CODE FOR MAINTENANCE AND REPAIR SERVICE - J070

Maintenance

Repair Service

**SIN 132-32 - TERM SOFTWARE LICENSES**

FSC CLASS 7030 - INFORMATION TECHNOLOGY SOFTWARE

Large Scale Computers

Application Software

Electronic Commerce (EC) Software

Communications Software

Microcomputers

Application Software

Electronic Commerce (EC) Software

Communications Software

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

**SIN 132-33 - PERPETUAL SOFTWARE LICENSES**

FSC CLASS 7030 - INFORMATION TECHNOLOGY SOFTWARE

Large Scale Computers

Utility Software

Microcomputers

Application Software

Utility Software

Communications Software

Financial Systems Software

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

**SIN 132-34 - MAINTENANCE OF SOFTWARE**

General Services Administration

Federal Supply Service

Pricelist current through Modification # **PO-0793** dated **MAY 14, 2008**.

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

---

**TABLE OF CONTENTS**

INFORMATION FOR ORDERING ACTIVITIES APPLICABLE TO ALL SPECIAL ITEM NUMBERS .....	2
TERMS AND CONDITIONS APPLICABLE TO LEASING OF GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY PRODUCTS (SPECIAL ITEM NUMBER 132-3).....	10
TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY EQUIPMENT (SPECIAL ITEM NUMBER 132-8) FOR ALL MANUFACTURERS ON THE IMMIXTECHNOLOGY GSA CONTRACT .....	18
TERMS AND CONDITIONS APPLICABLE TO MAINTENANCE, REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS FOR GOVERNMENT-OWNED GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY EQUIPMENT (AFTER EXPIRATION OF GUARANTEE/WARRANTY PROVISIONS AND/OR WHEN REQUIRED SERVICE IS NOT COVERED BY GUARANTEE/WARRANTY PROVISIONS) AND FOR LEASED EQUIPMENT (SPECIAL ITEM NUMBER 132-12) FOR ALL MANUFACTURERS ON THE IMMIXTECHNOLOGY GSA CONTRACT.....	20
TERMS AND CONDITIONS APPLICABLE TO TERM SOFTWARE LICENSES (SPECIAL ITEM NUMBER 132-32), PERPETUAL SOFTWARE LICENSES (SPECIAL ITEM NUMBER 132-33) AND MAINTENANCE (SPECIAL ITEM NUMBER 132-34) OF GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY SOFTWARE FOR ALL MANUFACTURERS ON THE IMMIXTECHNOLOGY GSA CONTRACT .....	23

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

**SPECIAL NOTICE TO AGENCIES  
Small Business Participation**

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

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

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

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

**1. GEOGRAPHIC SCOPE OF CONTRACT:**

---

*Domestic delivery* is delivery within the 48 contiguous states, Alaska, Hawaii, Puerto Rico, Washington, DC, and U.S. Territories. Domestic delivery also includes a port or consolidation point, within the aforementioned areas, for orders received from overseas activities.

*Overseas delivery* is delivery to points outside of the 48 contiguous states, Washington, DC, Alaska, Hawaii, Puerto Rico, and U.S. Territories.

The Geographic Scope of Contract will be domestic delivery only.

**2. CONTRACTOR'S ORDERING ADDRESS AND PAYMENT INFORMATION:**

---

2a. For all manufacturers EXCEPT CHANNEL PARTNER clients:

***Orders and Remittance:***

**immixTechnology  
8444 Westpark Drive, Suite 200  
McLean, VA 22102**

2b. For CHANNEL PARTNER clients:

***Orders:***

See **Appendix A** for Ordering Address and Contact Information for Resellers Authorized to sell the Altiris, Checkpoint, Enterasys Networks, Juniper, Network Appliance, Network General, Nokia, Polycom, Radware, Riverbed, Secure Computing, and Storevault Product Lines

**Remittance:**

See **Appendix A** for Remit To Information for Resellers Authorized to sell the Altiris, Checkpoint, Enterasys Networks, Juniper, Network Appliance, Network General, Nokia, Polycom, Radware, Riverbed, Secure Computing, and Storevault Product Lines

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

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

**703.752.0610**  
**703.752.0613 facsimile**  
**<http://www.immixgroup.com>**

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

**3. LIABILITY FOR INJURY OR DAMAGE**

---

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

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

---

Block 9: G. Order/Modification Under Federal Schedule  
Block 16: Data Universal Numbering System (DUNS) Number: **098692374**  
Block 30: Type of Contractor – **B. Other Small Business**  
Block 31: Woman-Owned Small Business -**No**  
Block 36: Contractor's Taxpayer Identification Number (TIN): **54-1912608**

**4a. CAGE Code: 3CA29**

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

**5. FOB DESTINATION**

---

**6. DELIVERY SCHEDULE**

---

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

SPECIAL ITEM NUMBER	DELIVERY TIME (Days ARO)
132-8	30
132-32	30
132-33	30

b. URGENT REQUIREMENTS: When the Federal Supply Schedule contract delivery period does not meet the bona fide urgent delivery requirements of an ordering activity, ordering activities are encouraged, if time permits, to contact the

Contractor for the purpose of obtaining accelerated delivery. The Contractor shall reply to the inquiry within 3 workdays after receipt. (Telephonic replies shall be confirmed by the Contractor in writing.) If the Contractor offers an accelerated delivery time acceptable to the ordering agency, any order(s) placed pursuant to the agreed upon accelerated delivery time frame shall be delivered within this shorter delivery time and in accordance with all other terms and conditions of the contract.

---

**7. DISCOUNTS:**

---

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

- a. Prompt Payment - None.
- b. Quantity – See attached pricelist.
- c. Dollar Volume - See attached pricelist.
- d. Government Educational Institutions are offered the same discounts as all other Government customers.
- e. Other - None.

---

**8. TRADE AGREEMENTS ACT OF 1979, AS AMENDED:**

---

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

---

**9. STATEMENT CONCERNING AVAILABILITY OF EXPORT PACKING:**

---

*Export Packing is not available on this contract.*

---

**10. SMALL REQUIREMENTS:**

---

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

---

**11. MAXIMUM ORDER:**

---

Maximum Order (All dollar amounts are exclusive of any discount for prompt payment.)

- a. The Maximum Order value for the following Special Item Numbers (SINs) is \$500,000:
  - Special Item Number 132-3 - Leasing of Product
  - Special Item Number 132-8 - Purchase of Equipment
  - Special Item Number 132-12 – Maintenance of Equipment
  - Special Item Number 132-32 - Term Software Licenses
  - Special Item Number 132-33 - Perpetual Software Licenses
  - Special Item Number 132-34 – Maintenance of Software
  - Special Item Number 132-51 – Information Technology (IT) Professional Services
  - Special Item Number 132-52 - Electronic Commerce (EC) Services
- b. The Maximum Order value for the following Special Item Numbers (SINs) is \$25,000:
  - Special Item Number 132-50 - Training Courses

---

**12. ORDERING PROCEDURES FOR FEDERAL SUPPLY SCHEDULE CONTRACTS**

---

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

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

### **13. FEDERAL INFORMATION TECHNOLOGY / TELECOMMUNICATION STANDARDS REQUIREMENTS:**

---

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

#### **13.1 FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATIONS (FIPS PUBS):**

---

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

#### **13.2 FEDERAL TELECOMMUNICATION STANDARDS (FED-STDS):**

---

Telecommunication products under this Schedule that do not conform to Federal Telecommunication Standards (FED-STDS) should not be acquired unless a waiver has been granted in accordance with the applicable "FED-STD." Federal Telecommunication Standards are issued by the U.S. Department of Commerce, National Institute of Standards and Technology (NIST), pursuant to National Security Act. Ordering information and information concerning the availability of FED-STDS should be obtained from the GSA, Federal Supply Service, Specification Section, 470 East L'Enfant Plaza, Suite 8100, SW, Washington, DC 20407, telephone number (202) 619-8925. Please include a self-addressed mailing label when requesting information by mail. Information concerning their applicability can be obtained by writing or calling the U.S. Department of Commerce, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone number (301) 975-2833.

### **14. CONTRACTOR TASKS / SPECIAL REQUIREMENTS (C-FSS-370) (NOV 2001)**

---

- (a) Security Clearances: The Contractor may be required to obtain/possess varying levels of security clearances in the performance of orders issued under this contract. All costs associated with obtaining/possessing such security clearances should be factored into the price offered under the Multiple Award Schedule.
- (b) Travel: The Contractor may be required to travel in performance of orders issued under this contract. Allowable travel and per diem charges are governed by Pub. L. 99-234 and FAR Part 31, and are reimbursable by the ordering agency or can be priced as a fixed price item on orders placed under the Multiple Award Schedule. The Industrial Funding Fee does NOT apply to travel and per diem charges.

NOTE: Refer to FAR Part 31.205-46 Travel Costs, for allowable costs that pertain to official company business travel in regards to this contract.

- (c) Certifications, Licenses and Accreditations: As a commercial practice, the Contractor may be required to obtain/possess any variety of certifications, licenses and accreditations for specific FSC/service code classifications offered. All costs associated with obtaining/ possessing such certifications, licenses and accreditations should be factored into the price offered under the Multiple Award Schedule program.

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

---

**15. CONTRACT ADMINISTRATION FOR ORDERING ACTIVITIES:**

---

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

---

**16. GSA ADVANTAGE!**

---

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

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

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

---

**17. PURCHASE OF OPEN MARKET ITEMS**

---

NOTE: Open Market Items are also known as incidental items, noncontract items, non-Schedule items, and items not on a Federal Supply Schedule contract. ODCs (Other Direct Costs) are not part of this contract and should be treated at open market purchases. Ordering Activities procuring open market items must follow FAR 8.401(d).

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

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

---

## **18. CONTRACTOR COMMITMENTS, WARRANTIES AND REPRESENTATIONS**

---

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

(1) Time of delivery/installation quotations for individual orders;

(2) Technical representations and/or warranties of products concerning performance, total system performance and/or configuration, physical, design and/or functional characteristics and capabilities of a product/equipment/service/software package submitted in response to requirements which result in orders under this schedule contract.

(3) Any representations and/or warranties concerning the products made in any literature, description, drawings and/or specifications furnished by the Contractor.

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

---

## **19. OVERSEAS ACTIVITIES**

---

The terms and conditions of this contract shall apply to all orders for installation, maintenance and repair of equipment in areas listed in the pricelist outside the 48 contiguous states and the District of Columbia, except as indicated below: None

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

---

## **20. BLANKET PURCHASE AGREEMENTS (BPAS)**

---

The use of BPAs under any schedule contract to fill repetitive needs for supplies or services is allowable. BPAs may be established with one or more schedule contractors. The number of BPAs to be established is within the discretion of the ordering activity establishing the BPA and should be based on a strategy that is expected to maximize the effectiveness of the BPA(s). Ordering activities shall follow FAR 8.405-3 when creating and implementing BPA(s).

---

## **21. CONTRACTOR TEAM ARRANGEMENTS**

---

Contractors participating in contractor team arrangements must abide by all terms and conditions of their respective contracts. This includes compliance with Clause 552.238-74, Industrial Funding Fee and Sales Reporting, i.e.,

each contractor (team member) must report sales and remit the IFF for all products and services provided under its individual contract.

---

**22. INSTALLATION, DEINSTALLATION, REINSTALLATION**

---

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

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

---

**23. SECTION 508 COMPLIANCE**

---

Not Applicable

---

**24. PRIME CONTRACTOR ORDERING FROM FEDERAL SUPPLY SCHEDULES.**

---

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

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

---

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

---

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

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

---

**26. SOFTWARE INTEROPERABILITY**

---

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

---

**27. ADVANCE PAYMENTS**

---

A payment under this contract to provide a service or deliver an article for the United States Government may not be more than the value of the service already provided or the article already delivered. Advance or pre-payment is not authorized or allowed under this contract. (31 U.S.C. 3324)

**TERMS AND CONDITIONS APPLICABLE TO LEASING OF GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY PRODUCTS (SPECIAL ITEM NUMBER 132-3)**

**LEASE TYPES**

The ordering activity will consider proposals for the following lease types:

- a. Lease to Ownership (LTOP),
- b. Lease with Option to Own (LWOP)

Orders for leased products must specify the leasing type.

**OPTION 1:**

**1. STATEMENT**

---

- a. It is understood by all parties to this contract that orders issued under this SIN shall constitute a lease arrangement. Unless the ordering activity intends to obligate other than annual appropriations to fund the lease, the base period of the lease is from the date of the product acceptance through September 30 of the fiscal year in which the order is placed.
- b. Agencies are advised to follow the guidance provided in Federal Acquisition Regulation (FAR) Subpart 7.4 Product Lease or Purchase and OMB Circular A-11. Agencies are responsible for the obligation of funding consistent with all applicable legal principles when entering into any lease arrangement.

**2. FUNDING AND PERIODS OF LEASING ARRANGEMENTS**

---

- a. Annual Funding. When annually appropriated funds are cited on an order for leasing, the following applies:
  - (1) The base period of an order for any lease executed by the ordering activity shall be for the duration of the fiscal year. All ordering activity renewal options under the lease shall be specified in the delivery order. All orders for leasing shall remain in effect through September 30 of the fiscal year or the planned expiration date of the lease, whichever is earlier, unless the ordering activity exercises its rights hereunder to acquire title to the product prior to the planned expiration date or unless the ordering activity exercise its right to terminate under FAR 52.212-4. Orders under the lease shall not be deemed to obligate succeeding fiscal year's funds or to otherwise commit the ordering activity to a renewal.
  - (2) All orders for leasing shall automatically terminate on September 30, unless the ordering activity notifies the Contractor in writing thirty (30) calendar days prior to the expiration of such orders of the ordering activity's intent to renew. Such notice to renew shall not bind the ordering activity. The ordering activity has the option to renew each year at the original rate in effect at the time the order is placed. This rate applies for the duration of the order. If the ordering activity exercises its option to renew, the renewal order, shall be issued within 15 days after funds become available for obligation by the ordering activity, or as specified in the initial order. No termination fees shall apply if the ordering activity does not exercise an option.
- b. Crossing Fiscal Years Within Contract Period. Where an ordering activity has specific authority to cross fiscal years with annual appropriations, the ordering activity may place an order under this option to lease product for a period up to the expiration of its period of appropriation availability, or twelve months, whichever occurs later, notwithstanding the intervening fiscal years.

**3. DISCONTINUANCE AND TERMINATION**

---

Notwithstanding any other provision relating to this SIN, the ordering activity may terminate products leased under this agreement, at any time during a fiscal year in accordance with the termination provisions contained in FAR

52.212-4. (l) Termination for the ordering activity's convenience, or (m) Termination for cause. Additionally, no termination for cost or fees shall be charged for non-renewal of an option.

## OPTION 2

To the extent an Offeror wishes to propose alternative lease terms and conditions that provide for lower discounts/prices based on the ordering activity's stated intent to fulfill the projected term of a lease including option years, while at the same time including separate charges for early end of the lease, the following terms apply. These terms address the timing and extent of the ordering activity's financial obligation including any potential charges for early end of the lease.

### 1. LEASING PRICE LIST NOTICE:

---

Contractors must include the following notice in their contract price list for SIN 132-3:

"The ordering activity is responsible for the obligation of funds consistent with applicable law. Agencies are advised to review the lease terms and conditions contained in this price list prior to ordering and obligating funding for a lease."

### 2. STATEMENT OF ORDERING ACTIVITY INTENT:

---

(a) The ordering activity and the Contractor understand that a delivery order issued pursuant to this SIN is a lease arrangement and contemplates the use of the product for the term of the lease specified in such delivery order (the "Lease Term"). In that regard, the ordering Activity, as lessee, understands that the lease provisions contained herein and the rate established for the delivery order are premised on the ordering Activity's intent to fulfill that agreement, including acquiring products for the period of time specified in the order. Each lease hereunder shall be initiated by a delivery order which shall, either through a statement of work or other attachment, specify the product being leased, and the required terms of the transaction.

(b) Each ordering activity placing a delivery order under the terms of this option intends to exercise each renewal option and to extend the lease until completion of the Lease Term so long as the need of the ordering activity for the product or functionally similar product continues to exist and funds are appropriated. Contractor may request information from the ordering activity concerning the essential use of the products.

### 3. LEASE TERM:

---

(a) The date on which the ordering activity accepts the products is the Commencement Date of the lease. For acceptance to occur, the products must operate in accordance with the product's published specifications and statement of work. Acceptance shall be in accordance with the terms of the contract or as otherwise negotiated by the ordering activity and the Contractor.

(b) Any lease is executed by the ordering activity on the basis that the known requirement for such product exceeds the initial base period of the delivery order, which is typically 12 months, or for the remainder of the fiscal year. Pursuant to FAR 32.703-3(b), delivery orders with options to renew that are funded by annual (fiscal year) appropriations may provide for initial base periods and option periods that cross fiscal years as long as the initial base period or each option period does not exceed a 12 month period. Defense agencies must also consider DOD FAR supplement (DFAR) 232.703-3(b) in determining whether to use cross fiscal year funding. This cross fiscal year authority does not apply to multi-year leases.

(c) The total Lease Term will be specified in each delivery order, including any relevant renewal options of the ordering activity. All delivery orders, whether for the initial base period or renewal period, shall remain in effect through September 30 of the fiscal year (unless extended by statute), through any earlier expiration date specified in the delivery order, or until the ordering activity exercises its rights hereunder to acquire title to the product prior to such expiration

date. The ordering activity, at its discretion, may exercise each option to extend the term of the lease through the lease term. Renewal delivery orders shall not be issued for less than all of the product and/or software set forth in the original delivery order. Delivery orders under this SIN shall not be deemed to obligate succeeding fiscal year funds. The ordering activity shall provide the Contractor with written notice of exercise of each renewal option as soon as practicable. Notice requirements may be negotiated on an order-by-order basis.

(d) Where an ordering activity's specific appropriation or procurement authority provides for contracting beyond the fiscal year period, the ordering activity may place a delivery order for a period up to the expiration of the Lease Term, or to the expiration of the period of availability of the multi-year appropriation, or whatever is appropriate under the applicable circumstance.

#### **4. LEASE TERMINATION:**

---

(a) The ordering activity must elect the Lease Term of the relevant delivery order. The Contractor (and assignee, if any) will rely on the ordering activity's representation of its intent to fulfill the full Lease Term to determine the monthly lease payments calculated herein.

(i) The ordering activity may terminate or not renew leases under this option at no cost, pursuant to a Termination for Non-Appropriation as defined herein (see paragraph (c) below). In any other event, the ordering activity's contracting officer may either terminate the relevant delivery order for cause or Termination for Convenience in accordance with FAR 52.212-4 paragraphs (l) and (m).

(ii) The Termination for Convenience at the end of a fiscal year allows for separate charges for the early end of the lease (see paragraph (d) below). In the event of termination for the convenience of the ordering activity, the ordering activity may be liable only up to the amount beyond the order's Termination Ceiling. Any termination charges calculated under the Termination for Convenience clause must be determined or identified in the delivery order or in the lease agreement.

(b) Termination for Convenience of the Ordering Activity: Leases entered into under this option may not be terminated except by the ordering activity's contracting office responsible for the delivery order in accordance with FAR 52.212-4, Contract Terms and Conditions-Commercial Items, paragraph (l), *Termination for Convenience of the ordering activity*. The costs charged to the ordering activity as the result of any Termination for Convenience of the ordering activity must be reasonable and may not exceed the sum of the fiscal year's payment obligations less payments made to date of termination plus the Termination Ceiling

(c) Termination for Non-Appropriation: The ordering activity reasonably believes that the bona fide need will exist for the entire Lease Term and corresponding funds in an amount sufficient to make all payment for the lease Term will be available to the ordering activity. Therefore, it is unlikely that leases entered into under this option will terminate prior to the full Lease Term. Nevertheless, the ordering activity's contracting officer may terminate or not renew leases at the end of any initial base period or option period under this paragraph if (a) it no longer has a bona fide need for the product or functionally similar product; or (b) there is a continuing need, but adequate funds have not been made available to the ordering activity in an amount sufficient to continue to make the lease payments. If this occurs, the ordering activity will promptly notify the Contractor, and the product lease will be terminated at the end of the last fiscal year for which funds were appropriated. Substantiation to support a termination for non-appropriation shall be provided to the Contractor upon request.

(d) Termination Charges: At the initiation of the lease, termination ceilings will be established for each year of the lease term. The termination ceiling is a limit on the amount that a Contractor may be paid by the ordering activity on the Termination for Convenience of a lease. No claim will be accepted for future costs: supplies, maintenance, usage charges or interest expense beyond the date of termination. In accordance with the bona fide needs rule, all termination charges must reasonably represent the value the ordering activity received for the work performed based upon the shorter lease term. No Termination for Convenience costs will be associated with the expiration of the lease term.

- (e) At the order level, the ordering activity may, consistent with legal principles, negotiate lower monthly payments or rates based upon appropriate changes to the termination conditions in this section.

**LEASE PROVISIONS COMMON TO  
ALL TYPES OF LEASE AGREEMENTS**

**1. ORDERING PROCEDURES:**

---

- (a) When an ordering activity expresses an interest in leasing a product(s), the ordering activity will provide the following information to the prospective Contractor:

- (i) Which product(s) is (are) required.
- (ii) The required delivery date.
- (iii) The proposed lease plan and term of the lease.
- (iv) Where the product will be located.
- (v) Description of the intended use of the product.
- (vi) Source and type of appropriations to be used.

- (b) The Contractor will respond with:

- (i) Whether the Contractor can provide the required product.
- (ii) The estimated residual value of the product (Lease with Option to Own and Step Lease only).
- (iii) The monthly payment based on the rate.
- (iv) The estimated cost, if any, of applicable State or local taxes. State and local personal property taxes are to be estimated as separate line items in accordance with FAR 52.229-1, which may be identified and added to the monthly lease payment.
- (v) A confirmation of the availability of the product on the required delivery date.
- (vi) Extent of warranty coverage, if any, of the leased products.
- (vii) The length of time the quote is valid.

- (c) The ordering activity may issue a delivery order to the Contractor based on the information set forth in the Contractor's quote. In the event that the ordering activity does not issued a delivery order within the validity period stated in the Contractor's quote letter, the quote shall expire.

**2. ASSIGNMENT OF CLAIMS:**

---

GSAR 552.232-23, Assignment of Claims, is incorporated herein by reference as part of these lease provisions. The ordering activity's contracting officer will acknowledge the assignment of claim for a lease in accordance with FAR 32.804-5. The extent of the assignee's protection is in accordance with FAR 32.804. Any setoff provision must be in accordance with FAR 32.803.

**3. PEACEFUL POSSESSION AND UNRESTRICTED USE:**

---

In recognition of the types of products available for lease and the potential adverse impact to the ordering activity's mission, the ordering activity's quiet and peaceful possession and unrestricted use of the product shall not be disturbed in the event the product is sold by the Contractor, or in the event of bankruptcy of the Contractor, corporate dissolution of the Contractor, or other event. The product shall remain in the possession of the ordering activity until the expiration of the lease. Any assignment, sale, bankruptcy, or other transfer of the leased product by the Contractor will not relieve the Contractor of its obligations to the ordering activity, and will not change the ordering activity's duties or increase the burdens or risks imposed on the ordering activity.

---

**4. COMMENCEMENT OF LEASE:**

---

The date on which the ordering activity accepts the products is the Commencement Date of the lease. Acceptance is as defined elsewhere in the contract, or as further specified in the order.

---

**5. INSTALLATION AND MAINTENANCE:**

---

a. Installation and Maintenance, when applicable, normally are not included in the charge for leasing. The Contractor may require the ordering activity to obtain installation and maintenance services from a qualified source. The ordering activity may obtain installation and/or maintenance on the open market, from the Contractor's schedule contract, or from other sources. The ordering activity may also perform installation and/or maintenance in house, if qualified resources exist. In any event, it is the responsibility of the ordering activity to ensure that maintenance is in effect for the Lease term for all products leased.

b. When installation and/or maintenance are ordered under this schedule to be performed by the Contractor, the payments, terms and conditions as stated in this contract apply. The rates and terms and conditions in effect at the time the order is issued shall apply during any subsequent renewal period of the lease. The maintenance rates and terms and conditions may be added to the lease payments with mutual agreement of the parties.

---

**6. MONTHLY PAYMENTS:**

---

a. Prior to the placement of an order under this Special Item Number, the ordering activity and the Contractor must agree on a "base value" for the products to be leased. For Lease to Ownership (Capital Lease) the base value will be the contract purchase price (less any discounts). For Lease with Option to Own (Operating Lease), the base value will be the contract purchase price (less any discounts), less a mutually agreed upon residual value (pre-stated purchase option price at the conclusion of the lease) for the products. The residual value will be used in the calculation of the original lease payment, lease extension payments, and the purchase option price.

b. To determine the initial lease term payment, the Contractor agrees to apply the negotiated lease factor to the agreed upon base value: **Lease factor 5% over the comparable length Treasury rates.**

For Example: Lease factor one (1) percent over the rate for the three year (or other term) Treasury Bill (T-bill) at the most current U. S. Treasury auction.

The lease payment may be calculated by using a programmed business calculator or by using "rate" functions provided in commercial computer spreadsheets (e.g., Lotus 1-2-3, Excel).

c. For any lease extension, the extension lease payment will be based on the original residual value, in lieu of the purchase price. The ordering activity and the Contractor shall agree on a new residual value based on the estimated fair market price at the end of the extension. The formula to determine the lease payment will be that in 6.b. above.

d. The purchase option price will be the fair market value of the product or payment will be based upon the unamortized principle, as shown on the payment schedule as of the last payment prior to date of transfer of ownership, whichever is less.

NOTE: At the order level, ordering activity may elect to obtain a lower rate for the lease by setting the purchase option price as either, the fair market value of the product or unamortized principle. The methodology for determining lump sum payments may be identified in the pricelist.

e. The point in time when monthly rates are established is subject to negotiation and evaluation at the order level. In the event the ordering activity desires, at any time, to acquire title to product leased hereunder, the ordering activity may make a one-time lump sum payment.

---

**7. LEASE END/DISCONTINUANCE OPTIONS:**

---

- a. Upon the expiration of the Lease Term, Termination for Convenience, or Termination for NonAppropriation, the ordering activity will return the Product to the Contractor unless the ordering activity by 30 days written notice elects either:
- (i) to purchase the product for the residual value of the product, or
  - (ii) to extend the term of the Lease, as mutually agreed. To compute the lease payment, the residual value from the preceding lease shall be the initial value of the leased product. A new residual value shall be negotiated for the extended lease and new lease payments shall be computed.
- b. Relocation - The ordering activity may relocate products to another location within the ordering activity with prior written notice. No other transfer, including sublease, is permitted. ordering activity shall not assign, transfer or otherwise dispose of any products, or any interest therein, or crate or suffer any levy, lien or encumbrance then except those created for the benefit of Contractor or it's assigns.
- c. Returns:
- (i) Within fourteen (14) days after the date of expiration, non-renewal or termination of a lease, the ordering activity shall, at its own risk and expense, have the products packed for shipment in accordance with manufacturer's specifications and return the products to Contractor at the location specified by Contractor in the continental US, in the same condition as when delivered, ordinary wear and tear excepted. Any expenses necessary to return the products to good working order shall be at ordering activity's expense.
  - (ii) The Contractor shall conduct a timely inspection of the returned products and within 45 days of the return, assert a claim if the condition of the product exceeds normal wear and tear.
  - (iii) Product will be returned in accordance with the terms of the contract and in accordance with Contractor instruction.
  - (iv) With respect to software, the ordering activity shall state in writing to the Contractor that it has:
    - (1) deleted or disabled all files and copies of the software from the equipment on which it was installed;
    - (2) returned all software documentation, training manuals, and physical media on which the software was delivered; and
    - (3) has no ability to use the returned software.

---

**8. UPGRADES AND ADDITIONS:**

---

- a. The ordering activity may affix or install any accessory, addition, upgrade, product or device on the product ("additions") provided that such additions:
- (1) can be removed without causing material damage to the product;
  - (2) do not reduce the value of the product; and
  - (3) are obtained from or approved by the Contractor, and are not subject to the interest of any third party other than the Contractor.
- b. Any other additions may not be installed without the Contractor's prior written consent. At the end of the lease term, the ordering activity shall remove any additions which:
- (1) were not leased from the Contractor, and

(2) are readily removable without causing material damage or impairment of the intended function, use, or value of the product, and restore the product to its original configuration.

- c. Any additions that are not so removable will become the Contractor's property (lien free).
- d. Leases of additions and upgrades must be co-terminus with that of the product.

#### **9. RISK OF LOSS OR DAMAGE:**

---

The ordering activity is relieved from all risk of loss or damage to the product during periods of transportation, installation, and during the entire time the product is in possession of the ordering activity, except when loss or damage is due to the fault or negligence of the ordering activity. The ordering activity shall assume risk of loss or damage to the product during relocation, (i.e., moving the product from one ordering activity location to another ordering activity location), unless the Contractor shall undertake such relocation.

#### **10. TITLE:**

---

During the lease term, product shall always remain the property of the Contractor. The ordering activity shall have no property right or interest in the product except as provided in this leasing agreement and shall hold the product subject and subordinate to the rights of the Contractor. Software and software licenses shall be deemed personal property. The ordering activity shall have no right or interest in the software and related documentation except as provided in the license and the lease. Upon the Commencement Date of the Lease Term, the ordering activity shall have an encumbered license to use the software for the Lease Term. The ordering activity's encumbered license rights in the software will be subject to the same rights as provided to a purchaser of a license under the terms of this contract except that the ordering activity will not have an unencumbered, paid-up license until it has made all lease payments for the full Lease Term in the case of an Lease To Ownership or has otherwise paid the applicable purchase option price.

#### **11. TAXES:**

---

The lease payments, purchase option prices, and interest rates identified herein exclude all state and local taxes levied on or measured by the contract or sales price of the product furnished hereunder. The ordering activity will be invoiced for any such taxes as Contractor receives such tax notices or assessments from the applicable local taxing authority. Pursuant to the provisions of FAR 52.229-1, State and Local Taxes, the ordering activity agrees to pay tax or provide evidence necessary to support an exemption from the tax.

#### **12. OPTION TO PURCHASE EQUIPMENT (FEB 1995) (FAR 52.207-5)**

---

- (a) The Government may purchase the equipment provided on a lease or rental basis under this contract. The Contracting Officer may exercise this option only by providing a unilateral modification to the Contractor. The effective date of the purchase will be specified in the unilateral modification and may be any time during the period of the contract, including any extensions thereto.
- (b) Except for final payment and transfer of title to the Government, the lease or rental portion of the contract becomes complete and lease or rental charges shall be discontinued on the day immediately preceding the effective date of purchase specified in the unilateral modification required in paragraph (a) of this clause.
- (c) The purchase conversion cost of the equipment shall be computed as of the effective date specified in the unilateral modification required in paragraph (a) of this clause, on the basis of the purchase price set forth in the contract, minus the total purchase option credits accumulated during the period of lease or rental, calculated by the formula contained elsewhere in this contract.

(d) The accumulated purchase option credits available to determine the purchase conversion cost will also include any credits accrued during a period of lease or rental of the equipment under any previous Government contract if the equipment has been on continuous lease or rental. The movement of equipment from one site to another site shall be "continuous rental."

---

**TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY EQUIPMENT (SPECIAL ITEM NUMBER 132-8) FOR ALL MANUFACTURERS ON THE IMMIXTECHNOLOGY GSA CONTRACT****1. MATERIAL AND WORKMANSHIP**

---

All equipment (including any software contained therein) furnished hereunder must satisfactorily perform the function for which it is intended in accordance with the Manufacturer's then current published specifications provided with the shipped product.

**2. ORDER**

---

Written orders, EDI orders (GSA Advantage! and FACNET), credit card orders, and orders placed under blanket purchase agreements (BPA) agreements shall be the basis for purchase in accordance with the provisions of this contract. If time of delivery extends beyond the expiration date of the contract, immixTechnology will be obligated to meet the delivery and installation date specified in the original order.

For credit card orders and BPAs, telephone orders are permissible.

**3. TRANSPORTATION OF EQUIPMENT FOB DESTINATION.**

---

Prices cover equipment delivery to destination, for any location within the Continental United States.

**4. INSTALLATION AND TECHNICAL SERVICES**

---

a. **INSTALLATION.** When the equipment provided under this contract is not normally self-installable, immixTechnology through manufacturer's technical personnel shall be available to the ordering activity, at the ordering activity's location, to install the equipment and to train ordering activity personnel in the use and maintenance of the equipment provided, the ordering activity has purchased the appropriate Training and/or Services at the prices designated in the GSA Price List. The charges for such services are listed in the price schedule.

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

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

c. **OPERATING AND MAINTENANCE MANUALS.** immixTechnology shall furnish the ordering activity with one (1) copy of all operating and maintenance manuals which are normally provided with the equipment being purchased.

---

**5. INSPECTION/ACCEPTANCE**

---

immixTechnology shall only deliver those items that substantially conform to the requirements of this contract and Manufacturer's then current published specifications provided with the shipped product. Therefore, items shipped shall be considered accepted upon delivery. The ordering activity reserves the right to inspect or test any equipment that has been delivered. The ordering activity may require repair or replacement of nonconforming equipment at no increase in contract price. The ordering activity must exercise its post-acceptance rights (1) within the warranty period; and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

---

**6. WARRANTY**

---

- a. Unless specified otherwise in this contract, the product's standard commercial warranty as stated in the contract's pricelist will apply to this contract.
- b. Limitation of Liability. Except as otherwise provided by an express or implied warranty, immixTechnology will not be liable to the ordering activity for consequential, incidental or special damages resulting from any defect or deficiencies in accepted items.
- c. If inspection and repair of defective equipment under this warranty is required, it will be performed at the Manufacturer's plant.

---

**7. PURCHASE PRICE FOR ORDERED EQUIPMENT**

---

The purchase price that the ordering activity will be charged will be the ordering activity purchase price in effect at the time of order placement, or the ordering activity purchase price in effect on the installation date (or delivery date when installation is not applicable), whichever is less.

---

**8. RESPONSIBILITIES OF THE CONTRACTOR**

---

immixTechnology shall comply with all laws, ordinances, and regulations (Federal, State, City or otherwise) covering work of this character, and shall include all costs, if any, of such compliance in the prices quoted in this offer.

---

**9. TRADE-IN OF INFORMATION TECHNOLOGY EQUIPMENT**

---

When an ordering activity determines that Information Technology equipment will be replaced, the ordering activity shall follow the contracting policies and procedures in the Federal Acquisition Regulation (FAR), the policies and procedures regarding disposition of information technology excess personal property in the Federal Property Management Regulations (FPMR) (41 CFR 101-43.6), and the policies and procedures on exchange/sale contained in the FPMR (41 CFR part 101-46).

**TERMS AND CONDITIONS APPLICABLE TO MAINTENANCE, REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS FOR GOVERNMENT-OWNED GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY EQUIPMENT (AFTER EXPIRATION OF GUARANTEE/WARRANTY PROVISIONS AND/OR WHEN REQUIRED SERVICE IS NOT COVERED BY GUARANTEE/WARRANTY PROVISIONS) AND FOR LEASED EQUIPMENT (SPECIAL ITEM NUMBER 132-12) FOR ALL MANUFACTURERS ON THE IMMIXTECHNOLOGY GSA CONTRACT**

---

**1. SERVICE AREAS**

---

- a. The maintenance and repair service rates listed herein are applicable to any ordering activity location within the Continental United States. If any additional charge is to apply because of the greater distance from immixTechnology's service locations, the mileage rate or other distance factor shall be stated in paragraphs 7.d and 8.d of this Special Item Number 132-12.
- b. When repair services cannot be performed at the ordering activity installation site, the repair services will be performed at Manufacturer's plant(s).

---

**2. MAINTENANCE ORDER**

---

- a. Agencies may use written orders, EDI orders, credit card orders, or BPAs, for ordering maintenance under this contract. immixTechnology shall confirm orders within fifteen (15) calendar days from the date of receipt, except that confirmation of orders shall be considered automatic for renewals for maintenance (Special Item Number 132-12). Automatic acceptance of order renewals for maintenance service shall apply for machines which may have been discontinued from use for temporary periods of time not longer than 120 calendar days. If the order is not confirmed by immixTechnology as prescribed by this paragraph, the order shall be considered to be confirmed by immixTechnology.
- b. immixTechnology shall honor orders for maintenance for the duration of the contract period or a lesser period of time, for the equipment shown in the pricelist. Maintenance service shall commence on a mutually agreed upon date, which will be written into the maintenance order. Maintenance orders shall not be made effective before the expiration of any applicable maintenance and parts guarantee/warranty period associated with the purchase of equipment. Orders for maintenance service shall not extend beyond the end of the contract period.
- c. Maintenance may be discontinued by the ordering activity on thirty (30) calendar days written notice, or shorter notice when agreed to by immixTechnology; such notice to become effective thirty (30) calendar days from the date on the notification. However, the ordering activity may extend the original discontinuance date upon written notice to immixTechnology, provided that such notice is furnished at least ten (10) calendar days prior to the original discontinuance date.
- d. Annual Funding. When annually appropriated funds are cited on a maintenance order, the period of maintenance shall automatically expire on September 30th of the contract period, or at the end of the contract period, whichever occurs first. Renewal of a maintenance order citing the new appropriation shall be required, if maintenance is to continue during any remainder of the contract period.
- e. Cross-year Funding Within Contract Period. Where an ordering activity's specific appropriation authority provides for funds in excess of a 12 month, fiscal year period, the ordering activity may place an order under this schedule contract for a period up to the expiration of the contract period, notwithstanding the intervening fiscal years.
- f. Ordering activities should notify immixTechnology in writing thirty (30) calendar days prior to the expiration of maintenance service, if maintenance is to be terminated at that time. Orders for continued maintenance will be required if maintenance is to be continued during the subsequent period.

---

**3. REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS ORDERS**

---

- a. Agencies may use written orders, EDI orders, credit card orders, blanket purchase agreements (BPAs), or small order procedures for ordering repair service and/or repair parts/spare parts under this contract. Orders for repair service shall not extend beyond the end of the contract period.
- b. When repair service is ordered, only one chargeable repairman shall be dispatched to perform repair service, unless the ordering activity agrees, in advance, that additional repair personnel are required to effect repairs.

---

**4. LOSS OR DAMAGE**

---

When the ordering activity ships equipment to Manufacturer's establishment for repairs, immixTechnology shall be responsible for any damage or loss, provided that the ordering activity has packaged the equipment in the same manner as Manufacturer packaged the equipment when initially shipping to the ordering activity, from the time the equipment is removed from the ordering activity installation, until the equipment is returned to such installation.

---

**5. SCOPE**

---

- a. immixTechnology shall provide maintenance for all equipment listed herein, as requested by the ordering activity during the contract term. Repair service and repair parts/spare parts shall apply exclusively to the equipment types/models within the scope of this Information Technology Schedule.
- b. Equipment placed under maintenance service shall be in good operating condition.
- (1) In order to determine that the equipment is in good operating condition, the equipment shall be subject to inspection by immixTechnology (through the Manufacturer), without charge to the ordering activity.
- (2) Costs of any repairs performed for the purpose of placing the equipment in good operating condition shall be borne by immixTechnology (through the Manufacturer), if the equipment was under immixTechnology (through the Manufacturer's) guarantee/warranty or maintenance responsibility prior to the effective date of the maintenance order.
- (3) If the equipment was not under immixTechnology (through the Manufacturer's) responsibility, the costs necessary to place the equipment in proper operating condition are to be borne by the ordering activity, in accordance with the provisions of Special Item Number 132-12 (or outside the scope of this contract).

---

**6. RESPONSIBILITIES OF THE ORDERING ACTIVITY**

---

- a. Ordering activity personnel shall not perform maintenance or attempt repairs to equipment while such equipment is under the purview of a maintenance order, unless agreed to by immixTechnology (through the Manufacturer).
- b. Subject to security regulations, the ordering activity shall permit access to the equipment which is to be maintained or repaired.

---

**7. RESPONSIBILITIES OF THE CONTRACTOR**

---

For equipment not covered by a maintenance contract or warranty, immixTechnology (through the Manufacturer's) repair service personnel shall complete repairs as soon as possible after notification by the ordering activity that service is required.

---

**8. MAINTENANCE RATE PROVISIONS**

---

- a. immixTechnology shall bear all costs of maintenance, including labor, parts, and such other expenses as are necessary to keep the equipment in good operating condition, provided that the required repairs are not occasioned by

fault or negligence of the ordering activity and provided that that the ordering activity has purchased a fully paid-up maintenance program from immixTechnology

b. **REGULAR HOURS**

The maintenance program for each make and model of equipment shall entitle the ordering activity to maintenance service during the hours as specified in the maintenance program purchased by ordering activity.

**9. REPAIR SERVICE RATE PROVISIONS**

---

a. **CHARGES.** Charges for repair service will include the services identified under the specific maintenance program purchased.

(1) **AT CONTRACTOR'S SHOP**

(a) When equipment is returned to Manufacturer's shop for adjustments or repairs which are not covered by the guarantee/warranty provision, the cost of transportation, packing, etc., from the ordering activity location to Manufacturer's plant, and return to the ordering activity location, shall be borne by the ordering activity.

(b) The ordering activity should not return defective equipment for adjustments and repairs or replacement without his prior consultation and instruction.

**10. REPAIR PARTS/SPARE PARTS RATE PROVISIONS**

---

All parts, furnished as spares or as repair parts in connection with the repair of equipment, unless otherwise indicated in this pricelist, shall be new, standard parts manufactured by the equipment manufacturer.

**11. GUARANTEE/WARRANTY—REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS**

---

a. **REPAIR SERVICE**

All repair work will be guaranteed/warranted for a period as stated in the contract's pricelist.

b. **REPAIR PARTS/SPARE PARTS**

All parts, furnished either as spares or repairs parts will be guaranteed/warranted for a period outlined in the price list.

**12. INVOICES AND PAYMENTS**

---

a. **Maintenance Service**

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

(2) Payment for maintenance service of less than one month's duration shall be prorated at 1/30th of the monthly rate for each calendar day.

b. **Repair Service and Repair Parts/Spare Parts**

Invoices for repair service and parts shall be submitted by immixTechnology as soon as possible after completion of work. Payment under blanket purchase agreements will be made quarterly or monthly, except where cash payment procedures are used. Invoices shall be submitted separately to each ordering activity office ordering services under the contract. The cost of repair parts shall be shown as a separate item on the invoice, and shall be priced in accordance with paragraph #10, above. **PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.**

**TERMS AND CONDITIONS APPLICABLE TO TERM SOFTWARE LICENSES (SPECIAL ITEM NUMBER 132-32), PERPETUAL SOFTWARE LICENSES (SPECIAL ITEM NUMBER 132-33) AND MAINTENANCE (SPECIAL ITEM NUMBER 132-34) OF GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY SOFTWARE FOR ALL MANUFACTURERS ON THE IMMIXTECHNOLOGY GSA CONTRACT**

**1. INSPECTION/ACCEPTANCE**

---

immixTechnology shall only tender for acceptance those items that substantially conform to the requirements of this contract and software's published specifications. Items delivered shall be considered accepted upon delivery. The ordering activity reserves the right to inspect or test any software that has been delivered. The ordering activity may require repair or replacement of nonconforming software at no increase in contract price. The ordering activity must exercise its post acceptance rights (1) within the warranty period; and (2) before any substantial change occurs in the condition of the software, unless the change is due to the defect in the software.

**2. GUARANTEE/WARRANTY**

---

- a. Unless specified otherwise in this contract, the product's standard commercial guarantee/warranty as stated in the contract's pricelist will apply to this contract.
- b. Limitation of Liability. Except as otherwise provided by an express warranty, immixTechnology will not be liable to the ordering activity for consequential, indirect or special damages resulting from any defect or deficiencies in accepted items.

**3. TECHNICAL SERVICES**

---

immixTechnology (through the applicable manufacturer) without additional charge to the ordering activity, shall provide a hot line technical support number for the purpose of providing user assistance and guidance in the implementation of the software. The technical support number is available in the contract's pricelist.

**4. SOFTWARE MAINTENANCE**

---

- a. Software maintenance service is detailed in the contract's pricelist.
- b. Invoices for maintenance service shall be submitted by immixTechnology on a quarterly or monthly basis, after the completion of such period. Maintenance charges must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

**5. PERIODS OF TERM LICENSES (132-32) AND MAINTENANCE (132-34)**

---

- a. immixTechnology shall honor orders for periods for the duration of the contract period or a lesser period of time.
- b. Term licenses and/or maintenance may be discontinued by the ordering activity on thirty (30) calendar days written notice to immixTechnology.
- c. Annual Funding. When annually appropriated funds are cited on an order for term licenses and/or maintenance, the period of the term licenses and/or maintenance shall automatically expire on September 30 of the contract period, or at the end of the contract period, whichever occurs first. Renewal of the term licenses and/or maintenance orders citing the new appropriation shall be required, if the term licenses and/or maintenance is to be continued during any remainder of the contract period.

d. Cross-Year Funding Within Contract Period. Where an ordering activity's specific appropriation authority provides for funds in excess of a 12 month (fiscal year) period, the ordering activity may place an order under this schedule contract for a period up to the expiration of the contract period, notwithstanding the intervening fiscal years.

e. Ordering activities should notify immixTechnology in writing thirty (30) calendar days prior to the expiration of an order, if the term licenses and/or maintenance is to be terminated at that time. Orders for the continuation of term licenses and/or maintenance will be required if the term licenses and/or maintenance is to be continued during the subsequent period.

---

## **6. CONVERSION FROM TERM LICENSE TO PERPETUAL LICENSE**

---

a. Term License conversion is not offered.

---

## **7. TERM LICENSE CESSATION**

---

a. Term License cessation is not offered.

---

## **8. UTILIZATION LIMITATIONS - (132-32, 132-33, AND 132-34)**

---

a. Software acquisition is limited to commercial computer software defined in FAR Part 2.101.

b. When acquired by the ordering activity, commercial computer software and related documentation so legend shall be subject to the following:

(1) Title to and ownership of the software and documentation shall remain with immixTechnology or applicable manufacturer.

(2) Software licenses are licensed to an ordering activity. An ordering activity is defined as a cabinet level or independent ordering activity. Provided the ordering activity is otherwise in compliance with the software's license grant, the software may be used by any subdivision of the ordering activity (service, bureau, division, command, etc.) that has access to the site the software is placed at, even if the subdivision did not participate in the acquisition of the software. If permitted by the manufacturer in the Price List, the software may be used on a sharing basis where multiple agencies have joint projects that can be satisfied by the use of the software placed at one ordering activity's site. This would allow other agencies access to one ordering activity's database. For ordering activity public domain databases, user agencies and third parties may use the computer program to enter, retrieve, analyze and present data. The user ordering activity will take appropriate action by instruction, agreement, or otherwise, to protect immixTechnology's (and the applicable manufacturer's) proprietary property with any third parties that are permitted access to the computer programs and documentation in connection with the user ordering activity's permitted use of the computer programs and documentation. For purposes of this section, all such permitted third parties shall be deemed agents of the user ordering activity.

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

(4) If permitted by the commercial license, the ordering activity shall have the right to use the computer software and documentation with the computer for which it is acquired at any other facility to which that computer may be transferred, or in cases of disaster recovery, the ordering activity has the right to transfer the software to another site if the

ordering activity site for which it is acquired is deemed to be unsafe for ordering activity personnel; to use the computer software and documentation with a backup computer when the primary computer is inoperative; to copy computer programs for safekeeping (archives) or backup purposes; to transfer a copy of the software to another site for purposes of benchmarking new hardware and/or software; and to modify the software and documentation or combine it with other software, provided that the unmodified portions shall remain subject to these restrictions.

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

---

## **9. SOFTWARE CONVERSIONS - (132-32 AND 132-33)**

---

Full monetary credit will be allowed to the ordering activity when conversion from one version of the software to another is made as the result of a change in operating system, or from one computer system to another. Under a perpetual license (132-33), the purchase price of the new software shall be reduced by the amount that was paid to purchase the earlier version. Under a term license (132-32), conversion credits which accrued while the earlier version was under a term license shall carry forward and remain available as conversion credits which may be applied towards the perpetual license price of the new version.

---

## **10. DESCRIPTIONS AND EQUIPMENT COMPATIBILITY**

---

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

---

## **11. RIGHT-TO-COPY PRICING**

---

Right-to-copy licenses are not offered.