

LICENSE AND SERVICES AGREEMENT ADDENDUM

This LICENSE AND SERVICES AGREEMENT ADDENDUM ("Addendum") is entered into between ARCHIBUS, Inc. and the United States of America, acting through the General Services Administration ("GSA") contracting officer whose signature appears below acting on behalf of the GSA and all ordering activity contracting officers. The terms of this Addendum shall take precedence over and supersede any contrary terms in the ARCHIBUS License and Services Agreements ("LSA") referenced in Attachment A., including any documents or URLs referenced in the LSAs.

1. Definition of Contracting Parties

- 1.1 The Licensor shall be ARCHIBUS, Inc.
- 1.2 The Licensee shall be the ordering activity that places an order under the GSA Schedule contract No. GS-35F-4543G("Contract"). An individual person shall not be the Licensee.

2. Order of Precedence

- 2.1 All order of precedence issues shall be governed by FAR 52.212-4(s).
- 2.2 Any conflict between the LSA and this Addendum shall be controlled by the terms of this Addendum.

3. Contract Formation

- 3.1 The LSA, as modified by this Addendum, shall be a part of the Contract entered into between the Licensor and Licensee.
- 3.2 Modifications to the LSA and/or this Addendum shall be only by bilateral written agreement of the parties in accordance with FAR 52.212-4(c).

4. Indemnities

- 4.1 Licensee shall not be required to indemnify Licensor except as in accordance with federal statute that expressly permits such indemnification.
- 4.2 Licensor shall not be required to indemnify Licensee except as explicitly stated in the contract. Any such indemnification requirement shall vest control over the matter with the United States and shall give Licensor the right to intervene in the proceeding at its own expense through counsel of its own choice.

5. **Fees and Charges**

5.1 All fees and charges are as explicitly set forth as an explicit Contract Line Item (“CLIN”) in the contract. Additional fees and charges – for example, but not limited to, license or subscription renewal fees and maintenance renewal fees – shall be incorporated into the contract only by bilateral written agreement of the parties.

In the absence of such agreement, subscription services shall be deemed not renewed. Late payment charges shall be governed by the Prompt Payment Act, 31 U.S.C. 3901, and applicable Federal regulations. Travel costs and other reimbursable expenses shall be governed by the terms and conditions of the GSA Schedule contract and applicable Federal travel regulations.

5.2 FAR 52.212-4(k) shall take precedence over any contrary provision of the LSA relating to taxes.

6. **Third Party Terms**

6.1 ARCHIBUS, Inc. shall have no privity of contract with the United States with respect to any third-party product or service, referenced in the LSA or otherwise. ARCHIBUS, Inc. shall have no rights or obligations with respect to such agreements vis-à-vis the United States.

7. **Governing Law**

7.1 Disputes regarding the LSA shall be governed by applicable federal and/or state law, to the extent not preempted by federal law. Any terms of the LSA that identifies the jurisdiction in which a lawsuit may be brought, the law which shall apply to such lawsuit, or the requirements to pursue Alternative Dispute Resolution prior to such lawsuit shall be void, and the LSA shall be read as if such terms were not included therein.

8. **Termination**

8.1 Licensee’s termination rights shall be governed by FAR 52.212-4(l) and (m)

8.2 Licensor’s termination rights shall be governed by the FAR 52.212-4(d).

9. **Assignment**

9.1 Licensor and Licensee acknowledge that the LSA’s may be assigned only in accordance with 41 U.S.C. 6305 and the regulations set forth in the FAR subpart 42.12.

10. **Miscellaneous**

10.1 For purposes of this Addendum, references to the “Government” in any FAR or GSAR provision referenced in this Addendum shall be construed as a reference to an “authorized ordering activity.”

10.2 The Government shall not be prohibited from disclosing any information regarding or relating to the LSA as required by law, including the Freedom of Information Act.

10.3 Any software audit authorized by the LSA shall be subject to the Licensee's security requirements. Licensor may invoice Licensee for any shortfall in payment disclosed by such software audit including any late charges applicable thereto, any such invoice to be processed in accordance with the terms and conditions of the GSA Schedule contract and applicable order. No audit costs may be sought against Licensee except and to the extent expressly authorized by applicable Federal statute.

The United States

May K. Bahr
ARCHIBUS, Inc.

Attachment A.

[Insert titles of product terms and conditions for products being proposed or are currently awarded on DLT's GSA Schedule Contract.]

ARCHIBUS End-User License Agreement
OEM End User License Agreement AutoCAD 2010

ARCHIBUS Software Subscription Terms & Conditions
ARCHIBUS Software Subscription Program Overview

ARCHIBUS Technical Support Terms & Conditions
ARCHIBUS Technical Support Program Overview

ARCHIBUS Services Terms & Conditions