

STATEMENT OF WORK



Prepared For:
Illinois Math & Science Academy Students
 Student Version
 Project:
Gateway Service Contract

Prepared By:
Christi Reynolds
Account Manager, GovConnection

Jeff Preston
Services Program Manager, GovConnection

March 31, 2009

SOW #: **29681**

Revision #: **1.0**

Revision	Date	Change
8.0	March 31, 2009	

Confidentiality Notice

This proposal is confidential and is intended solely for the use of Illinois Math & Science Academy Students in connection with its Gateway Service Contract project and is not intended for any other use, transmission, circulation, or publication. The proposal may not be modified, altered, further copied, transmitted, or in any other way used or reproduced.

Illinois Math & Science Academy Students

1500 W. Sullivan Road
Aurora Illinois, 60506

Thank you for the opportunity to present this Statement of Work (SOW) for Professional Services in support of your Gateway Service Contract project, GovConnection is excited about that Illinois Math & Science Academy Students has joined the GovConnection family to help them meet their technology needs.

GovConnection is dedicated to fulfilling the unique, specialized IT needs of federal, state, and local governments and academic institutions (K-12 and higher education) throughout the United States. We help academic and government IT and purchasing professionals make informed decisions and reduce procurement costs.

With more than 100,000 products, a nationwide network of services, and teams of certified technical experts, we'll design, build, and support your end-to-end IT systems all at once, or in project stages.

We can also help identify and apply the federal, state, and local contracts and purchasing vehicles that enable you to achieve your school or agency's goals on time and on budget.

At GovConnection, we are committed to helping our clients make sure they "Get it right the 1st time".

Thank you for your time and consideration, please feel free to call me anytime if you have any questions.

Christi Reynolds
Account Manager, GovConnection
800-800-0019 *75564
creynolds@govconnection.com

Jeff Preston
Services Program Manager, GovConnection
603-413-6046
jpreston@pccpro.com

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Section 1.0 Opportunity Summary

Illinois Math & Science Academy Students has requested that GovConnection provide a quote for services in support of its Student One to One program for Gateway Service Contract project, the Scope of Work for these services can be found in Section 2 of this Statement of Work.

Section 2.0 Scope of Work

GovConnection Services/Deliverables

General Scope

GovConnection, Inc. (GOVC) will in accordance with the terms contained in this SOW provide Illinois Math and Science Academy Students with on site parts and labor maintenance services for Gateway Tablets.

Description of Services

Next Business Day coverage window is Monday - Friday 9:00AM x 5:00PM (Local time) Next Business Day On-Site Response after receipt of service dispatch request.

Next Business Day On-Site Response Service calls that are placed with the GOVC Help Desk prior to 3:00PM local time (Monday – Friday) will receive onsite service on the next business day, excluding regularly observed holidays. For service calls placed after 3:00PM local time, service may be provided on the 2nd business day. This service does not include parts in hand.

GOVC provides toll free phone number and email addresses for placement of all service requests will be provided at time of purchase.

For issues that cannot be resolved remotely, and once product has been adjudicated, GOVC will dispatch a Service representative to arrive at your site within the contracted response time after your call has been logged and for which you have a contracted service window. GOVC Services returns your covered hardware to operational condition, repairing or replacing components as necessary. Your coverage includes on-site parts and labor only.

This is a standard warranty policy that does not cover **ACCIDENTAL DAMAGE PROTECTION OR CONSUMABLE PRODUCTS**. (AC adapters, Stylus, Batteries, etc...) Hinges will be covered do to normal wear and tear. Hinges will not be covered if due to Accidental Damage.

Assumptions

The following is a list of assumptions that GOVC believes to be true in relation to this project. If any of these assumptions are not accurate, it is the responsibility of Illinois Math and Science Academy Student/Parent to notify their GOVC representative immediately. If no response is received at time of proposal acceptance all assumptions become binding to this proposal.

- GOVC is not liable for end-user data.
- GOVC is not responsible for any delays in providing spares due to market availability or DOAs.
- If required spare is not located in one of GOVC's Spares Facilities, GOVC will order same day of part identification and ship spare via 2nd day Courier Service.
- Pricing does not provision for return to service SLA.
- GOVC reserves the right to replace with malfunctioning device with equipment of equal or greater functionality of OEM of choice.

- In the event a whole unit replacement option is elected the old unit becomes the property of GOVC.
- All pricing is on a per unit basis.
- Illinois Math and Science Academy Student/Parent will provide a point of sale report and/or serial numbers to GOVC along with physical address of all products. In lieu of serial numbers when not available the student will need to take the unit to the IMSA help desk to have a unique identifier # engraved on the unit, This # is required in order to complete the contract requirements of this warranty.
- Batteries and tablet stylus's, AC adapters, etc... are considered consumables and will not be covered or replaced under this maintenance agreement.
- Hinges will be covered do to normal wear and tear. Hinges will not be covered if due to Accidental Damage.

Term

The term of this agreement will be for 24 or 30 Months.

Terms and Conditions of Agreement

GovConnection, Inc. Requirements and Services

- GOVC is not responsible for any add-on peripherals, network connectivity devices or other "not out of the box" OEM products not listed in Attachment A.
- GOVC is not responsible for response delays caused by acts of war, civil unrest, weather or acts of God outside the control of GOVC.
- Illinois Math and Science Academy will provide physical space for completing all on-site service.
- Holidays include New Year's Day, Martin Luther King Birthday, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas.
- A \$120.00 trip fee will be assessed when a GOVC Technician arrives on-site at the scheduled date and time and is unable to perform the requested service through no fault of GOVC.
- PC Connection, its affiliates and subsidiaries, shall be held harmless and indemnified of all pre-existing agreements pertaining to warranty or service on said equipment. Nor shall they hold any liability or negligence for any property damage or dysfunction of equipment prior to the date of this agreement.

Service

- In the event that GOVC provides services or parts not covered by this agreement, GOVC will warrant labor and replacement parts provided to repair defective equipment against defects in materials and workmanship for 90 days after return of the product to Illinois Math and Science Academy Student/Parent. If GOVC receives notice of defective replacement parts, GOVC will, at its option, repair or replace the defective part provided the defect is the same as the original malfunction and is specific to the original repair and or part. THE ABOVE WARRANTY IS EXCLUSIVE AND NO OTHER WARRANTY, WHETHER WRITTEN OR ORAL, IS EXPRESSED OR IMPLIED AND IS DISCLAIMED TO THE EXTENT PERMITTED BY LAW.

Limitations of Service

- GOVC maintenance service is related to hardware repairs/replacements only and is not responsible for software failures, updates, etc of any kind.
- GOVC is not responsible under this proposal for malfunctions due to the following; negligence of the Illinois Math and Science Academy Student/Parent to include liquid spills, acts of God (to include but not limited to flood, hurricane, tornados, fire or lightning, power surges), acts of war, or operating the equipment outside the operating specifications of the manufacturer.
- In the event the make and model product sited in this proposal meets OEM end-of-life or is no longer available through normal distribution channels, GOVC reserves the right to replace the malfunctioning unit at its sole discretion with a unit of equal or greater functionality and OEM. When GOVC at its sole discretion determines an item is uneconomically repairable and replaces the unit, ownership of the defective product transfers to GOVC. GOVC will ship the replacement product in a container suitable for returning the failed product to GOVC. Packaging instructions for the return of the failed product will be included in the replacement product's shipping container. Illinois Math and Science Academy Student/Parent must ship failed product to GOVC within five (5) business days of receipt of the replacement product and must obtain a prepaid insurance receipt to be retained by Illinois Math and Science Academy Student/Parent as proof of shipment to GOVC. If GOVC does not receive the failed product within fifteen (15) business days of Customer's receipt of the replacement product, Customer will be charged the product's full list price. Failure to meet these terms may result in disruption of service or cancellation of contract with no refund. If IMSA encounters unforeseen difficulties in meeting these timeframes after contract commencement, mutually agreeable alternatives may be discussed.
- GOVC will make all efforts to replace existing Gateway equipment for IMSA Students based on the following:
 - Gateway E-295C/285C replaced with Fujitsu T1010 (FPCM11386)
 - Gateway E155 replaced with HP 2730P (KS034UT#ABA)The above scenario is only applicable in the event GOVC at its sole discretion determines an item is uneconomically repairable with parts. In the event above models are considered end of life and no longer available through normal GOVC procurement channels, GOVC reserves the right to replace the malfunctioning unit at its sole discretion with a unit of equal or greater functionality and OEM. At time of hardware swap, failed equipment becomes property of GOVC. GOVC will not provide data transfer services, OS reloads or application installation. GovC will not provide spares for IMSA, all parts will be sent to the school or if unit is sent in for repair we will not be providing a spare in its absence.
- At GOVC's discretion, if service entitlement is abused at time of contract commencement, (i.e. majority of units are non-functioning or had accidental damage) GOVC reserves the right to deny service and refund the warranty purchase or offer a Time and Material solution for repair. Student purchases are valid from April 1, 2009 -May 29, 2009.
- Deletions may only occur after 3 months from contract start date. A pro-rated credit of the unused contract term will be provided within 30 days of request. A 15% added restocking fee will be forfeited due to infrastructure investment and will not be included in the prorated amount. Additions of new assets may occur at the beginning of each month.
- Pricing provided in this proposal is limited to Aurora, IL or students home town/city.

Illinois Math and Science Academy Student Responsibilities

- Illinois Math and Science Academy Student/Parent must provide product specifics to receive service. Illinois Math and Science Academy Student/Parent will provide, at a minimum, the manufacturer, model, location and serial number of all equipment pertinent to this proposal. Calls received at the GOVC Help Desk for equipment for which this required data has not been provided will be denied service.
- Illinois Math and Science Academy will make all reasonable efforts to work with GOVC personnel in an effort to resolve the malfunction either over the phone or via email or internet before a GOVC Technician is dispatched or product is replaced.
- Illinois Math and Science Academy will ensure that GOVC personnel gain uninterrupted access to the facilities if necessary to repair the malfunctioning equipment. This includes, if necessary, providing an escort from the main entrance of the facility to Illinois Math and Science Academy and back.
- Illinois Math and Science Academy will make available access to phone and internet.
- Illinois Math and Science Academy will provide GOVC personnel with free parking while at Illinois Math and Science Academy site.

Cancellation Clause

- Cancellation of maintenance service agreement within fifteen (15) days of purchase will result in a 100% refund of original service agreement purchase price, less the cost of any repairs made. Cancellation after fifteen (15) days from date of purchase will result in a pro rata refund of the original service agreement purchase price purchase price, less the cost of parts and labor costs rendered (if any) and a 15% restocking fee. The effective date of cancellation is the date GOVC receives the request for cancellation. If GOVC must cancel this service agreement, you will be provided with a written notice at least thirty (30) days prior to cancellation with the effective date for the cancellation and the reason for cancellation. You will be refunded the unearned pro rata purchase price of this service agreement purchase price, less the cost of parts and labor and costs rendered (if any).

Additional Terms

The statement of work contains the complete description of all services to be performed by GovConnection, Inc, or its subcontractors, and no oral statements shall constitute a modification of such statement of work or representation that additional or different services will be performed.

Project Specific Assumptions:

The following Project Assumptions will be associated with this Statement of Work:

- Student is responsible for a complete a full and complete backup (including System State Information) of the existing environment before any work will take place.
- GovConnection assumes that the existing environment is stable, properly configured and free of critical errors in the Event Logs.
- All required hardware, software and licensing will be on-site prior to GovConnection arrival.
- Student will respond to Service requests for information or assistance in a timely manner (e.g. that same day of the request is made) in order to keep the project on track.

Section 3.0 General Assumptions

Both IMSA student and GovConnection are responsible for the successful execution of this project. GovConnection responsibilities have been set forth elsewhere in this SOW. IMSA student agrees to the following assigned responsibilities:

- All project communications will be addressed to primary point of contact.
- The Customer Point of Contact shall:
 - Have the authority to act for Customer in all aspects of the project.
 - Have the authority to resolve conflicting requirements.
 - Ensure that any communication between Customer and GovConnection is made through the appropriate Project Manager.
- The Customer Point of Contact will ensure that assigned project personnel have reasonable and safe access to the project site and adequate office space, as required.
- Customer will provide technical points-of-contact, who have a working knowledge of the enterprise components to be considered during this project (“Technical Contacts”). In the case of IMSA Student/Parent the designated technical contact will be the IMSA Help Desk. GovConnection may request that meetings be scheduled with Technical Contacts.
- Customer will provide a minimum of a dial-up analog line in the work area for Internet and e-mail access.
- Customer will inform GovConnection of all access issues and security measures, and provide access to all necessary hardware and facilities.

Pricing

GOVC will invoice in the full amount of the 24 or 30 months as indicated in the Pricing Worksheet maintenance support upon receipt of purchase order.

Part Number	QTY	Description	Unit Price
9558414	TBD	24 Month Gateway Service Contract Price for E155 Tablet - NO ADP COVERAGE	\$205.00
9558422	TBD	24 Month Gateway Service Contract Price for E295 Tablet - NO ADP COVERAGE	\$207.00
9558449	TBD	30 Month Gateway Service Contract Price for E155 Tablet - NO ADP COVERAGE	\$256.00
9558457	TBD	30 Month Gateway Service Contract Price for E295 Tablet - NO ADP COVERAGE	\$258.00

Pricing Assumptions:

- GovConnection services are performed by GovConnection resources or a member of their Premier Partner Network (upon prior notice).
- Unless otherwise agreed to by customer and GovConnection, this quote for Services is valid until May 31st, 2009.
- Any changes to scheduling or additional Tasks or Deliverables requested by Customer that are not listed in this document may require a new SOW or approved Change Order and additional charge.
- Unless previously agreed to, prices above are for Standard Working hours defined as follows:
 - Monday through Friday, 8AM – 5PM Local Service Activity location time
- Unless previously agreed to, service activities scheduled for Non-Standard Working hours may require additional charges quoted under separate cover, Non - Standard Working hours are defined as follows:
 - Monday through Friday, Before 8AM or after 5PM Local Service Activity location time
 - Saturday & Sunday (all day)
 - GovConnection recognized Holidays, schedule available upon request

Pricing & Invoice Terms and Conditions:

Pricing and Invoice Type:

This Project is a Fixed pricing type with Included Expenses and a Complete invoicing structure associated with it, as such the following terms apply to this project:

Pricing Terms:

The Pricing listed is a Fixed Price engagement and will be the pricing reflected on the Invoice.

Expense Terms:

Anticipated expenses are included in the pricing listed in the pricing table.

Invoicing Terms:

Customer will receive a single invoice upon completion of the project.

Section 4.0 SOW / Project acceptance Summary

SOW Acceptance

- GOVC will work with Illinois Math & Science Academy Students to finalize the Statement of Work (SOW) to include Service Tasks, Deliverables, Pricing and Terms and Conditions.
- Upon finalization of SOW, GovConnection will present the “SOW Acceptance Page” contained in Section 6 of this document to Customer for acceptance
- Upon Illinois Math & Science Academy Students acceptance of the SOW acceptance page and delivery back to GovConnection, GovConnection will countersign acceptance page (upon Illinois Math & Science Academy Students request) and return copy to appropriate Gateway Service Contract contact

Project Commencement

- Upon execution of the “SOW Acceptance Page” contained in Section 6 of this document GovConnection will work with Illinois Math & Science Academy Students to finalize Project Commencement Date.
- No project work will begin prior to execution of the “SOW Acceptance Page” contained in Section 6 of this document.

Project Acceptance

- Upon completion of the service tasks listed in SOW# 29681, GovConnection will present Illinois Math and Science Academy Student/Parent with one of the following documents for the purpose of Customer acknowledgement of services delivery:
 - An Electronic Acceptance Communication (EAC) to the Primary contacts email detailing the Services Performed and any other pertinent information

Note: The acknowledgement form listed above will not preclude Illinois Math & Science Academy Students from contesting charges or services delivered at a later date; it simply acknowledges the delivery of service

- Important Note: Illinois Math and Science Academy Student/Parent shall have seven (7) business days to respond to the PCAF or EAC. If, after seven days of request by GovConnection, there has been no customer response (Acceptance or Dispute), GovConnection will consider this as a statement of acceptance of the services performed and GovConnection will invoice for these services immediately.

Section 5.0 SOW Acceptance for SOW #29681

By signing this document you agree to all sections of this Statement of Work and to provide full and timely payment for completion of this project per the terms and conditions of this agreement.

- Service delivery will be scheduled following GovConnection’s receipt of this signed Agreement and, if applicable, the accompanying purchase orders (PO), unless otherwise agreed upon by Customer and GovConnection.
- The estimated dates for beginning and conducting the Project will be mutually agreed upon by Illinois Math and Science Academy Student/Parent and GovConnection. Illinois Math and Science Academy Student/Parent delays to the project may incur additional costs.
- Upon execution of this agreement, please deliver signed agreement to Account Manager and or PMO manager listed on page 3 of this document.

Customer: Illinois Math and Science Academy Student/Parent
Project Name: Gateway Service Contract
SOW #: 29681
SOW Revision: 1.0

ACCEPTED BY:
GovConnection

ACCEPTED BY:
Illinois Math and Science Academy
Student/Parent

Name: _____
(Please Print)

Name: _____
(Please Print)

Title: _____
(Please Print)

Title: _____
(Please Print)

Signature: _____

Signature: _____

Date: _____

Date: _____

Section 6.0 Terms and Conditions

STANDARD TERMS AND CONDITIONS

The following are the terms under which GovConnection, Inc. through its corporate affiliate ProConnection, Inc. will provide Services described in a Statement of Work attached hereto and incorporated herein:

1. Scope of Work

- 1.1. The scope of work shall be the Services as described in the Statement of Work. Any modification to the Statement of Work or request for work beyond the scope of the Statement of Work may require, at ProConnection's option, a new quote revision and statement of work. ProConnection may use Products and Services not supplied directly by ProConnection to satisfy portions of the work described in the Statement of Work.
- 1.2. All work will be done in a standard workday, which is (8:00 AM to 5:00 PM) Monday through Friday, excluding ProConnection's locally observed holidays, unless otherwise specified in the Statement of Work.

2. Fees and Payment

- 2.1. All terms are net 30 days, unless otherwise specified in the Statement of Work. Failure to pay within specified terms can result in the suspension of the contract and a 2% per month penalty or can result in the termination of the contract by ProConnection. The Statement of Work shall specify whether the contract is based on a fixed price or hourly rate. If hourly, all reasonable travel, lodging, car rentals, and meal expenses will be billed to the customer unless otherwise specified.
- 2.2. CUSTOMER shall reimburse ProConnection for all sales, use or like taxes, duties, or levies imposed by any governmental or other taxing authority in connection with the Services delivered under this Agreement. This shall not apply to any taxes levied on ProConnection's net income.

3. Completion of Services

- 3.1. Completion of Services shall be documented by any one of the following events (a) customer signature of ProConnection's Acceptance Form – Exhibit A (b) written communication from the on-site Engineer to the Project Manager and Customer's point-of-contact documenting completion of the Services or (c) delivery of product to the customer location which requires no further installation or services.
- 3.2. If described in the Statement of Work, an Acceptance Plan can be co-developed by ProConnection and the customer and used to determine successful completion of the deliverables and final acceptance.

4. Delivery

Products will be delivered as described in the Statement of Work. ProConnection will arrange for transportation and insurance unless otherwise notified by the CUSTOMER in writing at the time of order. Unless otherwise specified in the applicable Statement of Work, CUSTOMER will be responsible for risk of loss in transit and for all transportation and insurance charges.

5. Warranty

- 5.1. **Deliverable Warranty:** ProConnection warrants that the Deliverables shall materially conform to the functional specification for the Deliverable (if any), and/or, the requirements of the Statement of Work, for the Warranty Period set forth in the Statement of Work. If the Statement of Work does not set forth a Warranty period, the Warranty Period for the Deliverable shall be ninety (90) days from the later of delivery or the completion of acceptance of the Deliverable. As ProConnection's sole obligation and CUSTOMER's exclusive remedy, ProConnection shall correct any material nonconformance reported by the CUSTOMER in writing within the specified warranty period. For Deliverables developed on a time and materials basis, fees will be charged for the services to correct any nonconformance unless the Services performed in the development of the Deliverable fail to conform to the Service warranty.
- 5.2. **Services Warranty:** ProConnection warrants that the Services will be performed in a workmanlike manner, in accordance with standards generally accepted in the industry. As ProConnection's sole obligation and CUSTOMER's exclusive remedy, ProConnection will reperform, at no charge, any Service that fails to conform materially to this warranty provided ProConnection is notified in writing of the nonconformance within thirty (30) days of completion of the Service.
- 5.3. If ProConnection determines that the Deliverable conforms, CUSTOMER shall pay ProConnection for Services and materials for such time at ProConnection's standard rates.
- 5.4. The warranties set forth above shall not apply to any part of the Deliverable which:
 - 5.4.1. is modified by CUSTOMER or at its direction without ProConnection's (and where applicable the third-party's) consent,
 - 5.4.2. is improperly used or is operated outside the specified vendor's published environmental conditions or operating requirements,
 - 5.4.3. is damaged due to conditions resulting from causes external to the System.
- 5.5. ProConnection reserves the right to utilize the services of third-party vendors and subcontractors in satisfying ProConnection warranty obligations.
- 5.6. **THIRD PARTY PRODUCTS:**
With respect to any third party branded products delivered by ProConnection under this Agreement, ProConnection makes no warranty to CUSTOMER, but agrees to pass through to CUSTOMER any warranty offered by the third party to CUSTOMER.
- 5.7. **Disclaimer:** THE FOREGOING WARRANTIES ARE THE SOLE AND EXCLUSIVE WARRANTIES PROVIDED HEREUNDER AND NO OTHER WARRANTIES, EXPRESS OR IMPLIED SHALL APPLY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. The stated express

warranties are in lieu of all obligations or liabilities on the part of ProConnection and its subcontractors arising out of or in connection with performance under this agreement.

6. Residual Rights

- 6.1. ProConnection shall be free to use all ideas, concepts, know-how and techniques developed by ProConnection and its subcontractors in the course of their performance under this Agreement. Further, nothing in this Agreement shall be construed to transfer to CUSTOMER any rights in ProConnection Tools used in the development of Deliverables.
- 6.2. Software/Scripts, if any, specifically designed and developed by ProConnection or its subcontractors and delivered to CUSTOMER, belongs to ProConnection unless specifically specified.

7. Remedies and Limitations of Liability

- 7.1. ProConnection's liability to CUSTOMER for any cause whatsoever shall be limited to direct damages only and shall be limited to the amount paid to ProConnection under the Deliverable in the Statement of Work that gives rise to the claim.
- 7.2. For Services provided in connection with support and maintenance of the Deliverable(s) or for Services in the Statement of Work that give rise to the claim, ProConnection's liability to CUSTOMER shall be for direct damages only and shall be limited to the amount paid to ProConnection for any such Services during the applicable service periods for the Services that are the subject of the CUSTOMER claim.
- 7.3. ProConnection's total cumulative liability for claims arising under this Agreement shall not exceed the total amount paid to ProConnection for Services and Deliverables under this Agreement.
- 7.4. IN NO EVENT SHALL PROCONNECTION BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, LOSS OF DATA, OR LOSS OF USE.
- 7.5. The foregoing limitations shall apply regardless of the form of action, whether under statute, in contract or tort, including negligence, or any other form of action.
- 7.6. Any action against ProConnection must be brought within three (3) months after the cause of action arises. For the purposes of this paragraph "ProConnection" includes its officers, directors, employees, agents, subcontractors, and suppliers.

8. Support/Maintenance

Except as expressly set forth in this agreement or in the Statement of Work, ProConnection shall have no obligation for the maintenance and support of the Deliverable(s) or the System.

9. Termination

- 9.1. If either party fails to perform any of its material obligations under this Agreement, and such failure continues for a period of sixty (60) days following receipt of written notice (the "Cure Period"), then the other party shall have the right to terminate this Agreement upon written notice of the failure to cure. The effective date of termination shall be the date written notice of the failure to cure is received.
- 9.2. ProConnection may elect to terminate this Agreement immediately as provided under the Personnel provision of this Agreement, or as specified in the Statement of Work.
- 9.3. CUSTOMER may cancel an individual Statement of Work for Services to be provided on a time and materials basis by giving ProConnection thirty (30) days written notice. The effective date of notice of termination shall be the date written notice of the cancellation is received.
- 9.4. Termination of any individual Statement of Work hereunder shall not affect the parties' obligations under any other Statement of Work entered into under the same or similar terms.
- 9.5. In the event of termination under this section, CUSTOMER shall pay ProConnection for all Services performed prior to the effective date of termination, and any and all amounts previously invoiced and outstanding. CUSTOMER shall also pay ProConnection for (i) all costs incurred by ProConnection in terminating any subcontractor or supplier agreements and/or equipment/materials orders including the cost of third-party products furnished to, or ordered by ProConnection, but not delivered to the CUSTOMER as of the date of termination, (ii) ProConnection's current list price or standard hourly rates, as the case may be, for any Products or Services delivered to CUSTOMER, or performed on behalf of CUSTOMER, but not invoiced, (iii) costs associated with relocating ProConnection employees to CUSTOMER's work site, and (iv) an amount equal to 10% of the CUSTOMER's cost of the remaining deliverables under the Statement of Work.

10. CUSTOMER Responsibilities

- 10.1. CUSTOMER shall timely provide ProConnection with complete and accurate information and documentation that ProConnection reasonably requires to fulfill its obligations under the Statement of Work. Any additional work required by ProConnection as a result of incomplete or inaccurate information shall be deemed a change to the project subject to Change Control processes.
- 10.2. All hardware needs to be under customer service contract with the OEM vendor or its agent prior to ProConnection commencing work on the equipment.
- 10.3. CUSTOMER is responsible for completing responsibilities as stated in installation plan prior to the arrival of installation team.
- 10.4. CUSTOMER is responsible to arrange for access into site and availability of loading dock and elevator to data center.
- 10.5. Customer is responsible to assist in a transportation survey if required.
- 10.6. Additional CUSTOMER Responsibilities may be set forth in the Statement of Work.

11. Personnel

- 11.1. If work is to be done at a customer's site, it needs to be a safe working environment. Customer needs to provide personnel to assist installation crew as determined in installation plan.
- 11.2. ProConnection's employees are not to be required to sign any documents to gain access to facility that has not been expressly documented, by customer 10 days in advance.
- 11.3. ProConnection will supply personnel for projects that are qualified to perform tasks. ProConnection reserves the right to rotate or change personnel as required, unless otherwise noted in SOW.

- 11.4. Customer cannot directly or indirectly make any offer to ProConnection's employees for employment for a period of one (1) year after the completion of the Services performed by the employee. In addition to any other remedies that may be available, ProConnection may immediately terminate this Agreement if CUSTOMER violates this provision.

12. Dispute Resolution

- 12.1. ProConnection and CUSTOMER agree to use the following executive dispute resolution mechanism:
- 12.1.1. The parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between executives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this project. Any party may give the other party written notice of any dispute not resolved in the normal course of business. Within fifteen (15) days after delivery of the notice, the receiving party shall submit to the other a written response. The notice and the response shall include (a) a statement of each party's position and a summary of arguments supporting that position, and (b) the name and title of the executive who will represent that party and of any other person who will accompany the executive. Within thirty (30) days after delivery of the disputing party's notice, the executives of both parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt to resolve the dispute. All reasonable requests for information made by one party to the other will be honored.
- 12.1.2. All negotiations pursuant to this clause are confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence.
- 12.2. In the event these dispute resolution processes are unsuccessful, or not appropriate due to the nature of the disputes, the parties may resort to litigation, or other dispute resolution techniques.

13. General Provisions

- 13.1. **Complete Agreement:** This Agreement, including any Statements of Work entered into hereunder, sets forth the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior communications, whether oral, written or otherwise by an employee or representative of either party. Any modifications to these terms and conditions, including modifications set forth in any Statement of Work, must be in writing and signed by an authorized representative of each party.

Governing Law: This Agreement, including all Statements of Work and all attachments thereto, will be governed by the laws of the State of New Hampshire without regard to that body of laws controlling conflicts of laws.

- 13.2. **Survival:** Notwithstanding the expiration or termination of this Agreement, the obligations set forth in the Sections entitled Warranty, Residual Rights, Remedies and Limitations of Liability, Termination and General Provisions shall survive such expiration or termination.
- 13.3. **Force Majeure:** ProConnection shall not be liable for delay or failure to perform any of its obligations due to causes beyond its reasonable control.
- 13.4. **Notices/Authorized Representatives:** Unless otherwise specified in a Statement of Work, all notices shall be forwarded in writing to the person and address identified in the Statement of Work, or such other person or such other address and as the Party receiving notice shall have previously indicated in writing. Unless otherwise specified, the effective date of any notice given in connection with this Agreement shall be the date on which the addressee receives it.
- 13.5. **Severability:** If any provision of this Agreement is finally determined to be unlawful, then such provision will be deemed to be severed from this Agreement and every other provision of this Agreement will remain in full force and effect.
- 13.6. **Assignment:** This Agreement may not be assigned by CUSTOMER without the prior written consent of ProConnection, which consent shall not be unreasonably withheld. ProConnection may subcontract its obligations hereunder, and, except as provided elsewhere in this Agreement, shall remain responsible for the performance of all subcontractors.
- 13.7. **Precedence:** In the case of a conflict between any of the Sections herein, the following priority shall govern:
- 13.7.1. ProConnection Terms and Conditions
- 13.7.2. ProConnection Statement of Work