

Reg #185129



Tutorial | Customer Assistance | What's New | Register | LOGIN

GSA e-Buy | GSA e-Library | Order History/Status | Profile | Parked Carts | Reports

Shopping Cart
0 items: \$0.00

New search:

in All Categories

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Advanced Search

Product Detail

Help on this page



COMPUTER PROFESSIONAL (1-100 UNITS)...
\$394.96 EA

Description: Computer Professional (1-100 Units) (price per unit) visit site

Contractor:
ELEMENT K CORPORATION
500 Canal View Boulevard, Rochester, NY 14623
http://www.elementk.com
Phone: 585-214-8812 DUNS: 128681827
Email: bradley_marshall@ElementK.com
GS-35F-0042L (ends: Oct 19, 2015)
Other than Small Business;

Mfr Part#: IBT-CP-Gold-100 Mfr: ELEMENT K CORPORATION
Made in: UNITED STATES OF AMERICA

Disaster Recovery Purchasing items
Cooperative Purchasing items
American Recovery and Reinvestment Act of 2009

Qty:



Instructions: Select price below, enter qty at left, then Add to Cart. To view another contractor description, simply select the Contractor in the list below. Indicates when volume discounts are offered.

	Price/Unit	Contractor	Stock	Photo	Delivery	Min. Order	Stock Status	FOB/Shipping
+	\$394.96 EA	Element K Corporation	o		5 days shipped ARO	\$100.00	Direct Delivery	D-CONUS ND-AK,PR,HI

**ELEMENT K CORPORATION
MASTER AGREEMENT - SPECIFIC TERMS
SUBSCRIPTION**

CUSTOMER: County of Hidalgo Voter Registration

Effective Date: 12/01/2010

Address: 101 South 10th Ave
Edinburg, Tx 78539

The terms, conditions and length of agreement with respect to each Content Service and/or Professional Service covered hereby are provided below and in the applicable Exhibits attached hereto. For the purpose of clarity, Exhibit A (General Terms and Conditions) shall apply to every agreement, regardless of the service being provided, Exhibit B (Content Service Terms and Conditions) shall apply to each agreement where a Content Service is being provided and Exhibit C (Professional Services Terms and Conditions) shall apply to each agreement where a Professional Service is being provided.

CONTENT SERVICES

Licensed Content to be delivered by means indicated below:

KnowledgeHub KnowledgeHub is a web delivered, Software as a Service accessed through standard web-browsing programs. You will receive password protected access to the specific libraries and/or features noted under the "# of User IDs, Libraries and Other Services" section below. You will also receive password-protected access to the Element K Administration web site with functionality to administer training to Authorized End Users.

Learning Products - Number of User IDs / Courses / Collections

<u>Name</u>	<u>Description</u>	<u>Unit Price</u>	<u>Qty</u>	<u>Line Item Price</u>
Computer Professional - Add-On/Renewal	GSA contract # GS-35F-0042L	USD 394.96	1	USD 394.96

During the initial subscription period, Customer may purchase additional IDs, via a mutually executed addendum, for access to the Licensed Content at the same per year pricing as provided herein, and such IDs shall expire one year from purchase.

Term: The initial term of the Content Service identified above shall be for 12 month(s) from the service start date.

Fees: USD 394.96, per year, for a total commitment of USD 394.96

TOTAL FEES FOR SERVICES IDENTIFIED ABOVE

USD 394.96

Purchase Order Does CUSTOMER require a Purchase Order? N/A. PO#:

Requirements: (If yes, a physical copy of the Purchase Order must be attached to this Agreement.)

Credit Card Is CUSTOMER paying by credit card? .

Purchase: (If yes, credit card number and authorization must be provided.)

INVOICING/PAYMENT: CUSTOMER is responsible for all service fees, plus all sales, value-added or other transaction taxes, shipping and duties, payable in US Dollars to Element K at the address specified under "Payment Remittance" below. The transaction(s) between EK and Customer hereunder are taking place, and all payments shall be made, in the United States. Payment in full is due within 30 days of invoice. Invoices will be sent by Element K upon execution hereof, on any renewal date, as may be set forth herein, and as agreed in any applicable Statement of Work.

PAYMENT REMITTANCE: Element K Corporation, Dept 2573, PO Box 122573, Dallas, TX 75312-2573. Federal Tax ID 16-1599429.

BY SIGNING IN THE SPACE PROVIDED BELOW, CUSTOMER HEREBY AGREES TO THE SPECIFIC TERMS SET FORTH ABOVE AS WELL AS THE TERMS AND CONDITIONS SET FORTH IN ALL EXHIBITS APPLICABLE HERETO. THIS AGREEMENT SHALL BE EFFECTIVE UPON THE EFFECTIVE DATE STATED ABOVE, PROVIDED ORIGINALS OR FACSIMILES IN COUNTERPARTS OR OTHERWISE ARE EXECUTED BY THE PARTIES.

CUSTOMER's Authorized Representative

Element K Corporation's Authorized Representative

Signature
Ramon Garcia

Name (please print)
County Judge

Title
Date 11/23/10

Signature

Name (please print)

Title
Date

EXHIBIT A GENERAL TERMS AND CONDITIONS

1. **DEFINITION OF AGREEMENT.** The first page of this agreement (the "Specific Terms"), these General Terms and Conditions, all other Exhibits applicable hereto, any statements of work for Professional Services ("SOW") which may be entered into hereunder, any third party end user license terms and conditions that may be applicable to certain Content licensed hereunder (together, this "Agreement") constitute the entire agreement between CUSTOMER and Element K Corporation ("Element K" or "EK") regarding the Content Services and/or Professional Services identified in the Specific Terms (each, individually, a "Service" and, collectively, the "Services"). The term of Agreement and fees associated with any Service governed by this Agreement shall be as set forth in the Specific Terms. This Agreement supersedes all prior communications, agreements and understandings, oral or written, between CUSTOMER and EK regarding the subject matter of this Agreement, and may only be amended in a writing signed by both parties. No provision in addition to or in conflict with this Agreement contained in any CUSTOMER purchase order or other document shall be binding on EK.
2. **TERM.** This Agreement shall commence upon the Effective Date set forth in the Specific Terms, and continue in effect as long as any Service covered by this Agreement has an effective term. The following sections of these General Terms & Conditions shall survive termination of this Agreement for any reason: Copyright, Export, Governing Law, Notices, Independent Contractor, No Waiver, Severability.
3. **COPYRIGHT.** Nothing in this Agreement constitutes a waiver of the rights of EK or any of its third party suppliers under the U.S. Copyright Act or any other Federal or State law or international treaty.
4. **EXPORT.** CUSTOMER shall comply with all applicable international and national laws that apply to any content or other products provided under this Agreement, including the U.S. Export Administration Regulations, as well as end-user, end-use and country destination restrictions issued by U.S. and other governments.
5. **NO ASSIGNMENT.** CUSTOMER may not assign this Agreement without the prior written consent of EK and its third party licensors, if applicable, except to a purchaser of all or substantially all of CUSTOMER's assets (including by means of a merger or similar transaction).
6. **GOVERNING LAW.** This Agreement shall be governed by the laws of the State of New York, without regard to conflicts of law.
7. **NOTICES.** Notices and other communications hereunder shall be deemed given only when in writing, signed by or on behalf of the person giving the same, and either (i) personally delivered (with receipt acknowledged), (ii) sent by registered or certified mail, return receipt requested, postage prepaid, or (iii) sent by overnight next business day courier, as follows: if to EK, to 500 Canal View Boulevard, Rochester, New York 14623, Attention: Legal Department; if to CUSTOMER, to the address set forth on the Specific Terms; or to either party at such other address as such party has specified by notice to the other party hereto. All such notices and communications shall be effective (i) when received or receipt refused if delivered by personal delivery or overnight courier, or (ii) upon three days following deposit in the mail if given by certified or registered mail, when delivered to the above address.
8. **INDEPENDENT CONTRACTOR.** The relationship of CUSTOMER and EK established by this Agreement is that of independent contractors, and this Agreement does not give either party the power to direct or control the day to day activities of the other, constitute the parties as partners, joint venturers, co-owners, principal-agent, franchisor-franchisee, or otherwise participants in a joint or common undertaking, or allow either party to create or assume any obligation on behalf of the other party for any purpose whatsoever.
9. **NO WAIVER.** Any waiver of the provisions of this Agreement or of a party's rights or remedies under this Agreement must be in writing signed by the waiving party to be effective. Failure, neglect or delay by a party to enforce the provisions of this Agreement or its rights or remedies at any time will not be construed and will not be deemed to be a waiver of such party's rights under this Agreement and will not in any way affect the validity of the whole or any part of this Agreement or prejudice such party's right to take subsequent action.
10. **SEVERABILITY.** If any term, condition or provision in this Agreement is found to be invalid, unlawful or unenforceable to any extent, the parties shall endeavor in good faith to agree to such amendments that will preserve, as far as possible, the intentions expressed in this Agreement. If the parties fail to agree on such an amendment, such invalid term, condition or provision will be severed from the remaining terms, conditions and provisions, which will continue to be valid and enforceable to the fullest extent permitted by law.

EXHIBIT B

CONTENT SERVICE TERMS & CONDITIONS

1. **SCOPE.** These Content Service Terms and Conditions form a part of the Agreement to which they are appended, and, together with the Specific Terms and General Terms and Conditions, apply to CUSTOMER's use of the Content Service identified in the Specific Terms.

2. **LICENSE GRANT.** EK hereby grants CUSTOMER a non-exclusive, non-transferable, non-assignable license to use the content made available to CUSTOMER through the applicable Content Service ("Content") only in connection with the training of authorized CUSTOMER employees or students, as applicable, who have received a valid ID ("Authorized End-Users"), as specified in the Specific Terms. In the case of access to KnowledgeHub, CUSTOMER may only access the CONTENT via standard web browser. In the case of ContentHub or Content Licensing (as described in the Specific Terms), CUSTOMER may only access the Content via a secure website or server system controlled by CUSTOMER that is accessible only to CUSTOMER employees, contractors, or other persons granted access to CUSTOMER's internal networks in the furtherance of CUSTOMER's normal course of business, and which tracks all access to the Content, including, without limitation, each time an Authorized End-User launches a course. CUSTOMER shall use reasonable efforts consistent with industry standards to block access to the Content except to Authorized End Users. Any information, data or files relating to Content that may reside in a World Wide Web browser cache as the result of an Authorized End-User gaining access to the Content may not be used for any purpose other than for training of such person.

3. **LICENSE RESTRICTIONS.** CUSTOMER shall not: (a) use the Content Service for a service bureau, facilities management, time-sharing arrangement or other similar arrangement, or rent, lease, assign, resell, distribute or sublicense the Content Service or any software used in connection with the Content Service ("Software") to any third party; (b) modify, disassemble, translate, abridge, or otherwise create derivative work based on, decompile, reverse engineer or otherwise determine or attempt to determine or have or attempt to obtain access to, the source code or internal design of the Content Service, Software, or Content or any other text, multimedia images (graphics, audio and video), data and other information provided by EK in connection with the Content Service (collectively, the "Licensed Materials"); (c) remove, alter or otherwise modify any copyright or other legal notices contained in the Licensed Materials; (d) knowingly transmit or distribute the Licensed Materials, nor permit the Licensed Materials to be downloaded for use other than as specified herein. (e) allow unsecured access to the Licensed Materials; (f) grant or permit access to the Content Service by anyone other than an Authorized End User; or (g) permit the sharing of Authorized End User IDs by multiple end-users except in the case of termination of employment (for corporate and similar business customers) or student status other than as a result of graduation (for education customers), in which case, upon prior written notice to Element K, a Authorized End User ID and any Content Services associated with that ID may be reassigned to another Authorized End User.

4. **CHANGES TO ONLINE LIBRARIES.** Notwithstanding anything to the contrary in this Agreement, EK reserves the right in its sole and absolute discretion to change the courses available in any online Element K library without notice to CUSTOMER, provided that if any such changes materially and adversely affect CUSTOMER's Content Services hereunder, CUSTOMER shall be entitled to terminate this Agreement with respect to such Content Service, and receive a refund of all amounts paid by CUSTOMER attributable to such Content Service for the period of time after termination.

5. **ONLINE SERVICE PERFORMANCE GUARANTEE.** CUSTOMER shall have the right to terminate the KnowledgeHub service or the ContentHub service (but not the Content Licensing service) if in good faith the performance of such Content Service is not reasonably satisfactory to CUSTOMER. For purposes of this Section, "performance" refers to issues under EK's control such as service uptime, customer support, technical support and integration support and does not include issues under the CUSTOMER's control. In order to terminate under this Section, CUSTOMER must provide EK with a detailed written explanation for its dissatisfaction with the performance of the applicable Content Service. EK will then have 30 days to remedy CUSTOMER's dissatisfaction. If EK is unable to remedy such dissatisfaction, this Agreement may be terminated with respect to such Content Service at CUSTOMER's option and EK will refund to CUSTOMER all amounts paid by CUSTOMER attributable to the affected Content Service for the period of time after termination.

6. **RECORDS & AUDIT RIGHTS.** CUSTOMER shall keep accurate and complete records of all access to the Content as required in this Agreement. Upon request, CUSTOMER shall provide EK with a report detailing all access to the Content, in a format and containing such information as EK may reasonably request. Until the date that is twelve months from the termination date of this Agreement, EK shall have the right to audit those portions of CUSTOMER's books and records that relate to CUSTOMER's compliance herewith, no more than once per calendar year, upon reasonable prior notice and during normal business hours. Notwithstanding the foregoing, EK may exercise its audit rights at any time if EK reasonably believes that CUSTOMER has made an error in compliance herewith and CUSTOMER has not responded within ten (10) business days of initial notice to rectify such error. Any underpayment shall promptly be remitted to EK upon notice. The cost of any such audit shall initially be borne by EK, however, if such audit reveals underpayment of five percent (5%) or more of the amount that should have been paid for the period audited, then CUSTOMER shall bear the expense of the audit, and shall promptly remit such expenses in addition to all underpayments due to EK.

7. **TERM & TERMINATION.** The term of this Agreement with respect to Content Services shall commence on the date set forth in the Specific Terms, and continue in force as provided in the Specific Terms. Either party may terminate this Agreement with respect to any Content Services upon 30 days' written notice to the other party for material breach by the other party if such breach is not cured within such 30 day period. Notwithstanding the foregoing, all Content Services then in effect will automatically terminate immediately upon either party becoming the subject of any bankruptcy, liquidation, receivership or similar proceedings, making an assignment for the benefit of its creditors, or becoming unable to pay its debts as they become due, provided such event is not cured within thirty (30) days of the date the other party first became aware of any of the conditions listed. In the event of a termination by CUSTOMER as a result of a material breach by EK, EK shall refund any amount previously paid by CUSTOMER attributable to the affected Content Services for the period following termination. In addition to the foregoing, if CUSTOMER fails to make any scheduled Content Service payment in full and fails to cure such payment default within 30 days after notice by EK, all scheduled payments for such Content Service shall automatically become immediately due and payable. No expiration or termination due to CUSTOMER's breach of this Agreement shall affect CUSTOMER's obligation to pay to EK the total Content Service fee commitment set forth in this Agreement. Upon termination, CUSTOMER shall not retain any rights in or to the Licensed Materials, shall immediately cease all use of the Content Services and related Content (including the Licensed Materials and the Software) and delete any Licensed Materials or Software in its possession or control. The following sections of these Content Service Terms & Conditions shall survive termination of this Agreement for any reason: License Restrictions, Records & Audit Rights, Proprietary Rights, Indemnity, Confidentiality.

8. **PROPRIETARY RIGHTS.** Notwithstanding anything to the contrary contained in this Agreement, the Licensed Materials, Software, and the Content Services are the property of Element K and its third party licensors. VLab, KnowledgeHub, Element K and the Element K logo are trademarks of Element K. Except as expressly stated herein, EK does not grant CUSTOMER any intellectual property or other rights in the Licensed

Materials, the Software or the Content Services. Any proprietary materials of CUSTOMER uploaded to EK's e-learning platform (KnowledgeHub) or created using an Element K authoring tool ("Customer Learning Object") is the property of CUSTOMER, and CUSTOMER does not grant EK any rights therein except as necessary to enable CUSTOMER'S access to and use of such Customer Learning Object. EK will use industry standard security password measures to prevent unauthorized disclosure of any Customer Learning Object to third parties.

9. **REPRESENTATIONS AND WARRANTIES.** EK represents and warrants that: it possesses all rights necessary to grant the rights granted to CUSTOMER by this Agreement; and the Licensed Materials do not and will not infringe any patent, trademark, copyright, privacy rights, publicity rights or other proprietary right of any third party. CUSTOMER represents and warrants that: it will use best efforts to ensure that EK's rights in the Content Services and the Licensed Materials are protected and respected; it will exercise due diligence to obtain all necessary rights in the software or other products which are the subject matter of any tutorial or other Licensed Materials; and that the upload and use of any CUSTOMER-provided materials will not violate the copyright or other legal rights of any person or entity.

10. **DISCLAIMER OF WARRANTIES; LIMITATION OF LIABILITY AND REMEDY.**

a. EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE CONTENT SERVICES, THE SOFTWARE AND THE LICENSED MATERIALS ARE PROVIDED TO CUSTOMER "AS IS" WITHOUT WARRANTY OF ANY KIND. EK AND ITS THIRD PARTY CONTENT SUPPLIERS EXPRESSLY DISCLAIM ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, PERFORMANCE, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR ANY IMPLIED WARRANTY ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE. EK DOES NOT WARRANT THAT THE CONTENT IS OR WILL BE ACCURATE OR ERROR-FREE OR MEETS OR WILL MEET CUSTOMER'S OR ANY USER'S REQUIREMENTS.

b. IN NO EVENT WILL EK OR ANY OF ITS THIRD PARTY CONTENT SUPPLIERS BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, or PUNITIVE DAMAGES (INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA OR OTHER PECUNIARY LOSS), ARISING OUT OF THE USE OR INABILITY TO USE THE CONTENT SERVICES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION SHALL APPLY NOTWITHSTANDING ANY FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED HEREIN. IN NO EVENT SHALL THE LIABILITY OF EK OR ANY OF ITS THIRD PARTY SUPPLIERS EXCEED THE AMOUNT OF THE CONTENT SERVICE FEES PAID HEREUNDER.

c. If all or any part of the Content becomes, or in EK's opinion is likely to become, the subject of a claim of intellectual property infringement, EK shall have the right, at its option, either (a) to procure for CUSTOMER the right to continue using the Content, or (b) replace or modify the Content so that it becomes non-infringing or (c) if, after good faith efforts to achieve (a) and (b) above, such remedies are not reasonably available, terminate CUSTOMER's license with respect to infringing materials, and promptly give CUSTOMER a pro rata refund of the funds paid for the affected portion of the Content.

11. **INDEMNITY.** Each party shall indemnify, defend and hold the other, its affiliates and each of their officers, directors, employees, and agents harmless from, or at its option settle and/or pay, any and all actions, claims, damages, expenses (including reasonable attorneys' fees and other legal costs) and liabilities that arise from or relate to any third party claim arising out of any breach of a representation or warranty herein. Indemnification obligations hereunder shall be subject to the party seeking indemnification (a) promptly notifying the indemnifying party of a claim or threatened claim covered by such indemnification, (b) tendering sole control of the defense and settlement of such claim to the indemnifying party (provided that the indemnifying party shall not enter into any settlement agreement that adversely affects the indemnified party without the indemnified party's prior written consent) and (c) cooperating fully with such defense and/or settlement at the indemnifying party's expense.

12. **Confidentiality.** Each party will retain in confidence the terms of their agreement for Content Services and all other information and know-how of the other party disclosed to or acquired by such party ("Receiving Party") pursuant to or in connection with this Agreement which is either designated as proprietary or confidential or which, under the circumstances, ought in good faith to be treated as proprietary or confidential ("Confidential Information"); provided that each party may disclose the terms of this Agreement to its legal and financial consultants or representatives or funding sources as reasonably necessary in the ordinary course of its business, or as required by law. Each party agrees to hold all Confidential Information in the strictest confidence using measures at least as great as those taken to protect its own confidential information of a similar nature. Confidential Information will not include any information that: (a) was known by the Receiving Party prior to disclosure thereof by the other party; (b) was in or entered the public domain through no fault of the Receiving Party; (c) is disclosed to the Receiving Party by a third party entitled to make such disclosure; (d) is independently developed by the Receiving Party without reference to any Confidential Information of the other party; or (e) is ordered to be disclosed pursuant to a final binding order of a governmental agency or court of competent jurisdiction, provided that Receiving Party will provide prompt notice of such order to Disclosing Party and cooperate with and assist Disclosing Party in connection with obtaining a protective order at Disclosing Party's cost and expense. Upon request, or upon any termination or expiration hereof, each party will return to the other all materials, in any medium, which contain, embody, reflect or reference all or any part of any Confidential Information of the other party.