

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS <i>OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30</i>				1. REQUISITION NUMBER		PAGE 1 OF 13									
2. CONTRACT NO. FA8771-09-A-0301		3. AWARD/EFFECTIVE DATE		4. ORDER NUMBER		5. SOLICITATION NUMBER		6. SOLICITATION ISSUE DATE							
7. FOR SOLICITATION INFORMATION CALL:				a. NAME				b. TELEPHONE NUMBER (No collect calls)		8. OFFER DUE DATE/ LOCAL TIME					
9. ISSUED BY 754ELSG/ES DEPARTMENT OF THE AIR FORCE HQ 754 ELSG/ES 490 EAST MOORE DR., SUITE 270 MAFB - GUNTER ANNEX AL 36114-3000 RICHARD L. ASHLEY 334-416-4198 Richard.Ashley@Gunter.AF.Mil				CODE FA8771		10. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED <input type="checkbox"/> SET ASIDE: % FOR <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> EMERGING SMALL BUSINESS <input type="checkbox"/> 8(A) <input type="checkbox"/> SERVICE DISABLED VET SB NAICS: 511210 SIZE STANDARD:				11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE <input checked="" type="checkbox"/> 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) 13b. RATING DO-A7 14. METHOD OF SOLICITATION <input type="checkbox"/> RFQ <input type="checkbox"/> IFB <input type="checkbox"/> RFP		12. DISCOUNT TERMS N			
15. DELIVER TO SEE SF1449 Continuation				CODE		16. ADMINISTERED BY HQ 754TH ELECTRONIC SYSTEMS GROUP ACQUISITION & COMMODITIES DIV (KA) 490 EAST MOORE DRIVE SUITE 270 MAFB-GUNTER ANNEX AL 36114 SCD: C PAS: (NONE)						CODE FA8771			
17a. CONTRACTOR/ OFFEROR TELOS CORPORATION TELOS 19886 ASHBURN RD ASHBURN VA 20147-2358 TELEPHONE NO. (703) 724-3800		CODE OZPY5		FACILITY CODE		18a. PAYMENT WILL BE MADE BY AS DETERMINED BY THE ORDERING AGENCY AND AS CITED ON THEIR INDIVIDUAL ORDER						CODE FA8771			
<input type="checkbox"/> 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER				18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a. UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM											
19. ITEM NO.		20. SCHEDULE OF SUPPLIES/SERVICES				21. QUANTITY		22. UNIT		23. UNIT PRICE		24. AMOUNT			
		See SF1449 Continuation (Attach Additional Sheets as Necessary)													
25. ACCOUNTING AND APPROPRIATION DATA						26. TOTAL AWARD AMOUNT (For Govt. Use Only) \$0.00									
<input type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 52.212-5 ARE ATTACHED.				ADDENDA <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.				<input checked="" type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED.				ADDENDA <input checked="" type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.			
28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN 1 COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.						29. AWARD OF CONTRACT: REF. _____ OFFER DATED _____ YOUR OFFER ON SOLICITATION (BLOCK 5) _____ INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS: SEE CONTINUATION.									
30a. SIGNATURE OF OFFEROR/CONTRACTOR						31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)									
30b. NAME AND TITLE OF SIGNER (Type or print)				30c. DATE SIGNED		31b. NAME OF CONTRACTING OFFICER (Type or print) RICHARD L. ASHLEY				31c. DATE SIGNED					
32a. QUANTITY IN COLUMN 21 HAS BEEN <input type="checkbox"/> RECEIVED <input type="checkbox"/> INSPECTED <input type="checkbox"/> ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED _____															
32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE						32c. DATE		32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE							
32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE						32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE									
						32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE									
33. SHIP NUMBER		34. VOUCHER NUMBER		35. AMT VERIFIED CORRECT FOR		36. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL				37. CHECK NUMBER					
<input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL															
38. S/R ACCT NUMBER		39. S/R VOUCHER NUMBER		40. PAID BY											
41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT						42a. RECEIVED BY (Print)									
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER				41c. DATE		42b. RECEIVED AT (Location)									
						42c. DATE REC'D (YY/MM/DD)				42d. TOTAL CONTAINERS					

CONTINUATION of SF1449

BPA FA8771-09-A-0301

FA8771-09-A-0301 is a Blanket Purchase Agreement (BPA) under GSA's Multiple Award Schedule Contract GS-35F-4315D, and is awarded as an Enterprise Software Agreement (ESA) under the Department of Defense Enterprise Software Initiative (DoD ESI) and GSA SmartBUY program in response to the Government's Telos AMHS and Xacta Software and Related Support RFQ FA8771-09-Q-0021.

This BPA expires five (5) years after date of award. The 5-year term is contingent upon the contractor maintaining or renewing their GSA Schedule contract.

1. Block 15 of SF 1449:

DELIVER TO name and address as determined by the ordering agency and as cited on their individual orders.

2. Blocks 18a and 18b of SF 1449:

PAYMENT WILL BE MADE BY the named payment office and invoices shall be submitted to the address as determined by the ordering agency and as cited on their individual orders.

ITEM	SUPPLIES OR SERVICES	Qty Purch Unit	Unit Price Total Item Amount
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Per applicable SINs from vendor's GSA Schedule

0001		0 Lot	\$0.00
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Noun: AUTOMATED MESSAGE HANDLING SYSTEM (AMHS) SOFTWARE

NSN: N - Not Applicable

Contract type: J - FIRM FIXED PRICE

Inspection: DESTINATION

Acceptance: DESTINATION

FOB: DESTINATION

Descriptive Data:

Per applicable SINs from vendor's GSA Schedule. Includes firm, fixed-price (FFP) commercial IT products and related services, such as Software Maintenance, and negotiated FFP services defined as individual tasks. Commercial interim payment for Software Maintenance is authorized.

**See attached pricing incorporated as BPA Attachment 1*

Per applicable SINs from vendor's GSA Schedule

0002			\$0.00
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Noun: AUTOMATED MESSAGE HANDLING SYSTEM (AMHS) PRODUCTS/SERVICES

Contract type: J - FIRM FIXED PRICE

Start Date: ASREQ

Completion Date: ASREQ

Descriptive Data:

Per applicable SINs for Services from vendor's GSA Schedule. Includes SIN 132-51 IT Services as defined in individual tasks to include implementation, maintenance, integration or training services, and travel and other direct costs in support of these tasks.

**See attached pricing incorporated as BPA Attachment 1*

ITEM	SUPPLIES OR SERVICES	Qty Purch Unit	Unit Price Total Item Amount
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Per applicable SINs from vendor's GSA Schedule

0003		0 Lot	\$0.00
	<p><i>Noun:</i> XACTA INFORMATION ASSURANCE (IA) SOFTWARE</p> <p><i>NSN:</i> N - Not Applicable</p> <p><i>Contract type:</i> J - FIRM FIXED PRICE</p> <p><i>Inspection:</i> DESTINATION</p> <p><i>Acceptance:</i> DESTINATION</p> <p><i>FOB:</i> DESTINATION</p> <p><i>Descriptive Data:</i> Per applicable SINs from vendor's GSA Schedule. Includes firm, fixed-price (FFP) commercial IT products and related services, such as Software Maintenance, and negotiated FFP services defined as individual tasks. Commercial interim payment for Software Maintenance is authorized.</p> <p><i>*See attached pricing incorporated as BPA Attachment 1</i></p>		

Per applicable SINs from vendor's GSA Schedule

0004			\$0.00
	<p><i>Noun:</i> XACTA INFORMATION ASSURANCE (IA) PRODUCTS & SERVICES</p> <p><i>Contract type:</i> J - FIRM FIXED PRICE</p> <p><i>Start Date:</i> ASREQ</p> <p><i>Completion Date:</i> ASREQ</p> <p><i>Descriptive Data:</i> Per applicable SINs for Services from vendor's GSA Schedule. Includes SIN 132-51 IT Services as defined in individual tasks to include implementation, maintenance, integration or training services, and travel and other direct costs in support of these tasks.</p> <p><i>*See attached pricing incorporated as BPA Attachment 1</i></p>		

ITEM	SUPPLIES OR SERVICES	Qty Purch Unit	Unit Price Total Item Amount
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Per applicable SINs from vendor's GSA Schedule

0005		0 Lot	\$0.00
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Noun: XACTA CERTIFICATION & ACCREDITATION SOFTWARE

NSN: N - Not Applicable

Contract type: J - FIRM FIXED PRICE

Inspection: DESTINATION

Acceptance: DESTINATION

FOB: DESTINATION

Descriptive Data:

Per applicable SINs from vendor's GSA Schedule. Includes firm, fixed-price (FFP) commercial IT products and related services, such as Software Maintenance, and negotiated FFP services defined as individual tasks. Commercial interim payment for Software Maintenance is authorized.

**See attached pricing incorporated as BPA Attachment 1*

Per applicable SINs from vendor's GSA Schedule

0006			\$0.00
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Noun: XACTA CERTIFICATION & ACCREDITATION PRODUCTS & SERVICES

Contract type: J - FIRM FIXED PRICE

Start Date: ASREQ

Completion Date: ASREQ

Descriptive Data:

Per applicable SINs for Services from vendor's GSA Schedule. Includes SIN 132-51 IT Services as defined in individual tasks to include implementation, maintenance, integration or training services, and travel and other direct costs in support of these tasks.

**See attached pricing incorporated as BPA Attachment 1*

1. FAR 52.212-04 ADDENDUM TO CONTRACT TERMS AND CONDITIONS--COMMERCIAL ITEMS (Oct 2008)

52.212-4, Contract Terms and Conditions -- Commercial Items is hereby tailored as follows:

(a) The place of inspection, acceptance, and FOB is to be specified in each delivery order, task order or call placed against the BPA .

2. FAR 52.212-05 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (Aug 2009)

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(1) 52.222-50, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)).

(2) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C 3553).

(3) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the contracting officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(2) 52.203-13, Contractor Code of Business Ethics and Conduct (Dec 2008) (Pub. L. 110-252, title VI, Chapter 1 (41 U.S.C. 251 note)).

(6) 52.219-04, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Jul 2005) (if the offeror elects to waive the preference, it shall so indicate in its offer.) (15 U.S.C. 657a).

(10) 52.219-08, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637 (d)(2) and (3)).

(11) (i) 52.219-09, Small Business Subcontracting Plan (Apr 2008) (15 U.S.C. 637 (d)(4)).

(11) (ii) 52.219-09, Small Business Subcontracting Plan (Apr 2008). Alternate I (Oct 2001)

(13) 52.219-16, Liquidated Damages--Subcontracting Plan (Jan 1999)(15 U.S.C. 637(d)(4)(F)(i)).

(14) (i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (Oct 2008) (10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).

(18) 52.219-28, Post Award Small Business Program Rerepresentation (Apr 2009) (15 U.S.C. 632(a)(2)).

(19) 52.222-03, Convict Labor (June 2003)(E.O. 11755).

(20) 52.222-19, Child Labor--Cooperation with Authorities and Remedies (Aug 2009) (E.O. 13126).

(21) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).

(22) 52.222-26, Equal Opportunity (Mar 2007)(E.O. 11246).

(23) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sep 2006)(38 U.S.C. 4212).

(24) 52.222-36, Affirmative Action for Workers with Disabilities (Jun 1998) (29 U.S.C. 793).

(25) 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sep 2006) (38 U.S.C. 4212).

(26) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004) (E. O. 13201).

(34) 52.225-13, Restrictions on Certain Foreign Purchases (Jun 2008) (E.o.s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

(39) 52.232-33, Payment by Electronic Funds Transfer-Central Contractor Registration (Oct 2003) (31 U.S.C. 3332).

(41) 52.232-36, Payment by Third Party (May 1999)(31 U.S.C. 3332).

(42) 52.239-01, Privacy or Security Safeguards (Aug 1996)(5 U.S.C.552a).

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or executive orders applicable to acquisitions of commercial items:

(7) 52.226-06, Promoting Excess Food Donation to Nonprofit Organizations (Mar 2009) (Pub. L. 110-247).

(8) 52.237-11, Accepting and Dispensing of \$1 Coin (Sep 2008) (31 U.S.C.5112(p)(1)).

(d) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records -- Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3

years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e)

(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c) and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in paragraphs (e)(1) of this paragraph in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause--

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (Dec 2008) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

(ii) 52.219-8, Utilization of Small Business Concerns (May 2004)(15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$550,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(iii) 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Section 1553 of Pub. L. 111-5). Applies to subcontracts funded under the Act.

(iv) 52.222-26, Equal Opportunity (Mar 2007)(E.O. 11246).

(v) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sep 2006)(38 U.S.C. 4212).

(vi) 52.222-36, Affirmative Action for Workers with Disabilities (June 1998)(29 U.S.C. 793).

(vii) 52.222-39, Notification of Employee rights Concerning Payment of Union Dues or Fees (Dec 2004) (E.O. 13201).

(viii) 52.222-41, Service Contract Act of 1965, (Nov 2007), flow down required for all subcontracts subject to the Service Contract Act of 1965 (41 U.S.C. 351, et seq.)

(ix) 52.222-50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)).

___ Alternate I (Aug 2007) of 52.222-50 (22 U.S.C. 7104(g)).

(x) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment--Requirements (Nov 2007) (41 U.S.C. 351, et seq.)

(xi) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services--Requirements (Feb 2009) (41 U.S.C. 351, et seq.)

(xii) Reserved.

(xiii) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (Mar 2009) (Pub. L. 110-247). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(xiv) 52.247-64, Preference for Privately-Owned U.S. Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

(2) While not required, the contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

3. FAR 52.217-09 OPTION TO EXTEND THE TERM OF THE CONTRACT (Mar 2000)

(a) The Government may extend the term of this contract by written notice to the Contractor within the effective period of the GSA Schedule; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least within the effective period of the GSA Schedule or 7 days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed five years.

4. DFARS 252.212-7001 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (Jul 2009)

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

52.203-03, Gratuities (APR 1984) (10 U.S.C. 2207).

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

(1) 252.203-7000, Requirements Relating to Compensation of former DoD Officials (Jan 2009) (Section 847 of Pub. L. 110-181).

(2) 252.205-7000, Provision of Information to Cooperative Agreement Holders (Dec 1991) (10 U.S.C. 2416).

(3) 252.219-7003, Small Business Subcontracting Plan (DOD Contracts) (Apr 2007) (15 U.S.C. 637).

(6) 252.225-7008, Restriction on Acquisition of Specialty Metals (Jul 2009) (10 U.S.C. 2533b).

(7) 252.225-7009, Restriction On Acquisition Of Certain Articles Containing Specialty Metals (Jul 2009) (10 U.S.C. 2533b).

(8) 252.225-7012, Preference for Certain Domestic Commodities (Dec 2008) (10 U.S.C. 2533a).

(11) 252.225-7021, Trade Agreements (Nov 2008) (19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note).

(12) 252.225-7027, Restriction on Contingent Fees for Foreign Military Sales (Apr 2003) (22 U.S.C. 2779).
Para (b)(1), Sales to the Government(s) of those listed in DFARS 225-7303-4(b)

(14)(i) 252.225-7036, Buy American Act--Free Trade Agreements--Balance of Payments Program (Jan 2009) (41 U.S.C. 10a-10d and 19 U.S.C. 3301 note)

(14)(ii) 252.225-7036, Buy American Act--Free Trade Agreements--Balance of Payments Program (Jan 2009) - Alternate I (Oct 2006) (41 U.S.C. 10a-10d and 19 U.S.C. 3301 note).

(16) 252.226-7001, Utilization Of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (Sep 2004) (Section 8021 of Public Law 107-248 and similar sections in subsequent DoD appropriations acts).

(19) 252.232-7003, Electronic Submission Of Payment Requests and Receiving Reports (MAR 2008) (10 U.S.C. 2227).

(21) 252.243-7002, Requests for Equitable Adjustment (Mar 1998) (10 U.S.C. 2410).

(22) 252.247-7003, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (Jul 2009) (Section 884 of Public Law 110-417).

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

(24) 252.247-7024, Notification of Transportation of Supplies by Sea (Mar 2000) (10 U.S.C. 2631).

(c) In addition to the clauses listed in paragraph (e) of the Contract Terms and Conditions Required to Implement Statutes or Executive Orders--Commercial Items clause of this contract (FAR 52.212-5), the Contractor shall include the terms of the following clauses, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

(1) 252.237-7019 Training for Contractor Personnel Interacting with Detainees (Sep 2006) (Section 1092 of Pub. L. 108-375).

(2) 252.247-7003, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (Jul 2009) (Section 884 of Public Law 110-417).

(3) 252.247-7023 Transportation of Supplies by Sea (May 2002) (10 U.S.C. 2631).

(4) 252.247-7024 Notification of Transportation of Supplies by Sea (Mar 2000) (10 U.S.C. 2631).

5. DFARS 252.232-7010 LEVIES ON CONTRACT PAYMENTS (Dec 2006)

(a) 26 U.S.C. 6331(h) authorizes the Internal Revenue Service (IRS) to continuously levy up to 100 percent of contract payments, up to the amount of tax debt.

(b) When a levy is imposed on a payment under this contract and the Contractor believes that the levy may result in an inability to perform the contract, the Contractor shall promptly notify the Procuring Contracting Officer in writing, with a copy to the Administrative Contracting Officer, and shall provide—

(1) The total dollar amount of the levy;

(2) A statement that the Contractor believes that the levy may result in an inability to perform the contract, including rationale and adequate supporting documentation; and

(3) Advice as to whether the inability to perform may adversely affect national security, including rationale and adequate supporting documentation.

(c) DoD shall promptly review the Contractor's assessment, and the Procuring Contracting Officer shall provide a written notification to the Contractor including—

(1) A statement as to whether DoD agrees that the levy may result in an inability to perform the contract, and

(2)(i) If the levy may result in an inability to perform the contract and a lack of performance will adversely affect national security, the total amount of the monies collected that should be returned to the Contractor; or

(ii) If the levy may result in an inability to perform the contract but will not impact national security, a recommendation that the Contractor promptly notify the IRS to attempt to resolve the tax situation.

(d) Any DoD determination under this clause is not subject to appeal under the Contract Disputes Act.

6. AF 5352.201-9101 OMBUDSMAN (Aug 2005)

(a) An ombudsman has been appointed to hear and facilitate the resolution of concerns from offerors, potential offerors, and others for this acquisition. When requested, the ombudsman will maintain strict confidentiality as to the source of the concern. The existence of the ombudsman does not affect the authority of the program manager, contracting officer, or source selection official. Further, the ombudsman does not participate in the evaluation of proposals, the source selection process, or the adjudication of protests or formal contract disputes. The ombudsman may refer the party to another official who can resolve the concern.

(b) Before consulting with an ombudsman, interested parties must first address their concerns, issues, disagreements, and/or recommendations to the contracting officer for resolution. Consulting an ombudsman does not alter or postpone the timelines for any other processes (e.g., agency level bid protests, GAO bid protests, requests for debriefings, employee-employer actions, contests of OMB Circular A-76 competition performance decisions).

(c) If resolution cannot be made by the contracting officer, concerned parties may contact the Center/MAJCOM ombudsmen, as designated by Electronic Systems Center. Concerns, issues, disagreements, and recommendations that cannot be resolved at the MAJCOM/DRU level, may be brought by the concerned party for further consideration to the Air Force ombudsman, Associate Deputy Assistant Secretary (ADAS) (Contracting), SAF/AQC, 1060 Air

Force Pentagon, Washington DC 20330-1060, phone number (703) 588-7004, facsimile number (703) 588-1067.

- (d) The ombudsman has no authority to render a decision that binds the agency.
- (e) Do not contact the ombudsman to request copies of the solicitation, verify offer due date, or clarify technical requirements. Such inquiries shall be directed to the Contracting Officer.

DOCUMENT	PGS	DATE	TITLE
EXHIBIT A	14	09 SEP 2009	EXH A - ESI/SMARTBUY ENTERPRISE SOFTWARE AGREEMENT (ESA)
ATTACHMENT 1	1	17 AUG 2009	ATCH 1 - PROPOSED PRODUCT & PRICE LIST
ATTACHMENT 2	25	17 AUG 2009	ATCH 2 - LICENSE AGREEMENT
ATTACHMENT 3	2	11 AUG 2009	ATCH 3 - REPORT OF SALES FORMAT
ATTACHMENT 4	4	11 AUG 2009	ATCH 4 - FEES AND PAYMENTS (AF ESA)
ATTACHMENT 5	5	11 AUG 2009	ATCH 5 - FY09 FEE TRANSMITTAL LETTERS

**Blanket Purchase Agreement
DoD Enterprise Software Agreement (ESA)**

In the spirit of the Federal Acquisition Streamlining Act, the Department of Defense (DoD) and Telos Corporation enter into an agreement to further reduce the administrative costs of acquiring commercial items from the General Service Administration (GSA) Federal Supply Schedule (FSS) Contract GS-35F-4315D (<http://gsa.telos.com>).

FSS Contract Blanket Purchase Agreements (BPAs) reduce contracting and open market costs such as: search for sources, the development of technical documents, solicitations, and the evaluation of bids and offers.

This BPA will further decrease costs, reduce paperwork, and save time by eliminating the need for repetitive, individual purchases from the schedule contract. The end result is to create a purchasing mechanism for the Government that works better and costs less.

The Enterprise Software Initiative (ESI) is a joint DoD project to develop and implement a DoD enterprise process. This BPA is issued in the spirit of the policy and guidelines provided in the Defense Federal Acquisition Regulation Supplement (DFARS) Section 208.74.

Attachments to this agreement are:

Attachment 1 – Product and Price List

Attachment 2 – License Agreement

2.1 Software License Agreement for Automated Message Handling System

2.2 Automated Message Handling System Software License Agreement for Regional Nodes

2.3 Telos AMHS Lab License – Terms of License

2.4 Perpetual Software License Agreement for Xacta IA Manager

Attachment 3 – Report of Sales Format

Attachment 4 – Fees and Payments

Attachment 5 – FY09 Fee Transmittal Letters

Attachment 6 – Proposed Contractor Team Arrangements

A. TERMS AND CONDITIONS

1. Pursuant to GSA FSS Contract Number GS-35F-4315D, Telos Corporation agrees to the following terms of a BPA with the United States Air Force's HQ 754 Electronic Systems Group (HQ 754th ELSG/ES). All orders placed against this BPA are subject to the terms and conditions of the FSS Contract. The items on this BPA are set forth in Attachment 1. License terms and conditions applicable to products acquired under this BPA are defined in the Telos Corporation License Agreement included as Attachment 2. The Order of Precedence for resolving any inconsistency between the Commercial License and the GSA contract terms shall be as specified in the GSA contract's Commercial Item clause, FAR 52.212-4, and the provisions of FAR 52.212-4 specified in FAR 12.302, as required by Federal law, shall prevail over any terms of the commercial license.

2. **Extent of Obligation.** The Government estimates, but does not guarantee, that the volume of purchases through this agreement will be \$24,600,000.00. The Government is obligated only to the extent of authorized purchases actually made under this BPA.

3. **Funds Obligation.** The BPA does not obligate any funds. Funds will be obligated on each delivery order.

4. **BPA Term.** The BPA expires five (5) years after award. This expiration is contingent upon the Contractor maintaining or renewing a GSA FSS Schedule. The BPA will be reviewed annually to ensure that it still represents a "best value".

5. **Pricing Terms.** Attachment 1 provides unit prices as explained below. Product prices shall not escalate. Professional services are subject to a yearly economic price adjustment. Spot discounting is encouraged. The prices will be reviewed annually, or as required to determine whether a reduction is appropriate in accordance with the price reduction provisions of the agreement. A 2.0% Acquisition, Contracting, and Technical (ACT) Fee shall be included in the prices. The contractor shall be responsible for the payment of all fees that are included in the product pricing (i.e. GSA, ACT), as calculated on the customer orders, in accordance with Attachment 4.

6. **Discount Terms and Conditions.**

Attachment 1 presents Telos' discounts for product and services.

- a. For Xacta IA Manager, licenses may be purchased as required. Telos is offering a tiered discount based on the revenue achievement of Xacta IA Manager purchased through this BPA. When a discount threshold is reached, all future purchases will be discounted at the new discount rate until the next threshold is achieved.
- b. For Xacta AMHS, licenses may be purchased as required. Telos is offering a tiered discount based on the quantity of licenses purchased at a given time.
- c. Professional Services, Training and Xacta Quick Start: A discount off the standard GSA price is offered for professional services and training. This discount applies to the purchase of professional services and training credits regardless of the license threshold described in Paragraph 6a.

7. **Out-Year Prices.**

Xacta IA Manager discount levels are achieved by dollar value only and are not governed by agreement year. Purchased quantity that is credited towards the volume discount level is cumulative for the total term of the BPA. Any creditable purchases made in one year are credited in the subsequent agreement years to determine the applicable discount level. The unit price for the discount level on Attachment 1 is not subject to upward adjustment during the term of the BPA.)

8. **Price Reduction.**

8.1 **Most Favored Customer Prices.** The prices for product and maintenance under this BPA shall be measurably lower than the prices under GSA Schedule GS-35F-4315D. If at any time the prices under any other contract instrument become lower than the prices in this BPA, this BPA will be modified to include the lower prices.

8.2 **SmartBUY Transition.** OMB has announced the SmartBUY initiative to maximize cost savings and achieve best quality when acquiring software. The GSA is the designated Executive Agent for SmartBUY.

The initiative will establish software enterprise licensing on a government-wide basis. If during the term of this ESA, Telos Corporation and its resellers enter into a government-wide agreement with the GSA under the SmartBUY Initiative, which includes pricing for the specific products or services under similar terms and conditions as those licensed by the DoD, neither Telos Corporation or its resellers will preclude the DoD from licensing products or purchasing services under a SmartBUY agreement.

9. License Agreement. Software licenses purchased under this BPA are Perpetual licenses subject to the licensing provisions and the terms of the GSA Contract and the license agreement(s) provided via Attachment 2. Individually purchased licenses are transferable within the DoD and authorized users (see 2.2), except that an Xacta IA Manager license may not be transferred after a project key has been issued. Licenses purchased as part of an Enterprise-Wide License are transferable only within the Service/Agency that purchased the Enterprise-Wide License. Any delivery order issued hereunder will serve as proof of purchase. Upon validation and receipt of software, customers will be provided an electronic version of the license agreement. The Order of Precedence for resolving any inconsistency between the Attachment 2 Commercial Licenses and the GSA contract terms shall be as specified in the GSA contract's Commercial Item clause, FAR 52.212-4, and the provisions of FAR 52.212-4 specified in FAR 12.302, as required by Federal law, shall prevail over any terms of the commercial license. The parties agree that in the Attachment 2.4 Perpetual Software License Agreement for Xacta IA Manager, License's paragraph 7.06 provision does not meet the requirements of 5 USC 575 to constitute an agreement for and statutory approval of an agreement to submit to binding arbitration.

9.1 Functionality Replacement and Extended Support. If the form, fit, or functionality contained in any licensed products acquired hereunder is substantially reduced or if the product is replaced, and/or (the contractor), provides this same or substantially similar functionality as a separate or renamed product, then the DoD is entitled to license such software at no additional licenses or maintenance fees as long as the software is under a Maintenance/Support Agreement. However, throughout the term of this agreement, the contractor will provide support services for a period of one year.

9.2 Rights of Survivorship of the Agreement. This Agreement shall survive unto Telos Corporation, its Successor, rights and assigns. The software and agreement terms and conditions as covered under this agreement shall survive this agreement notwithstanding the acquisition or merger of Telos Corporation by or with another entity. Any software name changes, re-packing or merger of similar products that carry forward the same or similar function of the software shall be supported with updates, upgrades and new releases under this agreement at no additional cost as long as the software is under a Maintenance Support Agreement.

9.3 Audits. In lieu of any audit provisions in the license agreement, Licensee may perform an internal audit and will use its best efforts to keep full and accurate accounts that may be used to properly ascertain and verify numbers of licenses in use. Licensee may permit Telos Corporation to have access to Licensee records and computer systems and the right to audit such systems to insure software use is in accordance with its license terms. All vendor personnel must have appropriate security clearances to gain access to Licensee site or data.

10. Media. The Xacta IA Manager software is available via CD or download from the Xacta web site (<https://customers.xacta.com>). The Users' Ordering Guide, to be prepared in accordance with Paragraph C.3 of this BPA, will provide specific instructions for downloading the software and obtaining any necessary licensing keys.

11. Support and Maintenance.

11.1. **Support. Xacta IA Manager Support.** Licenses purchased under this BPA are Perpetual therefore software maintenance and support must be purchased separately on an annual basis. The software product under this BPA includes standard installation support for the first 365 days after product delivery.

11.2. Maintenance.

11.2.a **Xacta IA Manager Maintenance.** All maintenance is provided in 1 (one) year increments. Xacta IA Manager maintenance and support policies and procedures are documented on our public website (<http://www.xacta.com>).

11.2.b. AMHS Standard Maintenance Policy - Scope of Work

Under the Standard Maintenance Policy, Telos will, for the Licensee, support the Automated Message Handling System (AMHS) at the customer facility as originally installed. The support includes all AMHS software updates and all third party component product upgrades as noted in the paragraph below. This support includes 24/7 telephone help desk service. Other support services, site visits, and engineering support, are available outside the scope of this Policy.

Note: Third party software refers to the Verity K2 software embedded in the AMHS and support to other embedded software products used in the Telos AMHS. These product upgrades are included as a part of the Standard Telos Maintenance Policy. Should the newer versions of AMHS require updated Windows operating systems or database applications (SQL Server), Telos reserves the right to recover the costs of these components or they may be furnished by the customer.

11.2.c. AMHS System – Assumptions:

Telos furnished maintenance and support for the AMHS system will be provided at the customer facility. The AMHS installation defined number of licensed users shall be used as the basis for the Telos cost proposal to provide software and maintenance support beyond the initial year following installation. The first year support includes all Telos maintenance activities with the exception of site visits.

11.2.d. AMHS System - Requirements

11.2.c.1. Telos shall provide AMHS released software product updates when they become available and ready for testing through the formal DMS Functionality, Interoperability, Security, and Performance (FISP) process. Such updates are normally provided at no cost to the user as a part of the annual maintenance agreement.

11.2.c.2 Telos shall provide AMHS telephone help desk support which is staffed during normal business hours, 8 AM -6 PM, Pacific Time Zone, Monday-Friday. After hours support is provided through a paging system to provide the full 24/7 coverage.

11.2.c.3 If desired by the Licensee, Telos shall schedule a visit to the customer site one time during the first twelve- month period following installation. This trip is optional and will require additional funding. Should additional visits be required to resolve problems or install new software, those visits will be scheduled and contracted on as as-needed basis.

11.2.c.4 AMHS Maintenance Support will be for the period of 52 consecutive weeks following the system achieving operational status.

11.2.e Implementation Approach

In performance of the follow-on Telos maintenance and support contract or first year following installation, Telos will:

11.2.e.1 Provide Telephone Support. TELOS shall establish and maintain a Telephone Help Desk to be staffed during normal business hours (8AM - 6 PM, Pacific Time Zone, Monday-Friday). The Help Desk shall respond to queries, issues, and concerns of customer personnel. After hours support is provided through a paging system. The answering service shall forward urgent messages to on-call personnel during non-duty hours. The Help Desk shall be staffed with skilled trainers and technical consultants. The general operating procedures for the Help Desk shall be:

- a. All calls shall be logged and assigned a Help Response Ticket (HRT) Number.
- b. All calls shall have a response within two (2) hours of receipt by TELOS.
- c. All callers shall receive the assigned HRT number when response is provided.
- d. If Help Desk personnel are unable to resolve problems / issues immediately, the HRT shall be routed to the most appropriate expert in that area.
- e. The HRT shall be audited daily for progress and the caller can receive updated information at any time by calling the Help Desk phone number and referencing the HRT. The goal is to resolve these issues within one week.
- f. HRT actions that cause the AMHS system to be in an inoperable status for 48 consecutive hours shall cause TELOS to dispatch technical personnel to the site in order to return the site to an operational status.

11.2.e.2 Provide AMHS Product Life Cycle Support. This product support subscription includes the Telos AMHS software upgrades that will be released to test activities as a part of ongoing product improvements. Product support also includes configuration management support of the Telos AMHS Baseline as well as engineering costs incurred in the anomaly resolution process. Telos will continue to improve the AMHS product as well as resolve anomalies identified via the problem reporting process. Telos will provide appropriate AMHS product updates and corrective action either by telephone to the user, via mail/shipping, via the Internet or during the scheduled on-site visit.

11.2.e.3 Provide AMHS Site Visits. If the customer elects this option as described elsewhere in this document, TELOS shall visit the customer site one time during the first twelve months following installation. This visit will be coordinated in advance with the responsible system manager.

12. Professional Services. Telos is offering a discount for professional services purchased off this BPA. For Xacta IA Manager, Attachment A presents the discount schedule for services. Services are described in Telos' GSA Schedule, a copy of which is available electronically by visiting <http://gsa.telos.com>. Orders for services may be Time and Material (T&M) or Firm-Fixed Price (FFP). Instructions for ordering services will be included in the Users' Ordering Procedures (reference Paragraph C.3).

13. On-Site Training. Each training credit can be redeemed for one day of training for one person at a scheduled Xacta class. Training is conducted at the Telos/Xacta facility located in Ashburn, VA. Due to class size limits, training must be scheduled in advance. On-site training or custom courses will be provided on a case-by-case basis. The price for on-site training or custom courses will be provided at the time of request and will be based on the service categories described in Paragraph 12 above.

14. Technology Improvement. The Government may solicit and the BPA holder is encouraged to propose independently, technology improvements to the BPA. Proposals shall be submitted by the BPA holder and include a description of the products and/or services, an electronic copy of the pricing tables, technical literature that describes the products and/or services, and evidence of inclusion on GSA schedule. Discounts shall be at the same or greater discount level as the original BPA product prices.

15. Substitution and Technology Refreshment. If at any time during the life of this BPA, the original manufacturer of the equipment (includes software, hardware and firmware) schedules the products for discontinuation, improvement and/or replacement, the BPA holder shall provide a proposal to include the new or revised products on the BPA under the appropriate line items. Proposed prices for new or revised products shall be constructed in accordance with paragraph 8 of this BPA for most favored prices. Discounts shall be at the same or greater discount level as the original BPA product prices. Proposals shall be submitted to the Contracting Officer within seven (7) days of the BPA holder's awareness of the OEM's intent. Improvement of product includes new releases, updates, upgrades including additional features and functionality, and successor or upgrade products.

B. AUTHORIZED USERS AND POINTS OF CONTACT

1. Authorized Users:

a. The BPA is open for ordering by all Department of Defense (DoD) Components. For the purposes of this agreement, a DoD component is defined as: the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Unified Combatant Commands, the Inspector General of the Department of Defense (DoD IG), the Defense Agencies, the DoD Field Activities, the U. S. Coast Guard, NATO, the Intelligence Community and FMS with a Letter of Authorization.

b. GSA or other applicable ordering organizations/agencies are authorized to place orders under this BPA on behalf of DoD end users and must comply with DFARS 208.7400.

c. Government contractors performing work for a DoD end user (as defined above) may place Delivery Orders under this BPA on behalf of and for the benefit of the DoD entity if authorized by their cognizant Contracting Officer in accordance with the requirements of FAR 51 and/or DFARS 251 as appropriate.

d. This has been designated as a DoD ESI and GSA SmartBUY Contract and is open for ordering by all United States Federal Agencies, Department of Defense (DoD) Components, and authorized contractors.)

2. BPA Points of Contact:

a. Contracting Office:

Contract Specialist:
HQ 754th Electronic Systems Group
ESS ESI Software Team
490 E Moore Dr Bldg 892 Ste 270
MAFB-Gunter Annex AL 36114

POC: TBD
Phone: TBD
Fax: 334-416-5571
Email: TBD

Procuring Contracting Officer (PCO):
HQ 754th Electronic Systems Group
ESS ESI Software Team
490 E Moore Dr Bldg 892 Ste 270
MAFB-Gunter Annex AL 36114

PCO: Richard Ashley
Phone: 334-416-4198
Fax: 334-416-5571
Email: Richard.Ashley@Gunter.AF.Mil

b. Software Product Manager (SPM):

Software Product Manager (SPM):

or Alternate Point of Contact:

HQ 754th Electronic Systems Group
ESS ESI Software Team
490 E Moore Dr Bldg 892 Ste 270
MAFB-Gunter Annex AL 36114

HQ 754th Electronic Systems Group
ESS ESI Software Team
490 E Moore Dr Bldg 892 Ste 270
MAFB-Gunter Annex AL 36114

IA SPM: Traci A. Smith
Phone: 334-416-4540
Fax: 334-416-5571
Email: Traci.Smith@Gunter.AF.Mil

AF SPM: Duane D. Haughton
Phone: 334-416-1754
Fax: 334-416-5571
Email: Duane.Haughton@Gunter.AF.Mil

c. **Customer Point of Contact:** (To be specified on each order.)

C. ORDERING

1. DFARS Section 208.74 directs DoD software buyers and requiring officials to check the DoD ESI website for DoD inventory or an ESA before using another method of acquisition. These steps for the buyer are summarized from the DFARS:

- a. Check the Enterprise Agreement Summary Table to determine if software rights or maintenance have already been purchased and are available from DoD inventory. If they are available, purchase the designated software from DoD inventory and reimburse the SPM.
- b. If the required software rights or maintenance are not available from inventory or from an ESA, you may use an alternate method of acquisition, subject to applicable laws and policy.
- c. If the required software rights or maintenance are not available from inventory but are available from an ESA, you must follow the procedure in the DFARS Section 208.74.
- d. If you must obtain the software or software maintenance outside the DoD ESA, you may seek a waiver from a management official designated by your DoD Component.

This BPA will be posted to the DoD ESI website as part of the ESI program. The web site can be viewed at <http://www.esi.mil> and is publicly accessible. The Government may also make this contract or available for posting or access it by web link through other DoD and Federal websites such as Department of Navy Information Technology Umbrella Program <http://www.it-umbrella.navy.mil>, the Army Computer Hardware, Enterprise Software and Solutions it e-mart <https://chess.army.mil>, GSA SmartBUY http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentType=GSA_BASIC&contentId=22490&noc=T, and AFWay <https://afway.af.mil>).

2. **Delivery Orders.** The scope of this effort is worldwide. Delivery requirements and administration will be stipulated on Delivery Orders.

Ordering via this BPA is decentralized. Orders are prepared by an authorized Government Ordering Officer, in accordance with the terms and conditions of this BPA and the GSA Schedule, or prime contractor authorized by a Government Contracting Officer in accordance with FAR Part 51. Orders may be placed by EDI, credit card, facsimile, on an authorized form such as a Standard Form (SF) 1449 or Department of Defense (DD) Form 1155.

Notice to Ordering Offices: This is a single award BPA established non-competitively against GSA Schedule. It is the responsibility of the Ordering Officer to --

- a. Comply with the ordering procedures of FAR 8.4 and DFARS 208.4
- b. Obtain competition and/or execute brand name or limited source justifications as applicable;
- c. Ensure compliance with all fiscal laws prior to issuing an order under this BPA;
- d. Incorporate into the order any regulatory and statutory requirements that are applicable to the agency for which the order is placed, if pertinent requirements are not already included in this BPA; and,
- e. Ensure the vendor selected for the order represents the best value and the lowest overall cost alternative.

3. **Users' Ordering Guide.** The Contractor shall develop a Users' Ordering Guide in coordination with the Government that will be posted to the Contractor web site and various Government sites. The Ordering Guide shall be submitted to the SPM and PCO within thirty (30) days of BPA issuance and made available on the Contractor's home page upon written approval. This guide shall be continuously updated as required. The guide shall contain all information necessary for geographically dispersed activities to place orders, including, as a minimum:

- a. URL where a complete list of products available, with appropriate contract line item numbers (CLINs) and associated prices can be found
- b. Government and Contractor Points of Contact
- c. Description of the ordering process
- d. Program Terms and Conditions
- e. License Terms and Conditions
- f. Information such as CAGE, DUNS, TIN, Business Size, etc. necessary to complete a Contract Action Report (CAR) in the FPDS-NG system
- g. Range of discounts
- h. Links to DoD ESI and the Government web sites

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

This BPA may also be loaded into publicly accessible electronic catalog systems of other DoD agencies.

5. **Delivery Schedule.** The Contractor shall ship the software on CD or make the software available for electronic download within two (2) business days from acceptance of an order, as defined in the GSA Schedule.

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

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

Ordering offices shall send an electronic copy of each executed delivery order in .pdf format to the Air Force SPM office at 754.est.esi@Gunter.AF.mil. If .pdf copies are not feasible, a facsimile copy may be sent to (334) 416-5571.

7. **Suspension.** There may be occasions where the Government may suspend ordering (by CLIN up to and including the entire BPA.) If a suspension is announced, the Contractor shall adhere to this suspension by not accepting/processing delivery orders for the suspended item(s).

D. INVOICING AND PAYMENT

1. **Invoicing.** The requirements of a proper invoice are as specified below as required by FAR 52.212-4 in the Federal Supply Schedule contract. Full text of this clause can be found on the web at URL: <http://farsite.hill.af.mil/>. The contractor shall submit an original invoice and three copies (or electronic invoice, if authorized), to the address specified on the delivery orders issued against the BPA. An invoice must include --

- a. Name and address of the Contractor;
- b. Invoice date and number;
- c. Contract number, contract line item number and, if applicable, the order number;
- d. Description, quantity, unit of measure, unit price and extended price of the items delivered;
- e. Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- f. Terms of any prompt payment discount offered;
- g. Name and address of official to whom payment is to be sent;
- h. Name, title, and phone number of the person to be notified in event of defective invoice;
- i. Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract; and
- j. Electronic funds transfer (EFT) banking information.

Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) Circular A-125. Prompt Payment Contractors are encouraged to assign an identification number to each invoice.

2. **Fast Payment Procedure.** The provisions of FAR 52.213-1 FAST PAYMENT PROCEDURE (MAY 2006) are incorporated in this BPA by reference and pertain to Credit Card purchases or other applicable order deliveries. Fast Payment procedures may be used when the conditions of FAR 13.402 are met and the delivery order authorizes Fast Payment. Full text of this clause can be found on the web at URL: <http://farsite.hill.af.mil/>.

3. **Precedence.** The terms and conditions included in this BPA apply to all purchases made pursuant to it. In the event of an inconsistency between the provisions of the BPA and the Contractor's invoice, the provisions of the BPA will take precedence.

E. BPA MANAGEMENT AND OVERSIGHT

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

2. **Report of Sales.** A Report of Sales as described herein shall accompany the remittance of the ACT Fees to enable verification of the fee amounts rendered. Submission of the Report of Sales shall be submitted to the SPM and the PCO in electronic format within fifteen (15) days following the completion of the monthly reporting period, or as otherwise requested by the SPM. The report shall be submitted in the standard format shown in Attachment 3. Negative reports are required. The SPM or PCO shall provide written approval of each report. At the end of each calendar quarter, the written approval provided to the contractor will be accompanied by a request to remit ACT fees. The SPM or PCO will provide copies of the Report of Sales on a quarterly basis to the DoD Components participating in fee sharing.

3. **United Nations Standard Products and Services Code.** The United Nations Standard Products and Services Code (UNSPSC) is a required field of the Report of Sales found in Attachment C. The UNSPSC code permits software asset management through a standard coding structure. The UNSPSC is a coding system used to classify both products and services for use throughout the global marketplace. The management and development of the UNSPSC Code is coordinated by GS1 US. The current version is available free as a download at <http://www.unspsc.org>.

4. **Records.** The Contractor shall maintain archival copies of all orders for the life of the BPA. Copies shall be made available to the Government upon request.

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

6. **Sales Leakage.** The goals of the ESI Program can only be realized through cooperation between the Government and the Contractor to direct appropriate sales through the ESI vehicles. The Contractor shall ensure that all sales personnel are aware of the ESI Program and enforce the policy that this BPA is the preferred procurement vehicle for the products within. The Contractor shall also establish a process to regularly audit sales to Government buyers, determine where sales outside the ESI vehicle are occurring, and take appropriate action to direct further sales through the ESI vehicle. Results of these audits will be presented as an agenda item during PMRs.

7. **Marketing.** The Contractor shall dedicate reasonable resources to this effort and work to market and advertise this agreement. Desired actions include: advertising resultant vehicles on the contractor's Internet site and advertising the agreement at relevant trade shows, participation in DoD Component sponsored events and news media geared to Government/DoD IT people.

8. **Enterprise Integration Toolkit.** The Enterprise Integration Toolkit is a program developed by the Assistant Deputy Under Secretary of Defense (L&MR) Logistics Systems Management (LSM) to assist DoD Program Managers, Contracting Officers and members of the Integrated Project Team (IPT) in the acquisition and implementation of Commercial Off The Shelf (COTS) Business Systems software.

The Toolkit provides guidance, processes and tools to define program needs and determine how to best meet these needs through an external acquisition via a three-tiered Roadmap to guide the entire life-cycle from problem definition to solution roll-out. It provides a collection of best practice tools adopted from the commercial industry, and includes more than 100 best practice templates, guides, checklists, and samples.

Because the Toolkit is not vendor specific and may be applied across a variety of COTS software package implementations, including this BPA, the Contractor, shall be familiar with the Toolkit and include as part of the Marketing effort required above, a description of the Toolkit for their customers, and a link to the Enterprise Toolkit web site at: <https://acc.dau.mil/CommunityBrowser.aspx?id=153210&lang=en-US>.

F. Standards.

1. **YEAR 2000 Compliance.** All products provided under this BPA shall be Y2K compliant as defined in FAR 39.002.

2. **DISR Compliance.** All products offered shall comply with appropriate standards enumerated in the DoD IT Standards Repository (DISR). The DISR is maintained by the DoD Executive Agent for IT Standards, and the mandated compendium can be obtained from Mr. Dave Brown 703-681-2645; dave.brown@disa.mil. The DoD IT standards management tool, DISRonline is available for use by CAC-equipped authorized parties and can be accessed for account requests at <https://disronline.disa.mil>.

3. **Common Security Configurations.** The provider of information technology shall certify applications are fully functional and operate correctly as intended on systems using the Federal Desktop Core Configuration (FDCC). This includes Internet Explorer 7 configured to operate on Windows XP and Vista (in Protected Mode on Vista). For the Windows XP settings, see: http://csrc.nist.gov/itsec/guidance_WinXP.html, and for the Windows Vista settings, see: http://csrc.nist.gov/itsec/guidance_vista.html. The standard installation, operation, maintenance, updates, and/or patching of software shall not alter the configuration settings from the approved FDCC configuration. The information technology should also use an installer service for installation to the default "program files" directory and should be able to silently install and uninstall. Applications designed for normal end users shall run in the standard user context without elevated system administration privileges.

Publisher shall also certify that any subsequent product/module for the life of the agreement is/are fully functional and operate correctly as intended on systems using Federal Desktop Core Configuration (FDCC) prior to any product/module revisions being made available for Government use. Further, the Publisher shall maintain operability with FDCC standards as they evolve.

4. **Net-Centricity.** The Department of Defense is transforming the way information is managed to accelerate decision-making, improve joint warfighting and create intelligence advantages. To reach this "Net-Centric" state, DoD must exploit advancing technologies that move the enterprise from an application centric to a data-centric paradigm. DoD ESI vendor partners are encouraged to use the OSD NII DCIO Net-Centric Checklist, located at http://www.defenselink.mil/cio-nii/docs/NetCentric_Checklist_v2-1-3_.pdf, to provide information on the Net-Centric posture of their IT products and services.

5. **Section 508 of the Rehabilitation Act Compliance.** All products provided under this BPA must meet the applicable accessibility standards at 36 CFR Part 1194 as required by FAR Case 1999-607. General information regarding the Section 508 Act can be found at the web site www.section508.gov. The Contractor's Section 508 compliancy information can be found at <http://www.xacta.com/resources/>.

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

The following FAR/DFARS clauses and provisions are hereby incorporated by reference with the same force and effect as if it was given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at these addresses:

<http://www.acq.osd.mil/dpap/dars/dfars/index.htm>

<http://acquisition.gov/comp/far/index.html>

<http://farsite.hill.af.mil/>

252.204-7000 Disclosure of Information (DEC 1991)

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

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

252.232-7009 Mandatory Payment by Governmentwide Commercial Purchase Card (DEC 2006)

252.232-7010 Levies on Contract Payments (DEC 2006)

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

252.212-7001 Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items (JAN 2009)

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

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

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

252.203-7000 Requirements Relating to Compensation of Former DoD Officials (JAN 2009) (Section 847 of Pub. L. 110-181).

- 252.205-7000 Provision of Information to Cooperative Agreement Holders (DEC 1991) (10 U.S.C. 2416).
- 252.219-7003 Small Business Subcontracting Plan (DoD Contracts (APR 2007) (15 U.S.C. 637).
- 252.219-7004 Small Business Subcontracting Plan (Test Program) (AUG 2008) (15 U.S.C. 637 note).
- 252.225-7001 Buy American Act and Balance of Payments Program (JAN 2009) (41 U.S.C. 10a-10d, E.O. 10582).
- 252.225-7012 Preference for Certain Domestic Commodities (DEC 2008) (10 U.S.C. 2533a).
- 252.225-7014 Preference for Domestic Specialty Metals (JUN 2005) (10 U.S.C. 2533a).
- 252.225-7015 Restriction on Acquisition of Hand or Measuring Tools (JUN 2005) (10 U.S.C. 2533a).
- 252.225-7016 Restriction on Acquisition of Ball and Roller Bearings (MAR 2006) (Section 8065 of Pub. L. 107-117 and the same restriction in subsequent DoD appropriations acts).
- 252.225-7021 Trade Agreements (NOV 2008) (19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note).
- 252.225-7027 Restriction on Contingent Fees for Foreign Military Sales (APR 2003) (22 U.S.C. 2779).
- 252.225-7028 Exclusionary Policies and Practices of Foreign Governments (APR 2003) (22 U.S.C. 2755).
- 252.225-7036 (i) Buy American Act--Free Trade Agreements--Balance of Payments Program (JAN 2009) (41 U.S.C. 10a-10d and 19 U.S.C. 3301 note).
- (ii) Alternate I (OCT 2006) of 252.225-7036.
- 252.225-7038 Restriction on Acquisition of Air Circuit Breakers (JUN 2005) (10 U.S.C. 2534(a)(3)).
- 252.226-7001 Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (SEP 2004) (Section 8021 of Public Law 107-248 and similar sections in subsequent DoD appropriations acts).
- 252.227-7015 Technical Data--Commercial Items (NOV 1995) (10 U.S.C.

2320).

- 252.227-7037 Validation of Restrictive Markings on Technical Data (SEP 1999) (10 U.S.C. 2321).
- 252.232-7003 Electronic Submission of Payment Requests and Receiving Reports (MAR 2008) (10 U.S.C. 2227).
- 252.237-7019 Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Pub. L. 108-375).
- 252.243-7002 Requests for Equitable Adjustment (MAR 1998) (10 U.S.C. 2410).
- 252.247-7023
 - (i) Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).
 - (ii) Alternate I (MAR 2000) of 252.247-7023.
 - (iii) Alternate II (MAR 2000) of 252.247-7023.
 - (iv) Alternate III (MAY 2002) of 252.247-7023.
- 252.247-7024 Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

(c) In addition to the clauses listed in paragraph (e) of the Contract Terms and Conditions Required to Implement Statutes or Executive Orders--Commercial Items clause of this contract (FAR 52.212-5), the Contractor shall include the terms of the following clauses, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

- 252.225-7014 Preference for Domestic Specialty Metals, Alternate I (APR 2003) (10 U.S.C. 2533a).
- 252.237-7019 Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Pub. L. 108-375).
- 252.247-7023 Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).
- 252.247-7024 Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

The following tables represent the ESI Enterprise Software Agreement discounts below Telos' GSA offering.

Xacta IA Product Offering	BPA Disc Price < \$5M	BPA Disc Price \$5M--\$10M	BPA Disc Price \$10M- <\$15M	BPA Disc Price \$15M+
Xacta IA Manager Software To include Assessment Engine subscriptions and perpetual licenses, Process Enforcer, Continuous Assessment, annual maintenance, reinstatement of maintenance, and automated vulnerability management subscriptions.	13.3%	18.4%	23.5%	28.6%
Xacta Quick Start Installation - Xacta personnel provide on-site* Xacta IA Manager installation and initial configuration service. (XACTA-QUICK) *This on-site installation service includes CONUS travel booked two-weeks in advance of installation date. NOTE: This entire Lot item is invoiced after initial installation.	BPA Disc Price			
	5.0%			

NOTE:

- Discounts apply only to new licenses/maintenance purchased after each threshold has been reached and are not retroactive to previously sold licenses/maintenance (ie: The first licenses/maintenance up to \$5M will be discounted 13.3% below GSA. Licenses/maintenance become discounted at 18.4% only after reaching the \$5M threshold.) Professional services and training will be discounted based upon their own discount schedule.
- Xacta Quick Start offering is not eligible for cumulative discounts.
- Discounts are applied to GSA price. Resulting BPA price will include the ACT Fee.

Automated Messaging (AMHS) Product Offering	BPA Disc Price 1 - 4	BPA Disc Price 5 +
AMHS - family product line to include: small, medium, and large hardware and software suites, automatic failover suite, user packs, certificate reader, legacy interface, lab suite, Tactical messaging capability, and upgrades	5%	5%
AMHS Maintenance - annual maintenance for small, medium, and large suites, as well as applicable reinstatement of maintenance fees.	5%	5%
AMHS Regional Messaging Node - product line items	10%	40%
AMHS Regional Messaging Node - annual maintenance	5%	5%
AMHS Regional Messaging Node - reinstatement of maintenance	5%	5%

NOTE:

- Discounts apply only at time of purchase and are not cumulative to quantities purchased previously.
- Discounts are applied to GSA price. Resulting BPA price will include the ACT Fee.

Professional Services	BPA Disc Price
All Professional Services	2.1%

NOTE:

- Orders for professional services will be placed in accordance with the instructions contained in Telos' GSA Schedule.
- Orders for professional services may be time and material (T&M) or firm-fixed price (FFP).
- Professional services are subject to an annual economic adjustment as reflected in the Telos' GSA Schedule.
- Additional spot discounting may be offered on an individual order basis.
- Discounts are applied to GSA price. Resulting BPA price will include the ACT Fee.

Training	BPA Disc Price
Xacta IA Manager Training Credits	5.0%
AMHS Training	5.0%

NOTE:

- Discounts are applied to GSA price. Resulting BPA price will include the ACT Fee.

Attachment 2 – License Agreement(s)

2.1 Software License Agreement for Automated Message Handling System

2.2 Automated Message Handling System Software License Agreement for Regional Nodes

2.3 Telos AMHS Lab License – Terms of License

2.4 Perpetual Software License Agreement for Xacta IA Manager

Attachment 2.1

Software License Agreement for Automated Message Handling System



**Software License Agreement
For
Automated Message Handling System**

This SOFTWARE LICENSE AGREEMENT (“SLA”) is made between Telos Corporation, a Maryland corporation, with offices at 19886 Ashburn Road, Ashburn, Virginia 20147 (“Telos”) and Licensee.

NOTICE – READ BEFORE INSTALLING

CAREFULLY READ THE TERMS AND CONDITIONS OF THIS SLA BEFORE INSTALLING THE SOFTWARE. INSTALLATION OF THE SOFTWARE INDICATES YOUR ACCEPTANCE OF THESE TERMS AND CONDITIONS. IF YOU DO NOT AGREE WITH THE TERMS AND CONDITIONS, DO NOT INSTALL THE SOFTWARE AND PROMPTLY RETURN THE SOFTWARE TO TELOS FOR A REFUND OF THE AMOUNT PAID.

WHEREAS Telos has licensing rights in certain of the designated computer programs ("Programs" as further hereinafter defined); and

WHEREAS, the licensed Program contains Telos proprietary technology and embeds third party software including portions of products licensed by Telos with the rights to Licensee;

NOW, THEREFORE, in consideration of the premises and mutual covenants hereinafter set forth and other good and valuable consideration, the adequacy of which is hereby acknowledged, the parties agree as follows:

1. **Definitions.**

1.1 **Program** means a) the Object Code version of the Telos computer software and related documentation as originally licensed from Telos, including all product components and subsequent releases provided by Telos under the terms of this SLA for use in connection with or replacement of the certain specified software; and, b) third party software and any enhancements and features added to the Program, and other Program components developed or acquired by Telos and provided to Licensee under this SLA. The term "Program" includes documentation and related materials pertinent to such Program and any updated Program.

1.2 **Ordering Document** means a document authorizing the purchase of Telos Program license(s) and Support.

1.3 **Object Code** means the form of a computer program resulting from the translation or processing of Program Source Code by a computer into machine language or intermediate code, which is not convenient to human understanding of the program logic, but which is appropriate for execution or interpretation by a computer.

1.4 **Source Code** means a form of a computer program in which the program logic is easily deduced by a human being, such as a printed listing of the Program, or in an encoded machine-readable form, such as might be recorded on magnetic disk or tape, from which a printed listing can be made by processing it with a computer.

2. **License.**

2.1 For any Program set forth in Exhibit A to this SLA, Telos hereby grants to Licensee, and Licensee hereby accepts from Telos, a non-exclusive, nontransferable royalty-bearing run-time license in Object Code form only, solely to load and execute the licensed Program on a single designated computer system at Licensee's premises identified in an Ordering Document.

2.2 Licensee is permitted to copy the Program only to the extent necessary to so load and execute the Program, and to make one (1) backup or archival copy of the Program.

2.3 Licensee understands and agrees that title to and ownership of the Program, including all copies of the Programs, is not conveyed or transferred to Licensee by the SLA. All rights in the Program, including trade secrets, intellectual property, patents, and copyrights are retained by Telos and its third party licensors and do not pass to Licensee. Licensee acknowledges that Telos may hold a license to, rather than ownership of, some or all of the Program and documentation provided under this SLA. Licensee agrees that its obligations to Telos set forth in this agreement shall be deemed to be for the benefit of Telos and/or its third party licensors as appropriate for the protection of the Program.

2.4 Licensee shall not remove or alter any trademark, copyright, or other proprietary notice contained on or in the Program. The inclusion of a copyright notice on any Program or documentation shall not cause, or be construed to cause, it to be a published work.

2.5 Licensee shall not modify, adapt, translate, reverse engineer, decompile, disassemble, or create derivative works based on the Program. Licensee shall not modify, translate, adapt, or create derivative works based on the documentation provided by Telos in connection with the Program.

2.6 Licensee shall not copy the Program except as required for installation and for archival storage to ensure against loss of the Program. Any and all copyright or other proprietary notices on the Program must be included on the archival copy.

3. **Transfer and Assignment.**

3.1 A Program may be transferred to another site only with the prior written consent of Telos. A Program may be transferred without cost or prior consent from one designated computer system to another at the same site.

3.2 The rights granted herein are restricted for use solely by Licensee and may not be assigned or transferred to a third party without the prior written permission of Telos.

4. **Payment.**

Unless different payment terms are agreed to in writing between the parties, payment of license fees is due to Telos within thirty (30) calendar days from the date of Telos' invoice. All amounts are payable in U.S. Dollars by check or money order to Telos. Licensee shall pay all applicable shipping charges and sales, use, personal property or similar taxes, tariffs or governmental charges, exclusive of Telos' income tax. If Telos is required to pay any taxes on the income or revenue for which Licensee is responsible hereunder, Licensee will promptly reimburse Telos such amount upon notice by Telos. Licensee must reimburse Telos for all costs incurred (including reasonable attorneys' fees) in collecting past due amounts.

5. Support.

- 5.1 Telos AMHS software shall only be installed by Telos-authorized personnel.
- 5.2 The software license fees paid include one (1) year of Support in accordance with Telos' then current technical support policy, which Telos reserves the right to modify at any time in its sole discretion, available by visiting <http://www.xacta.com/support/amhssupportdetails.cfm>.
- 5.3 Telos shall have no obligation to support the Program if Licensee modifies the Program in breach of this SLA.
- 5.4 Support will terminate unless Licensee renews Support for the next year under Telos' then current policies.

6. Proprietary Rights and Confidentiality.

- 6.1 Telos represents and warrants that the Program is and shall at all times be and remain the sole and exclusive property of Telos and the third party Licensors from which Telos has obtained the right to grant, and to grant others the right to grant sublicenses. Licensee shall derive no right, title or interest therein except as expressly set forth in this SLA.
- 6.2 All right, title and interest in the Program, subject to the ownership rights of third parties in portions of the Program and the rights granted to Licensee under Section 2, will remain in Telos.
- 6.3 Licensee agrees to protect the confidentiality of the Program and any Proprietary Information thereof (including methods or concepts utilized and the result of any benchmark tests) and all other information identified by Telos as proprietary and confidential with the same standard of care which Licensee uses to protect its own valuable trade secrets and proprietary information, but in no event less than reasonable care. Proprietary Information shall not be disclosed to any third party without the express written consent of the disclosing party (except for recipient party's employees and consultants who are bound by a written agreement with recipient party to maintain the confidentiality of such Proprietary Information in a manner consistent with this Agreement). Licensee shall have no such obligation with respect to information which:
- (1) is already or otherwise becomes publicly known through no act or failure to act of either party; or
 - (2) is lawfully received from third parties subject to no restriction of confidentiality.

7. Indemnification.

- 7.1 Telos agrees to indemnify Licensee, as limited by this paragraph, with respect to any suit, claim or proceeding brought against Licensee alleging that Licensee's use of the Program infringes a valid United States patent or copyright. Telos will defend Licensee against such claims and pay litigation costs, reasonable attorneys' fees and damages awarded by a court of competent jurisdiction if, and only if, Licensee promptly gives notice to Telos of any such suit, claim or proceeding and cooperates with Telos in the defense or settlement of such action; and provided that Telos shall have control thereof.
- 7.2 In the event that a permanent injunction is obtained in a court of competent jurisdiction against Licensee's continued use of the Program in a suit, claim or proceeding which Telos is defending pursuant to this paragraph, Telos shall, at its option: (1) procure for Licensee the right to continue using the portion of the Program enjoined from use; (2) replace or modify the Program so that Licensee's use is not subject to any such injunction; or (3) refund to Licensee the fee(s) paid for the Program, less a straight line depreciation assuming a useful life of five years, upon return of the product(s) to Telos. This section states the entire liability of Telos and the exclusive remedy of Licensee with respect to any alleged infringement by the Program or any part thereof.

8. Warranty.

- 8.1 For a period of ninety (90) days from the date of shipment, Telos warrants that the media on which the Program is contained will be free from defects in materials and workmanship. This warranty does not cover damage caused by improper use or neglect. To obtain warranty service during the 90-day warranty period, the Licensee may return the Program (postage paid) with a description of the problem to Telos. The defective media on which the Program is contained will be replaced at no additional charge to the Licensee.
- 8.2 TELOS DISCLAIMS ANY AND ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT TO THE CONTRARY: (1) THE PROGRAM AND DOCUMENTATION ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NONINFRINGEMENT, QUIET ENJOYMENT, LEVEL OF SECURITY, ACCURACY OR SYSTEM INTEGRATION, AND (2) THE ENTIRE RISK AS TO THE QUALITY, ACCURACY, INFRINGEMENT AND PERFORMANCE OF THE PROGRAM IS WITH LICENSEE. TELOS DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE PROGRAMS WILL MEET LICENSEE'S REQUIREMENTS OR THOSE OF ANY THIRD PARTY, OR THAT THE PROGRAMS WILL BE ERROR FREE.

8.3 IN NO EVENT SHALL TELOS BE LIABLE TO LICENSEE, ITS AFFILIATES, DIVISIONS, LICENSEES, CUSTOMERS, EMPLOYEES, OR ANY OTHER PARTIES, FOR ANY DAMAGES, INCLUDING WITHOUT LIMITATION, LOST PROFITS, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES, ARISING OUT OF THE SALE, LICENSING, USE OF PERFORMANCE OF THE PROGRAM AND DOCUMENTATION, EVEN IF TELOS IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. Limitation of Liability.

SUBJECT TO THE LIMITATIONS AND EXCLUSIONS SET FORTH IN THIS SLA, TELOS' LIABILITY FOR ANY LOSSES OR DAMAGES OF ANY NATURE ARISING FROM THE DESIGN OR USE OF THE PROGRAM OR DOCUMENTATION SHALL BE LIMITED TO THE AMOUNT OF FEES AND/OR ROYALTIES PAID TO TELOS UNDER THIS SLA.

10. Termination.

Telos may terminate this SLA or withhold Support of the Program if Licensee fails to make any payment when due to Telos and such failure is not cured within thirty (30) days after written notice that payment is past due. Either party may terminate this SLA upon any other material breach of this SLA by the other party, which if remediable, has not been corrected within thirty (30) days after written notice. On termination, all licenses granted hereunder shall terminate, Licensee shall cease using the Program and documentation, and Licensee shall certify in writing to Telos that all copies (in any form or media) have been destroyed or returned to Telos. Termination shall not relieve the Licensee from paying all fees accruing prior to termination and shall not limit either party from pursuing any other available remedies. Sections 2.3, 3.2, 4, 6, 7, 8.2, 8.3, 9, 10, and 11.7 shall survive termination of this SLA.

11. Miscellaneous.

11.1 This SLA and the license herein granted shall not be assignable by Licensee without the prior, written consent of Telos, which consent shall not be unreasonably withheld, except that this SLA may be assigned to a party's affiliates or to a purchaser of substantially all of the assets of the business to which this SLA pertains.

11.2 If any term or provision of this SLA shall be determined by a court of competent jurisdiction to be invalid, the remaining terms and provisions shall remain in effect.

11.3 If the license is acquired under a U.S. Government contract or in some other manner is lawfully acquired by the U.S. Government, the Licensee shall gain no greater or lesser rights than any other licensee. By accepting delivery of the Programs, the Licensee agrees that the Programs qualify as "commercial" computer software within the meaning of FAR Part 12.212, and DFARS Part 227.7202-1.

11.4 All notices, certificates, acknowledgments, demands, requests or communications hereunder shall be in writing and shall be deemed properly delivered when delivered in person, or duly mailed by registered or certified letter to the other party at the address that party shall have last furnished in writing to the other, or to such other address as either party may, by written notice, designate to the other.

11.5 This agreement shall not be amended or modified, nor shall any waiver for any right hereunder be effective unless set forth in a document executed by duly authorized representatives of both Telos and Licensee. The waiver of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, or condition or any subsequent breach of the same or any other term, covenant, or condition herein contained.

11.6 This agreement constitutes the entire understanding of the parties hereto and supersedes and replaces any and all previous and contemporaneous understandings, commitments, or agreement(s), oral or written, related to the subject matter of this agreement.

11.7 Licensee shall not transfer, directly or indirectly, any restricted Program or technical data received from Telos or the direct product of such data, to any destination subject to export restrictions under U.S. law, unless prior written authorization is obtained from the appropriate U.S. agency.

11.8 Except for injunctive relief relating to any unauthorized use or transfer of the Program by Licensee, any dispute or controversy arising out of or relating to this SLA, or any modification or extension thereof, including any claim for damages, restitution or specific performance, rescission or reformation, or any combination of such remedies, shall be settled by arbitration, in accordance with the Commercial Arbitration Rules of the American Arbitration Association and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

11.9 This Agreement shall be construed in accordance with the laws of the Commonwealth of Virginia.

12. Order of Precedence.

Any inconsistencies between this SLA and other documents shall be resolved by giving precedence to this SLA.

EXHIBIT A

AMHS System Software which includes:

- Telos AMHS Software, Current Version
- Verity K2 Information Server, Microsoft compatible version
- Verity K2 Profiler, Microsoft compatible version

Annual Maintenance on each component: Included in license fees for first year. Thereafter, annual maintenance fees are incorporated into the overall AMHS maintenance package and not separately priced or available.

Attachement 2.2

Automated Message Handling System Software License Agreement for Regional Nodes



**Automated Message Handling System
Software License Agreement
For
Regional Nodes**

This SOFTWARE LICENSE AGREEMENT (“SLA”) is made between Telos Corporation, a Maryland corporation, with offices at 19886 Ashburn Road, Ashburn, Virginia 20147 (“Telos”) and Licensee.

NOTICE – READ BEFORE INSTALLING

CAREFULLY READ THE TERMS AND CONDITIONS OF THIS SLA BEFORE INSTALLING THE SOFTWARE. INSTALLATION OF THE SOFTWARE INDICATES YOUR ACCEPTANCE OF THESE TERMS AND CONDITIONS. IF YOU DO NOT AGREE WITH THE TERMS AND CONDITIONS, DO NOT INSTALL THE SOFTWARE AND PROMPTLY RETURN THE SOFTWARE TO TELOS FOR A REFUND OF THE AMOUNT PAID.

WHEREAS Telos has licensing rights in certain of the designated computer programs (“Programs” as further hereinafter defined); and

WHEREAS, the licensed Program contains Telos proprietary technology and embeds third party software including portions of products licensed by Telos with the rights to Licensee;

NOW, THEREFORE, in consideration of the premises and mutual covenants hereinafter set forth and other good and valuable consideration, the adequacy of which is hereby acknowledged, the parties agree as follows:

1. Definitions.

1.1 **Program** means a) the Object Code version of the Telos computer software and related documentation as originally licensed from Telos, including all product components and subsequent releases provided by Telos under the terms of this SLA for use in connection with or replacement of the certain specified software; and, b) third party software and any enhancements and features added to the Program, and other Program components developed or acquired by Telos and provided to Licensee under this SLA. The term “Program” includes documentation and related materials pertinent to such Program and any updated Program.

1.2 **Ordering Document** means a document authorizing the purchase of Telos Program license(s) and Support.

1.3 **Object Code** means the form of a computer program resulting from the translation or processing of Program Source Code by a computer into machine language or intermediate code, which is not convenient to human understanding of the program logic, but which is appropriate for execution or interpretation by a computer.

1.4 **Source Code** means a form of a computer program in which the program logic is easily deduced by a human being, such as a printed listing of the Program, or in an encoded machine-readable form, such as might be recorded on magnetic disk or tape, from which a printed listing can be made by processing it with a computer.

1.5 **Regional Node** means a Licensee’s a) hierarchical organizational structure or b) geographic organizational structure utilizing the Program as defined in an Ordering Document.

2. License.

2.1 For any Program set forth in Exhibit A to this SLA, Telos hereby grants to Licensee, and Licensee hereby accepts from Telos, a non-exclusive, nontransferable royalty-bearing run-time license in Object Code form only, solely to load and execute the licensed Program on a designated computer system or multiple systems within a Regional Node identified in an Ordering Document. Telos must be informed in writing and approve of any changes to the Regional Node identified in the Ordering Document. If any approved changes to the Regional Node result in a change to the license fees, Telos will so notify Licensee and Licensee will modify the Ordering Document accordingly. The Regional Node License also includes permission to load the software at one backup site other than the primary Regional Node.

The use of the software at the backup site is limited to support continuing operations should the primary site experience a failure and deem it necessary to transfer responsibility to the contingency site. The backup site and primary site cannot both be supporting user accounts simultaneously except for short periods of time as may be necessary to effect the transition from one to the other.

2.2 Licensee is permitted to copy the Program only to the extent necessary to so load and execute the Program, and to make backup or archival copies of the Program.

2.3 Licensee understands and agrees that title to and ownership of the Program, including all copies of the Programs, is not conveyed or transferred to Licensee by the SLA. All rights in the Program, including trade secrets, intellectual property, patents, and copyrights are retained by Telos and its third party licensors and do not pass to Licensee. Licensee acknowledges that Telos may hold a license to, rather than ownership of, some or all of the Program and documentation provided under this SLA. Licensee agrees that its obligations to Telos set forth in this agreement shall be deemed to be for the benefit of Telos and/or its third party licensors as appropriate for the protection of the Program.

2.4 Licensee shall not remove or alter any trademark, copyright, or other proprietary notice contained on or in the Program. The inclusion of a copyright notice on any Program or documentation shall not cause, or be construed to cause, it to be a published work.

2.5 Licensee shall not modify, adapt, translate, reverse engineer, decompile, disassemble, or create derivative works based on the Program. Licensee shall not modify, translate, adapt, or create derivative works based on the documentation provided by Telos in connection with the Program.

2.6 Licensee shall not copy the Program except as required for installation and for archival storage to ensure against loss of the Program. Any and all copyright or other proprietary notices on the Program must be included on the archival copy.

3. Transfer and Assignment.

3.1 A Program may be transferred outside the Regional Node only with the prior written consent of Telos. A Program may be transferred without cost or prior consent from one designated computer system to another within the same Regional Node.

3.2 The rights granted herein are restricted for use solely by Licensee and may not be assigned or transferred to a third party without the prior written permission of Telos.

4. Payment.

Unless different payment terms are agreed to in writing between the parties, payment of license fees is due to Telos within thirty (30) calendar days from the date of Telos' invoice. All amounts are payable in U.S. Dollars by check or money order to Telos. Licensee shall pay all applicable shipping charges and sales, use, personal property or similar taxes, tariffs or governmental charges, exclusive of Telos' income tax. If Telos is required to pay any taxes on the income or revenue for which Licensee is responsible hereunder, Licensee will promptly reimburse Telos such amount upon notice by Telos. Licensee must reimburse Telos for all costs incurred (including reasonable attorneys' fees) in collecting past due amounts.

5. Support.

5.1 Telos AMHS software shall only be installed by Telos-authorized personnel.

5.2 The software license fees paid include one (1) year of Support in accordance with Telos' then current technical support policy, which Telos reserves the right to modify at any time in its sole discretion, available by visiting <http://www.xacta.com/support/amhssupportdetails.cfm>.

5.3 Telos shall have no obligation to support the Program if Licensee modifies the Program in breach of this SLA.

5.4 Support will terminate unless Licensee renews Support for the next year under Telos' then current policies.

6. Proprietary Rights and Confidentiality.

6.1 Telos represents and warrants that the Program is and shall at all times be and remain the sole and exclusive property of Telos and the third party Licensors from which Telos has obtained the right to grant, and to grant others the right to grant sublicenses. Licensee shall derive no right, title or interest therein except as expressly set forth in this SLA.

6.2 All right, title and interest in the Program, subject to the ownership rights of third parties in portions of the Program and the rights granted to Licensee under Section 2, will remain in Telos.

6.3 Licensee agrees to protect the confidentiality of the Program and any Proprietary Information thereof (including methods or concepts utilized and the result of any benchmark tests) and all other information identified by Telos as proprietary and confidential with the same standard of care which Licensee uses to protect its own valuable trade secrets and proprietary information, but in no event less than reasonable care. Proprietary Information shall not be disclosed to any third party without the express written consent of the disclosing party (except for recipient party's employees and consultants who are bound by a written agreement with recipient party to maintain the confidentiality of

such Proprietary Information in a manner consistent with this Agreement). Licensee shall have no such obligation with respect to information which:

- (1) is already or otherwise becomes publicly known through no act or failure to act of either party; or
- (2) is lawfully received from third parties subject to no restriction of confidentiality.

7. Indemnification.

7.1 Telos agrees to indemnify Licensee, as limited by this paragraph, with respect to any suit, claim or proceeding brought against Licensee alleging that Licensee's use of the Program infringes a valid United States patent or copyright. Telos will defend Licensee against such claims and pay litigation costs, reasonable attorneys' fees and damages awarded by a court of competent jurisdiction if, and only if, Licensee promptly gives notice to Telos of any such suit, claim or proceeding and cooperates with Telos in the defense or settlement of such action; and provided that Telos shall have control thereof.

7.2 In the event that a permanent injunction is obtained in a court of competent jurisdiction against Licensee's continued use of the Program in a suit, claim or proceeding which Telos is defending pursuant to this paragraph, Telos shall, at its option: (1) procure for Licensee the right to continue using the portion of the Program enjoined from use; (2) replace or modify the Program so that Licensee's use is not subject to any such injunction; or (3) refund to Licensee the fee(s) paid for the Program, less a straight line depreciation assuming a useful life of five years, upon return of the product(s) to Telos. This section states the entire liability of Telos and the exclusive remedy of Licensee with respect to any alleged infringement by the Program or any part thereof.

8. Warranty.

8.1 For a period of ninety (90) days from the date of shipment, Telos warrants that the media on which the Program is contained will be free from defects in materials and workmanship. This warranty does not cover damage caused by improper use or neglect. To obtain warranty service during the 90-day warranty period, the Licensee may return the Program (postage paid) with a description of the problem to Telos. The defective media on which the Program is contained will be replaced at no additional charge to the Licensee.

8.4 TELOS DISCLAIMS ANY AND ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT TO THE CONTRARY: (1) THE PROGRAM AND DOCUMENTATION ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NONINFRINGEMENT, QUIET ENJOYMENT, LEVEL OF SECURITY, ACCURACY OR SYSTEM INTEGRATION, AND (2) THE ENTIRE RISK AS TO THE QUALITY, ACCURACY, INFRINGEMENT AND PERFORMANCE OF THE PROGRAM IS WITH LICENSEE. TELOS DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE PROGRAMS WILL MEET LICENSEE'S REQUIREMENTS OR THOSE OF ANY THIRD PARTY, OR THAT THE PROGRAMS WILL BE ERROR FREE.

8.5 IN NO EVENT SHALL TELOS BE LIABLE TO LICENSEE, ITS AFFILIATES, DIVISIONS, LICENSEES, CUSTOMERS, EMPLOYEES, OR ANY OTHER PARTIES, FOR ANY DAMAGES, INCLUDING WITHOUT LIMITATION, LOST PROFITS, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES, ARISING OUT OF THE SALE, LICENSING, USE OF PERFORMANCE OF THE PROGRAM AND DOCUMENTATION, EVEN IF TELOS IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. Limitation of Liability.

SUBJECT TO THE LIMITATIONS AND EXCLUSIONS SET FORTH IN THIS SLA, TELOS' LIABILITY FOR ANY LOSSES OR DAMAGES OF ANY NATURE ARISING FROM THE DESIGN OR USE OF THE PROGRAM OR DOCUMENTATION SHALL BE LIMITED TO THE AMOUNT OF FEES AND/OR ROYALTIES PAID TO TELOS UNDER THIS SLA.

10. Termination.

Telos may terminate this SLA or withhold Support of the Program if Licensee fails to make any payment when due to Telos and such failure is not cured within thirty (30) days after written notice that payment is past due. Either party may terminate this SLA upon any other material breach of this SLA by the other party, which if remediable, has not been corrected within thirty (30) days after written notice. On termination, all licenses granted hereunder shall terminate, Licensee shall cease using the Program and documentation, and Licensee shall certify in writing to Telos that all copies (in any form or media) have been destroyed or returned to Telos. Termination shall not relieve the Licensee from paying all fees accruing prior to termination and shall not limit either party from pursuing any other available remedies. Sections 2.3, 3.2, 4, 6, 7, 8.2, 8.3, 9, 10, and 11.7 shall survive termination of this SLA.

11. Miscellaneous.

11.1 This SLA and the license herein granted shall not be assignable by Licensee without the prior, written consent of Telos, which consent shall not be unreasonably withheld, except that this SLA may be assigned to a party's affiliates or to a purchaser of substantially all of the assets of the business to which this SLA pertains.

11.2 If any term or provision of this SLA shall be determined by a court of competent jurisdiction to be invalid, the remaining terms and provisions shall remain in effect.

11.3 If the license is acquired under a U.S. Government contract or in some other manner is lawfully acquired by the U.S. Government, the Licensee shall gain no greater or lesser rights than any other licensee. By accepting delivery of the Programs, the Licensee agrees that the Programs qualify as "commercial" computer software within the meaning of FAR Part 12.212, and DFARS Part 227.7202-1.

11.4 All notices, certificates, acknowledgments, demands, requests or communications hereunder shall be in writing and shall be deemed properly delivered when delivered in person, or duly mailed by registered or certified letter to the other party at the address that party shall have last furnished in writing to the other, or to such other address as either party may, by written notice, designate to the other.

11.5 This agreement shall not be amended or modified, nor shall any waiver for any right hereunder be effective unless set forth in a document executed by duly authorized representatives of both Telos and Licensee. The waiver of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, or condition or any subsequent breach of the same or any other term, covenant, or condition herein contained.

11.6 This agreement constitutes the entire understanding of the parties hereto and supersedes and replaces any and all previous and contemporaneous understandings, commitments, or agreement(s), oral or written, related to the subject matter of this agreement.

11.7 Licensee shall not transfer, directly or indirectly, any restricted Program or technical data received from Telos or the direct product of such data, to any destination subject to export restrictions under U.S. law, unless prior written authorization is obtained from the appropriate U.S. agency.

11.8 Except for injunctive relief relating to any unauthorized use or transfer of the Program by Licensee, any dispute or controversy arising out of or relating to this SLA, or any modification or extension thereof, including any claim for damages, restitution or specific performance, rescission or reformation, or any combination of such remedies, shall be settled by arbitration, in accordance with the Commercial Arbitration Rules of the American Arbitration Association and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

11.9 This Agreement shall be construed in accordance with the laws of the Commonwealth of Virginia.

12. Order of Precedence.

Any inconsistencies between this SLA and other documents shall be resolved by giving precedence to this SLA.

EXHIBIT A

AMHS System Software which includes:

- Telos AMHS Software, Current Version
- Verity K2 Information Server, Microsoft compatible version
- Verity K2 Profiler, Microsoft compatible version

Annual Maintenance on each component: Included in license fees for first year. Thereafter, annual maintenance fees are incorporated into the overall AMHS maintenance package and not separately priced or available.

Attachment 2.3

Telos AMHS Lab License – Terms of License



TERMS OF LICENSE

TELOS AMHS Laboratory License at _____

Notwithstanding section 2 and Exhibit A of the Software License Agreement for Automated Message Handling System, the following license grant shall take precedence over the SLA for AMHS.

Telos will provide a fully licensed AMHS system for the _____, located in _____. The license package provided with this proposal includes the following:

- Telos AMHS _____ Software
- Verity K2 and Profiler software embedded in the Telos AMHS
- Third Party Software
- First year maintenance for both Telos and Verity Software

The Telos AMHS license granted is a special license to be used in a laboratory environment only and cannot be used for operational purposes. In the context of this contract, laboratory use includes such activities as test, product evaluation, training, troubleshooting and problem identification, and replication of problems for study. The system cannot be used in support of day-to-day operation by non-laboratory personnel. Under this definition, the precise number of accounts allowable on the system may vary, although it is currently listed to no more than _____. Should additional accounts be required, Telos may increase the number of accounts allowable upon receipt of government's official written request and explanation for such need. Laboratory personnel includes government personnel and contractors assigned to the laboratory branch or those individuals at the installation with the need for continuing access to the laboratory who perform or observe the activities, or similar activities, listed above.

All other terms and conditions of the following Software License Agreement for AMHS shall remain in effect and unchanged.

SOFTWARE LICENSE AGREEMENT FOR AUTOMATED MESSAGE HANDLING SYSTEM

This SOFTWARE LICENSE AGREEMENT ("SLA") is made between Telos Corporation, a Maryland corporation, with offices at 19886 Ashburn Road, Ashburn, VA 20147 ("Telos") and Licensee.

NOTICE – READ BEFORE INSTALLING

CAREFULLY READ THE TERMS AND CONDITIONS OF THIS SLA BEFORE INSTALLING THE SOFTWARE. INSTALLATION OF THE SOFTWARE INDICATES YOUR ACCEPTANCE OF THESE TERMS AND CONDITIONS. IF YOU DO NOT AGREE WITH THE TERMS AND CONDITIONS, DO NOT INSTALL THE SOFTWARE AND PROMPTLY RETURN THE SOFTWARE TO TELOS FOR A REFUND OF THE AMOUNT PAID.

WHEREAS Telos has licensing rights in certain of the designated computer programs ("Programs" as further hereinafter defined); and

WHEREAS, the licensed Program contains Telos proprietary technology and embeds third party software including portions of products licensed by Telos with the rights to Licensee;

NOW, THEREFORE, in consideration of the premises and mutual covenants hereinafter set forth and other good and valuable consideration, the adequacy of which is hereby acknowledged, the parties agree as follows:

1. Definitions.

1.1 **Program** means a) the Object Code version of the Telos computer software and related documentation as originally licensed from Telos, including all product components and subsequent releases provided by Telos under the terms of this SLA for use in connection with or replacement of the certain specified software; and, b) third party software and any enhancements and features added to the Program, and other Program components developed or acquired by Telos and provided to Licensee under this SLA. The term "Program" includes documentation and related materials pertinent to such Program and any updated Program.

1.2 **Ordering Document** means a document authorizing the purchase of Telos Program license(s) and Support.

1.3 **Object Code** means the form of a computer program resulting from the translation or processing of Program Source Code by a computer into machine language or intermediate code, which is not convenient to human understanding of the program logic, but which is appropriate for execution or interpretation by a computer.

1.4 **Source Code** means a form of a computer program in which the program logic is easily deduced by a human being, such as a printed listing of the Program, or in an encoded machine-readable form, such as might be recorded on magnetic disk or tape, from which a printed listing can be made by processing it with a computer.

2. License.

2.1 For any Program set forth in Exhibit A to this SLA, Telos hereby grants to Licensee, and Licensee hereby accepts from Telos, a non-exclusive, nontransferable royalty-bearing run-time license in Object Code form only, solely to load and execute the licensed Program on a single designated computer system at Licensee's premises identified in an Ordering Document.

2.2 Licensee is permitted to copy the Program only to the extent necessary to so load and execute the Program, and to make one (1) backup or archival copy of the Program.

2.3 Licensee understands and agrees that title to and ownership of the Program, including all copies of the Programs, is not conveyed or transferred to Licensee by the SLA. All rights in the Program, including trade secrets, intellectual property, patents, and copyrights are retained by Telos and its third party licensors and do not pass to Licensee. Licensee acknowledges that Telos may hold a license to, rather than ownership of, some or all of the Program and documentation provided under this SLA. Licensee agrees that its obligations to Telos set forth in this agreement shall be deemed to be for the benefit of Telos and/or its third party licensors as appropriate for the protection of the Program.

2.4 Licensee shall not remove or alter any trademark, copyright, or other proprietary notice contained on or in the Program. The inclusion of a copyright notice on any Program or documentation shall not cause, or be construed to cause, it to be a published work.

2.5 Licensee shall not modify, adapt, translate, reverse engineer, decompile, disassemble, or create derivative works based on the Program. Licensee shall not modify, translate, adapt, or create derivative works based on the documentation provided by Telos in connection with the Program.

2.6 Licensee shall not copy the Program except as required for installation and for archival storage to ensure against loss of the Program. Any and all copyright or other proprietary notices on the Program must be included on the archival copy.

3. Transfer and Assignment.

3.1 A Program may be transferred to another site only with the prior written consent of Telos. A Program may be transferred without cost or prior consent from one designated computer system to another at the same site.

3.2 The rights granted herein are restricted for use solely by Licensee and may not be assigned or transferred to a third party without the prior written permission of Telos.

4. Payment.

Unless different payment terms are agreed to in writing between the parties, payment of license fees is due to Telos within thirty (30) calendar days from the date of Telos' invoice. All amounts are payable in U.S. Dollars by check or money order to Telos. Licensee shall pay all applicable shipping charges and sales, use, personal property or similar taxes, tariffs or governmental charges, exclusive of Telos' income tax. If Telos is required to pay any taxes on the income or revenue for which Licensee is responsible hereunder, Licensee will promptly reimburse Telos such amount upon notice by Telos. Licensee must reimburse Telos for all costs incurred (including reasonable attorneys' fees) in collecting past due amounts.

5. **Support.**

- 5.1 Telos AMHS software shall only be installed by Telos-authorized personnel.
- 5.2 The software license fees paid include one (1) year of Support in accordance with Telos' then current technical support policy, which Telos reserves the right to modify at any time in its sole discretion, available by visiting <http://www.xacta.com/support/amhssupportdetails.cfm>.
- 5.3 Telos shall have no obligation to support the Program if Licensee modifies the Program in breach of this SLA.
- 5.4 Support will terminate unless Licensee renews Support for the next year under Telos' then current policies.

6. **Proprietary Rights and Confidentiality.**

- 6.1 Telos represents and warrants that the Program is and shall at all times be and remain the sole and exclusive property of Telos and the third party Licensors from which Telos has obtained the right to grant, and to grant others the right to grant sublicenses. Licensee shall derive no right, title or interest therein except as expressly set forth in this SLA.
- 6.2 All right, title and interest in the Program, subject to the ownership rights of third parties in portions of the Program and the rights granted to Licensee under Section 2, will remain in Telos.
- 6.3 Licensee agrees to protect the confidentiality of the Program and any Proprietary Information thereof (including methods or concepts utilized and the result of any benchmark tests) and all other information identified by Telos as proprietary and confidential with the same standard of care which Licensee uses to protect its own valuable trade secrets and proprietary information, but in no event less than reasonable care. Proprietary Information shall not be disclosed to any third party without the express written consent of the disclosing party (except for recipient party's employees and consultants who are bound by a written agreement with recipient party to maintain the confidentiality of such Proprietary Information in a manner consistent with this Agreement). Licensee shall have no such obligation with respect to information which:
- (1) is already or otherwise becomes publicly known through no act or failure to act of either party; or
 - (2) is lawfully received from third parties subject to no restriction of confidentiality.

7. **Warranty.**

- 7.1 For a period of ninety (90) days from the date of shipment, Telos warrants that the media on which the Program is contained will be free from defects in materials and workmanship. This warranty does not cover damage caused by improper use or neglect. To obtain warranty service during the 90-day warranty period, the Licensee may return the Program (postage paid) with a description of the problem to Telos. The defective media on which the Program is contained will be replaced at no additional charge to the Licensee.
- 7.2 TELOS DISCLAIMS ANY AND ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT TO THE CONTRARY: (1) THE PROGRAM AND DOCUMENTATION ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NONINFRINGEMENT, QUIET ENJOYMENT, LEVEL OF SECURITY, ACCURACY OR SYSTEM INTEGRATION, AND (2) THE ENTIRE RISK AS TO THE QUALITY, ACCURACY, INFRINGEMENT AND PERFORMANCE OF THE PROGRAM IS WITH LICENSEE. TELOS DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE PROGRAMS WILL MEET LICENSEE'S REQUIREMENTS OR THOSE OF ANY THIRD PARTY, OR THAT THE PROGRAMS WILL BE ERROR FREE.
- 7.3 IN NO EVENT SHALL TELOS BE LIABLE TO LICENSEE, ITS AFFILIATES, DIVISIONS, LICENSEES, CUSTOMERS, EMPLOYEES, OR ANY OTHER PARTIES, FOR ANY DAMAGES, INCLUDING WITHOUT LIMITATION, LOST PROFITS, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES, ARISING OUT OF THE SALE, LICENSING, USE OF PERFORMANCE OF THE PROGRAM AND DOCUMENTATION, EVEN IF TELOS IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8. **Limitation of Liability.**

SUBJECT TO THE LIMITATIONS AND EXCLUSIONS SET FORTH IN THIS SLA, TELOS' LIABILITY FOR ANY LOSSES OR DAMAGES OF ANY NATURE ARISING FROM THE DESIGN OR USE OF THE PROGRAM OR DOCUMENTATION SHALL BE LIMITED TO THE AMOUNT OF FEES AND/OR ROYALTIES PAID TO TELOS UNDER THIS SLA.

9. **Termination.**

Telos may terminate this SLA or withhold Support of the Program if Licensee fails to make any payment when due to Telos and such failure is not cured within thirty (30) days after written notice that payment is past due. Either party may terminate this SLA upon any other material breach of this SLA by the other party, which if remediable, has not been corrected within thirty (30) days after written notice. On termination, all licenses granted hereunder shall

terminate, Licensee shall cease using the Program and documentation, and Licensee shall certify in writing to Telos that all copies (in any form or media) have been destroyed or returned to Telos. Termination shall not relieve the Licensee from paying all fees accruing prior to termination and shall not limit either party from pursuing any other available remedies. Sections 2.3, 3.2, 4, 6, 7, 8.2, 8.3, 9, 10, and 11.7 shall survive termination of this SLA.

10. Miscellaneous.

10.1 This SLA and the license herein granted shall not be assignable by Licensee without the prior, written consent of Telos, which consent shall not be unreasonably withheld, except that this SLA may be assigned to a party's affiliates or to a purchaser of substantially all of the assets of the business to which this SLA pertains.

10.2 If any term or provision of this SLA shall be determined by a court of competent jurisdiction to be invalid, the remaining terms and provisions shall remain in effect.

10.3 If the license is acquired under a U.S. Government contract or in some other manner is lawfully acquired by the U.S. Government, the Licensee shall gain no greater or lesser rights than any other licensee. By accepting delivery of the Programs, the Licensee agrees that the Programs qualify as "commercial" computer software within the meaning of FAR Part 12.212, and DFARS Part 227.7202-1.

10.4 All notices, certificates, acknowledgments, demands, requests or communications hereunder shall be in writing and shall be deemed properly delivered when delivered in person, or duly mailed by registered or certified letter to the other party at the address that party shall have last furnished in writing to the other, or to such other address as either party may, by written notice, designate to the other.

10.5 This agreement shall not be amended or modified, nor shall any waiver for any right hereunder be effective unless set forth in a document executed by duly authorized representatives of both Telos and Licensee. The waiver of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, or condition or any subsequent breach of the same or any other term, covenant, or condition herein contained.

10.6 This agreement constitutes the entire understanding of the parties hereto and supersedes and replaces any and all previous and contemporaneous understandings, commitments, or agreement(s), oral or written, related to the subject matter of this agreement.

10.7 Licensee shall not transfer, directly or indirectly, any restricted Program or technical data received from Telos or the direct product of such data, to any destination subject to export restrictions under U.S. law, unless prior written authorization is obtained from the appropriate U.S. agency.

10.8 Except for injunctive relief relating to any unauthorized use or transfer of the Program by Licensee, any dispute or controversy arising out of or relating to this SLA, or any modification or extension thereof, including any claim for damages, restitution or specific performance, rescission or reformation, or any combination of such remedies, shall be settled by arbitration, in accordance with the Commercial Arbitration Rules of the American Arbitration Association and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

10.9 This Agreement shall be construed in accordance with the laws of the Commonwealth of Virginia.

11. Order of Precedence.

Any inconsistencies between this SLA and other documents (notwithstanding the AMHS Laboratory License "Terms of License") shall be resolved by giving precedence to this SLA.

EXHIBIT A

AMHS System Software which includes:

- Telos AMHS Software, Current Version
- Verity K2 Information Server, Microsoft compatible version
- Verity K2 Profiler, Microsoft compatible version

Annual Maintenance on each component: Included in license fees for first year. Thereafter, annual maintenance fees are incorporated into the overall AMHS maintenance package and not separately priced or available.

Attachement 2.4

Perpetual Software License Agreement for Xacta IA Manager

**PERPETUAL SOFTWARE LICENSE AGREEMENT
FOR
XACTA® IA MANAGER**

NOTICE – READ BEFORE INSTALLING

CAREFULLY READ THE TERMS AND CONDITIONS OF THIS SLA BEFORE INSTALLING THE SOFTWARE. INSTALLATION OF THE SOFTWARE INDICATES YOUR ACCEPTANCE OF THESE TERMS AND CONDITIONS. IF YOU DO NOT AGREE WITH THE TERMS AND CONDITIONS, DO NOT INSTALL THE SOFTWARE AND PROMPTLY RETURN THE SOFTWARE TO TELOS FOR A REFUND OF THE AMOUNT PAID.

This perpetual Software License Agreement (“Agreement”) is made between Telos® Corporation, organized under the laws of Maryland, USA (hereinafter called “Telos”), and Licensee.

WHEREAS Telos has licensing rights in certain of the designated computer programs (“Program” as further hereinafter defined); and

WHEREAS, the licensed Program contains Telos proprietary technology and embeds third party software including portions of products licensed by Telos with the rights to LICENSEE; and

WHEREAS, LICENSEE may be engaged in hosting certain computer software for providing services to computer users and systems within the LICENSEE'S enterprise;

NOW, THEREFORE, in consideration of the premises and mutual covenants hereinafter set forth and other good and valuable consideration, the adequacy of which is hereby acknowledged, the parties agree as follows:

ARTICLE 1 - DEFINITIONS

1.01 “Program” means:

(1) Telos computer program(s) and related documentation as originally licensed from Telos, including all product components, templates, and subsequent releases provided by Telos under the terms of this Agreement for use in connection with or replacement of the certain specified software; and

(2) Third party software and any enhancements and features added to the Program, and other Program components developed or acquired by Telos and provided to LICENSEE under this Agreement; and

(3) Documentation and related materials pertinent to such Program and any updated Program or portion of a Program hereinafter furnished to LICENSEE by Telos under the terms of this Agreement for use in connection with or replacement of a Program, including future enhancements and additions hereto as approved in writing by Telos and LICENSEE.

1.02 “Proprietary Information” shall mean proprietary and trade secret information embodied in software and other materials provided from one party to the other under this Agreement and not generally known or available to the public, including Data Schema, Program Source Code and Object Code, as defined below, and computer program listings, techniques, algorithms, processes, templates, manuals, training materials provided to a party under this Agreement.

1.03 “Source Code” shall mean a form of a computer program in which the program logic is easily deduced by a human being, such as a printed listing of the Program, or in an encoded machine-readable form such as might be recorded on magnetic disk or tape, from which a printed listing can be made by processing it with a computer.

1.04 “Object Code” shall mean the form of a computer program resulting from the translation or processing of Program Source Code by a computer into machine language or intermediate

code, which is not convenient to human understanding of the program logic, but which is appropriate for execution or interpretation by a computer.

1.05 The "Effective Date" of this Agreement shall be the date on the letter sent by Telos to the LICENSEE when the license purchase is processed.

1.06 "Data Schema" shall mean Telos' representation of relevant inventory information, vulnerability information, threat information, risk weighting factors, and all other data and its structure used by the Program.

1.07 "Project" shall mean the security assessment of the LICENSEE-defined system boundary. Each Project requires a valid license key, provided by Telos, that activates and enforces the functionality available within the Program. Each Project is designed to support up to a specified number of devices. Exceeding the specified number of devices could void support and maintenance. See Telos support site for details at

<http://www.telos.com/solutions/information%20assurance/support/>.

1.08 "Content Package" shall mean the template to be used for security assessment based on LICENSEE'S required or specified standards.

1.09 "Application Server" shall mean the core component of the Telos Program that performs risk and compliance calculations.

ARTICLE 2 - LICENSE GRANT

2.01 Subject to the conditions hereinafter set forth and fees paid, Telos hereby grants to LICENSEE a nonexclusive, nonrefundable, nontransferable (except pursuant to Section 7.01 herein below) perpetual license to use and display the Program only in Object Code form as follows: Application Server may be installed on a single computer; all other Program components may be installed on one or more computers as specified in the ordering document solely for its own internal business operations for the purpose of conducting the Project(s) specified in the ordering document.

2.02 Except as provided herein, no rights or licenses are granted herein to LICENSEE, expressly or by implication, to any intellectual property, patents or any applications for patent, designs or proprietary data of Telos Corporation and/or any of its subsidiaries and affiliates, including Xacta® Corporation.

2.03 This Agreement is subject to and

conditioned upon compliance with the U.S. Export Administration Act and the applicable regulations thereunder (collectively, the "U.S. Export Laws"). LICENSEE acknowledges and understands that neither the Program, nor the technical data relating to the Program, is intended to be used for any purpose prohibited by the U.S. Export Laws, including but not limited to nuclear proliferation, chemical/biological weapons or missiles. LICENSEE will not export or re-export the Program to any destination subject to export restrictions under U.S. law, unless prior written authorization is obtained from the appropriate U.S. agency.

2.04 Upon purchase by LICENSEE of annual maintenance, Telos shall provide technical support and maintenance services in accordance with the policy published at

<http://www.telos.com/solutions/information%20assurance/support/>, which Telos reserves the right to modify at any time at its sole discretion.

2.05 The Program and all copies (in whole or part) shall remain the exclusive property of Telos. LICENSEE shall not (i) modify, reverse engineer, reverse assemble, or reverse compile any Program or part thereof; (ii) create derivative works based on any Program or any part thereof; (iii) remove or alter any trademark, copyright, or other proprietary notice contained on or in the Program; (iv) use any of the Third Party Software as stand-alone applications; or (v) sublicense the Program to any third parties.

2.06 Nothing contained in this Agreement shall be construed as granting to LICENSEE any other right or license, either express or implied, except the express rights hereinabove granted.

2.07 This Agreement does not constitute nor include any sale, lease, loan or transfer of the Program, upgrades, or enhancements thereto in any form by the parties hereto.

2.08 No rights or licenses are herein granted to LICENSEE, expressly or by implication, to use the names Telos Corporation, Xacta Corporation, Xacta, or any trademark or trade name owned by Telos or Xacta, or any trademark or trade name which may cause confusion as to origin and source of manufacturer between Telos and LICENSEE.

2.09 No more often than annually, Telos may, upon reasonable notice to LICENSEE, and at Telos' expense, conduct an audit (or may direct an audit firm to conduct an audit) at LICENSEE'S facility during business hours to verify the proper use of the Program in accordance with the license granted herein. The

auditor shall protect the confidentiality of the LICENSEE's information and abide by the LICENSEE's security regulations. If use of the Program is found to be greater than that contracted for, LICENSEE will be invoiced for each additional Program at the then current published prices. If the underpaid or unpaid amount owed, as verified by the audit, is greater than 5% of the actual amount properly due, LICENSEE shall pay Telos' reasonable costs of conducting the audit.

ARTICLE 3 - CONSIDERATION

3.01 In consideration of the rights granted to LICENSEE under Article 2 herein, LICENSEE shall pay fees according to a duly authorized ordering document released against this Agreement and accepted by Telos.

3.02 LICENSEE shall be billable under an ordering document released against this Agreement and license and other fees shall be paid to Telos by LICENSEE within thirty (30) days after the invoice date. All such fees shall be free of any applicable taxes, charges, or remittance fees levied by any United States or foreign governmental agency. LICENSEE will pay all applicable sales, use, personal property or similar taxes, tariffs or governmental charges, exclusive of Telos' income tax. All fees received by Telos in foreign currencies shall be converted to United States Dollars at the exchange rates quoted in the national edition of the Wall Street Journal on the last business day of the month in which payment is due.

3.03 Telos shall deliver to LICENSEE the Content Package and the Program in accordance with the ordering document.

ARTICLE 4 - PROPRIETARY RIGHTS AND CONFIDENTIALITY

4.01 Telos represents and warrants that the Program is and shall at all times be and remain the sole and exclusive property of Telos and the third party Licensors from which Telos has obtained the right to grant, and to grant others the right to grant sublicenses. LICENSEE shall derive no right, title or interest therein except as expressly set forth in this Agreement.

4.02 All right, title and interest in the Program, subject to the ownership rights of third parties in portions of the Program and the rights granted to LICENSEE under Article 2, will remain in Telos.

4.03 LICENSEE agrees to protect the confidentiality of the Program and any Proprietary Information thereof (including methods or concepts utilized and the result of any benchmark tests) and all other information identified by Telos as proprietary and confidential with the same standard of care which LICENSEE uses to protect its own valuable trade secrets and proprietary information, but in no event less than reasonable care. Proprietary Information shall not be disclosed to any third party without the express written consent of the disclosing party (except for recipient party's employees and consultants who are bound by a written agreement with recipient party to maintain the confidentiality of such Proprietary Information in a manner consistent with this Agreement). LICENSEE shall have no such obligation with respect to information which:

(1) is already or otherwise becomes publicly known through no act or failure to act of either party; or
(2) is lawfully received from third parties subject to no restriction of confidentiality.

4.04 The U.S. Government is provided a license only with restricted rights and limited rights. Use, duplication, or disclosure by the Government is subject to restrictions as set forth in FAR Sections 52-227-14 and 52-227-19 and DFARS Sections 227.7202-3, as applicable.

ARTICLE 5 - LIMITATION OF WARRANTIES, REMEDIES, AND LIMITATION OF LIABILITY

5.01 Telos warrants that it has the right to grant the licenses herein under its rights in the Program. However, in the event the Program is held by a court of competent jurisdiction to infringe on a valid U.S. patent issued as of the Effective Date, copyright or trade secret, Telos shall have the option in its sole discretion either to (i) procure for LICENSEE the right to continue using said Program, (ii) replace or modify the same to make use non-infringing, or (iii) refund to LICENSEE the amount paid under this Agreement for the infringing portion of the Program less a straight line depreciation assuming a useful life of five (5) years.

5.02 Other than the limited warranty in Section 5.01, neither Telos, nor any other software organizations from which Telos has obtained the right to grant, and to grant others the right to grant sublicenses:

(1) MAKES ANY OTHER WARRANTY OR REPRESENTATION WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, TITLE, NONINFRINGEMENT, QUIET ENJOYMENT, LEVEL OF SECURITY, ACCURACY OR SYSTEM INTEGRATION; OR,

(2) ASSUMES ANY LIABILITY WHATSOEVER WITH RESPECT TO ANY USE OF THE PROGRAM OR ANY PORTION THEREOF OR WITH RESPECT TO ANY DAMAGES THAT MAY RESULT FROM SUCH USE.

5.03 IN NO EVENT SHALL TELOS OR ITS SUPPLIERS OR LICENSEE BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, DATA OR USE, INCURRED BY EITHER PARTY OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE AGGREGATE AND CUMULATIVE LIABILITY OF TELOS AND ITS SUPPLIERS FOR DAMAGES UNDER THIS AGREEMENT SHALL IN NO EVENT EXCEED THE AMOUNT OF FEES PAID BY LICENSEE UNDER THIS AGREEMENT, AND IF SUCH DAMAGES RELATE TO PARTICULAR LICENSED SOFTWARE OR SERVICES, SUCH LIABILITY SHALL BE LIMITED TO FEES PAID FOR THE LICENSED SOFTWARE OR SERVICES GIVING RISE TO THE LIABILITY. EXCEPT FOR ANY BREACH OF ITS OBLIGATIONS UNDER SECTION 4.03, LICENSEE'S AGGREGATE AND CUMULATIVE LIABILITY FOR DAMAGES SHALL IN NO EVENT EXCEED THE AMOUNT OF FEES PAID BY LICENSEE UNDER THIS AGREEMENT. LICENSEE acknowledges that the fees applicable to the Program reflect the allocation of risk set forth in this Agreement and that Telos would not have entered into this Agreement without the limitations of liability set forth in this Agreement.

ARTICLE 6 - TERM AND TERMINATION

6.01 The term of this Agreement shall begin on the Effective Date and shall continue unless otherwise terminated, as provided herein.

6.02 If either party hereto defaults in fulfilling any material obligations and conditions set forth in this Agreement, and such default has not been remedied within sixty (60) days after notice specifying the nature of such default, the party not in default shall have the right to terminate this Agreement by giving written notice of such termination to the defaulting party.

6.03 Upon termination of this Agreement as provided hereinabove, LICENSEE shall return all copies of the Program and documentation relating thereto, including copies of any and all Proprietary Information associated with the Program then in its possession, to Telos within thirty (30) days of the effective date of the termination.

6.04 The right of either party to terminate this Agreement shall not be affected in any way by its waiver of, or failure to take action with respect to, any previous default.

6.05 Surviving termination of this Agreement for any reason are the provisions of Articles 2.03, 4, 5; 6.05, and any cause or action or claim of either party accrued or to accrue because of any breach or default by the other party including, but not limited to, injunctive relief and any other relief available whether in law or in equity.

ARTICLE 7 - MISCELLANEOUS

7.01 This Agreement and the license herein granted shall not be assignable by either party thereto without the prior, written consent of the other party, which consent shall not be unreasonably withheld, except that this Agreement may be assigned to a party's affiliates or to a purchaser of substantially all of the assets of the business to which this Agreement pertains.

7.02 If any term or provision of this Agreement shall be determined by a court of competent jurisdiction to be invalid, the remaining terms and provisions shall remain in effect.

7.03 This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and

supersedes all previous agreements whether written or oral.

7.04 This Agreement may be modified, amended, superseded or terminated, other than by its terms, only by a writing duly signed by authorized representatives of both parties.

7.05 Any notice, report or statement required to be given or made hereunder shall be considered properly given if sent by registered or certified mail, return receipt requested, postage-paid to the respective address of each party as either of the parties shall have last furnished in writing to the other.

7.06 Except for injunctive relief relating to any unauthorized use or transfer of the Program by LICENSEE, any dispute or controversy arising out of or relating to this Agreement, or any modification or extension thereof, including any claim for damages, restitution or specific performance, rescission or reformation, or any combination of such remedies, shall be settled by arbitration, in accordance with the Commercial Arbitration Rules of the American Arbitration Association and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

7.07 This Agreement shall be construed in accordance with the laws of the Commonwealth of Virginia.

7.08 Neither party will, without the other party's express written permission, use in advertising, publicity, marketing or otherwise any trade name, trademark or other identification or any abbreviation, contraction or simulation thereof owned or used by the other party.

7.09 No advertising or publicity matter having any reference to any of the parties to this Agreement shall be published, disseminated or distributed by any party to the Agreement, or anyone in such party's behalf, unless and until such matter shall have first been submitted to and approved in writing by the party referred to in the advertising or publicity matter.

ARTICLE 8 - ORDER OF PRECEDENCE

Any inconsistencies between this Agreement and other documents shall be resolved by giving precedence to this Agreement.

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U.S. patents Nos. 6,901,346; 6,980,927;
6,983,221; 6,993,448; and 7,380,270.

DOD _____ ESA
REPORT OF SALES

FILL IN VENDOR NAME

FILL IN BPA NUMBER

ORDERING ACTIVITY DELIVERY ORDER #	RESELLER ORDER #	END USER SERVICE	END USER SHIP-TO ACTIVITY (GOVERNMENT)	UNSPSC CODE	CLIN	PRODUCT DESCRIPTION	RESELLER P/N	PUBLISHER P/N	ESA UNIT PRICE	UNIT PRICE ON ORDER	UNIT PRICE ON ORDER W/O FEES	QTY	TOTAL PRICE ON ORDER W/O FEES	TOTAL OFF FEE @ .75%	TOTAL ACT FEE @ 2%	TOTAL PRICE ON ORDER	DATE ORDERED	DATE SHIPPED	END USER NAME	END USER PHONE	END USER EMAIL	ORDERING ACTIVITY	ORDERING ACTIVITY POC	ORDERING ACTIVITY PHONE	COMMENTS
ARMY SALES																									
XXXXXX	XXXXX	ARMY	88TH REGIMENTAL SUPPORT CMD XXXXX, XX	XXXXXX	000_	XXXXXXXXXXXX	XXXXX	XXXXX	\$66.00	\$62.00	\$60.34	1	\$60.34	\$0.45	\$1.21	\$62.00	XX/XX/XX	XX/XX/XX	XXXXX	XXX-XXX-XXXX	XXXX.XXXXX@XXXX.XXX	XXXXX XXXXX, XX	XXXXX	XXX-XXX-XXXX	
XXXXXX	XXXXX	ARMY	US ARMY CORPS OF ENGINEERS, XXXXX, XX	XXXXXX	000_	XXXXXXXXXXXX	XXXXX	XXXXX	\$92.70	\$92.70	\$90.22	6	\$541.31	\$4.06	\$10.63	\$556.20	XX/XX/XX	XX/XX/XX	XXXXX	XXX-XXX-XXXX	XXXX.XXXXX@XXXX.XXX	XXXXX XXXXX, XX	XXXXX	XXX-XXX-XXXX	
XXXXXX	XXXXX	ARMY	FORT MCNAR XXXXX, XX	XXXXXX	000_	XXXXXXXXXXXX	XXXXX	XXXXX	\$110.00	\$103.00	\$100.24	1	\$100.24	\$0.75	\$2.00	\$103.00	XX/XX/XX	XX/XX/XX	XXXXX	XXX-XXX-XXXX	XXXX.XXXXX@XXXX.XXX	XXXXX XXXXX, XX	XXXXX	XXX-XXX-XXXX	
														\$14.04	TOTAL ACT FEE ON ARMY SALES										
														\$7.02	ARMY ACT FEE @ 1%										
														\$7.02	NAVY ACT FEE @ 1%										
AIR FORCE SALES																									
XXXXXX	XXXXX	AIR FORCE	HILL AFB XXXXX, XX	XXXXXX	000_	XXXXXXXXXXXX	XXXXX	XXXXX	\$82.40	\$82.40	\$80.19	8	\$641.56	\$4.81	\$12.83	\$659.20	XX/XX/XX	XX/XX/XX	XXXXX	XXX-XXX-XXXX	XXXX.XXXXX@XXXX.XXX	XXXXX XXXXX, XX	XXXXX	XXX-XXX-XXXX	
XXXXXX	XXXXX	AIR FORCE	EGLN AFB XXXXX, XX	XXXXXX	000_	XXXXXXXXXXXX	XXXXX	XXXXX	\$51.50	\$49.00	\$47.69	5	\$238.44	\$1.79	\$4.77	\$245.00	XX/XX/XX	XX/XX/XX	XXXXX	XXX-XXX-XXXX	XXXX.XXXXX@XXXX.XXX	XXXXX XXXXX, XX	XXXXX	XXX-XXX-XXXX	
XXXXXX	XXXXX	AIR FORCE	SCOTT AFB XXXXX, XX	XXXXXX	000_	XXXXXXXXXXXX	XXXXX	XXXXX	\$82.40	\$82.40	\$80.19	3	\$240.58	\$1.80	\$4.81	\$247.20	XX/XX/XX	XX/XX/XX	XXXXX	XXX-XXX-XXXX	XXXX.XXXXX@XXXX.XXX	XXXXX XXXXX, XX	XXXXX	XXX-XXX-XXXX	
														\$22.41	TOTAL ACT FEE ON AIR FORCE SALES										
														\$11.21	AIR FORCE ACT FEE @ 1%										
														\$11.21	NAVY ACT FEE @ 1%										
DLA SALES																									
XXXXXX	XXXXX	DLA	DSCC COLUMBUS, OH	XXXXXX	000_	XXXXXXXXXXXX	XXXXX	XXXXX	\$23.00	\$23.00	\$22.38	8	\$179.08	\$1.34	\$3.58	\$184.00	XX/XX/XX	XX/XX/XX	XXXXX	XXX-XXX-XXXX	XXXX.XXXXX@XXXX.XXX	XXXXX XXXXX, XX	XXXXX	XXX-XXX-XXXX	
XXXXXX	XXXXX	DLA	DESC FORT BELVOIR, VA	XXXXXX	000_	XXXXXXXXXXXX	XXXXX	XXXXX	\$51.50	\$51.50	\$50.12	30	\$1,503.65	\$11.28	\$30.07	\$1,545.00	XX/XX/XX	XX/XX/XX	XXXXX	XXX-XXX-XXXX	XXXX.XXXXX@XXXX.XXX	XXXXX XXXXX, XX	XXXXX	XXX-XXX-XXXX	
XXXXXX	XXXXX	DLA	DAPS MECHANICSBURG, PA	XXXXXX	000_	XXXXXXXXXXXX	XXXXX	XXXXX	\$79.00	\$79.00	\$76.89	3	\$230.66	\$1.73	\$4.61	\$237.00	XX/XX/XX	XX/XX/XX	XXXXX	XXX-XXX-XXXX	XXXX.XXXXX@XXXX.XXX	XXXXX XXXXX, XX	XXXXX	XXX-XXX-XXXX	
														\$38.27	TOTAL ACT FEE ON DLA SALES										
														\$19.13	DLA ACT FEE @ 1%										
														\$19.13	NAVY ACT FEE @ 1%										
DISA SALES																									
XXXXXX	XXXXX	DISA	ACQUISITION TECHNOLOGY AND LOGISTICS DISA CONUS	XXXXXX	000_	XXXXXXXXXXXX	XXXXX	XXXXX	\$45.70	\$45.70	\$44.48	8	\$365.82	\$2.67	\$7.12	\$365.60	XX/XX/XX	XX/XX/XX	XXXXX	XXX-XXX-XXXX	XXXX.XXXXX@XXXX.XXX	XXXXX XXXXX, XX	XXXXX	XXX-XXX-XXXX	
XXXXXX	XXXXX	DISA	DEFENSE INFORMATION SYSTEMS AGENCY, XXXXX, XX	XXXXXX	000_	XXXXXXXXXXXX	XXXXX	XXXXX	\$103.30	\$103.30	\$100.54	7	\$703.75	\$5.28	\$14.07	\$723.10	XX/XX/XX	XX/XX/XX	XXXXX	XXX-XXX-XXXX	XXXX.XXXXX@XXXX.XXX	XXXXX XXXXX, XX	XXXXX	XXX-XXX-XXXX	
XXXXXX	XXXXX	DISA	DEFENSE INFORMATION SYSTEMS AGENCY PAC HQXX, XXXXX, XX	XXXXXX	000_	XXXXXXXXXXXX	XXXXX	XXXXX	\$94.34	\$94.34	\$91.82	8	\$734.52	\$5.51	\$14.69	\$754.72	XX/XX/XX	XX/XX/XX	XXXXX	XXX-XXX-XXXX	XXXX.XXXXX@XXXX.XXX	XXXXX XXXXX, XX	XXXXX	XXX-XXX-XXXX	
														\$35.88	TOTAL ACT FEE ON DISA SALES										
														\$17.94	DISA ACT FEE @ 1%										
														\$17.94	NAVY ACT FEE @ 1%										
CIVILIAN AGENCY SALES																									
XXXXXX	XXXXX	INTERIOR	ROCKY MOUNTAIN NATIONAL PARK	XXXXXX	000_	XXXXXXXXXXXX	XXXXX	XXXXX	\$51.50	\$49.00	\$47.69	25	\$1,192.21	\$8.94	\$23.84	\$1,225.00	XX/XX/XX	XX/XX/XX	XXXXX	XXX-XXX-XXXX	XXXX.XXXXX@XXXX.XXX	XXXXX XXXXX, XX	XXXXX	XXX-XXX-XXXX	
XXXXXX	XXXXX	JUSTICE	FEDERAL BUREAU OF PRISONS, FCC TUCSON	XXXXXX	000_	XXXXXXXXXXXX	XXXXX	XXXXX	\$51.50	\$51.50	\$50.12	3	\$150.36	\$1.13	\$3.01	\$154.50	XX/XX/XX	XX/XX/XX	XXXXX	XXX-XXX-XXXX	XXXX.XXXXX@XXXX.XXX	XXXXX XXXXX, XX	XXXXX	XXX-XXX-XXXX	
XXXXXX	XXXXX	AGRICULTURE	ANIMAL AND PLANT HEALTH INSPECTION SERVICE (APHIS)	XXXXXX	000_	XXXXXXXXXXXX	XXXXX	XXXXX	\$110.00	\$103.00	\$100.24	1	\$100.24	\$0.75	\$2.00	\$103.00	XX/XX/XX	XX/XX/XX	XXXXX	XXX-XXX-XXXX	XXXX.XXXXX@XXXX.XXX	XXXXX XXXXX, XX	XXXXX	XXX-XXX-XXXX	
														\$28.86	TOTAL ACT FEE ON CIVILIAN AGENCY SALES										
														\$14.43	CIVILIAN AGENCY ACT FEE										
														\$14.43	NAVY ACT FEE										
NAVY & OTHER DOD SALES																									
XXXXXX	XXXXX	NAVY	NAVICP MECHANICSBURG, PA	XXXXXX	000_	XXXXXXXXXXXX	XXXXX	XXXXX	\$103.00	\$103.00	\$100.24	2	\$200.49	\$1.50	\$4.01	\$206.00	XX/XX/XX	XX/XX/XX	XXXXX	XXX-XXX-XXXX	XXXX.XXXXX@XXXX.XXX	XXXXX XXXXX, XX	XXXXX	XXX-XXX-XXXX	
XXXXXX	XXXXX	DOD	NATIONAL IMAGERY AND MAPPING, XXXXX, XX	XXXXXX	000_	XXXXXXXXXXXX	XXXXX	XXXXX	\$61.80	\$61.80	\$60.15	1	\$60.15	\$0.45	\$1.20	\$61.80	XX/XX/XX	XX/XX/XX	XXXXX	XXX-XXX-XXXX	XXXX.XXXXX@XXXX.XXX	XXXXX XXXXX, XX	XXXXX	XXX-XXX-XXXX	
XXXXXX	XXXXX	NAVY	SPAWAR PD15Q SAN DIEGO, CA	XXXXXX	000_	XXXXXXXXXXXX	XXXXX	XXXXX	\$51.50	\$51.50	\$50.12	2	\$100.24	\$0.75	\$2.00	\$103.00	XX/XX/XX	XX/XX/XX	XXXXX	XXX-XXX-XXXX	XXXX.XXXXX@XXXX.XXX	XXXXX XXXXX, XX	XXXXX	XXX-XXX-XXXX	
														\$7.22	ACT FEE ON NAVY & DOD SALES @ 2%										
*RED TEXT INDICATES *SAMPLE* INFORMATION ONLY THAT MUST BE CHANGED WHEN COMPLETING A REPORT.																									
									ARMY ACT FEE	JUN 2009															\$7.02
									AIR FORCE ACT FEE	JUN 2009															\$11.21
									DLA ACT FEE	JUN 2009															\$19.13
									DISA ACT FEE	JUN 2009															\$17.94
									CIVILIAN AGENCY ACT FEE	JUN 2009															\$14.43
									NAVY & DOD ACT FEE	JUN 2009															\$76.95
									TOTAL SALES FOR MONTH	JUN 2009	122	\$7,333.65	\$55.00	\$146.67	\$7,535.32										
									ARMY ACT FEE	APR - JUN															\$9.53
									AIR FORCE ACT FEE	APR - JUN															\$13.29
									DLA ACT FEE	APR - JUN															\$20.62
									DISA ACT FEE	APR - JUN															\$20.31
									CIVILIAN AGENCY ACT FEE	APR - JUN															\$28.86
									NAVY & DOD ACT FEE	APR - JUN															\$104.04
									TOTAL SALES FOR QUARTER	APR - JUN	166	\$9,832.08	\$73.74	\$196.64	\$10,102.46										
									TOTAL SALES FOR FISCAL YEAR (OCT 2008 - SEPT 2009)	2009	516	\$74,887.64	\$561.69	\$1,497.75	\$76,947.05										
									TOTAL SALES BPA TO DATE		1,286	\$410,398.84	\$3,077.99	\$8,207.98	\$421,684.81										

REPORT INSTRUCTIONS

COLUMN	COLUMN TITLE	INSTRUCTION	EXAMPLES/COMMENTS
A	ORDERING ACTIVITY DELIVERY ORDER #	SPECIFY THE APPLICABLE COMPLETE GOVERNMENT CONTRACT NUMBER. A COMPLETE CONTRACT NUMBER MAY REQUIRE A DELIVERY ORDER NUMBER IN ADDITION TO THE CONTRACT NUMBER. IF A DELIVERY ORDER UNDER THE ESA APPLIES, SPECIFY THE FULL ESA NUMBER AS WELL AS THE FOUR DIGIT ORDER NUMBER. IF A CREDIT CARD ORDER APPLIES, ENTER THE IDENTIFICATION NUMBER THAT APPEARS ON THE ORDER OR SPECIFY "CREDIT CARD" IN THE ABSENCE OF ANY REFERENCE NUMBER.	EXAMPLES OF CONTRACT NUMBER FORMATS: N00104-09-A-XXXX #000_ or W91QUZ-08-F-XXXX THIS INFORMATION CAN BE FOUND IN THE "CONTRACT NUMBER" AND "ORDER NUMBER" BLOCKS ON GOVERNMENT CONTRACT FORMS. SEE BLOCKS 2 AND 4 ON A SF1449, OR BLOCKS 1 AND 2 ON A DD1155, OR BLOCK 10 ON AN SF30.
B	RESELLER ORDER #	SPECIFY CONTRACTOR UNIQUE RESELLER ORDER NUMBER IF APPLICABLE.	VENDOR SPECIFIC IF APPLICABLE.
C	END USER AGENCY	SPECIFY ARMY, AIR FORCE, DLA, DISA, NAVY OR DOD AS APPROPRIATE. (MARINE CORPS SALES ARE INCLUDED UNDER THE "NAVY" DESIGNATION.) THE ENTRY IN THIS FIELD DETERMINES WHERE THE SALE AND ACT FEE SHOULD BE REPORTED. EACH FEE SHARING COMPONENT IS SHOWN AS A SEPARATE CATEGORY IN THE REPORT.	IF THIS COLUMN IS LABELED "ARMY", THE SALE SHOULD APPEAR IN THE ARMY PORTION OF THE REPORT.
D	END USER SHIP-TO ACTIVITY (GOVERNMENT)	SPECIFY THE GOVERNMENT <u>END USER</u> OR LICENSEE. THIS INFORMATION IS NORMALLY FOUND IN THE "DELIVER TO" OR "SHIP TO" AREA OF THE ORDER. IF THE PURCHASE WAS PROCESSED THROUGH A CONTRACTOR, THE CONTRACTOR SHOULD BE LISTED UNDER THE ORDERING ACTIVITY IN COLUMN W. THE END-USER COLUMN PERTAINS TO THE GOVERNMENT RECEIVING ENTITY AND MUST BE AS SPECIFIC AS POSSIBLE. NOTE THAT END USER INFORMATION IS NOT SOUGHT FOR CLASSIFIED CONTRACTS. COLUMN D SHOULD BE NOTATED "CLASSIFIED" IF APPLICABLE.	"SPAWARSYSCEN ATLANTIC, NORFOLK, VA" WOULD BE AN ACCEPTABLE ENTRY. CONVERSELY, "NAVY NORFOLK" WOULD NOT BE AN ADEQUATE DESCRIPTION. THIS INFORMATION CAN BE FOUND IN THE "DELIVER TO" OR "SHIP TO" BLOCKS ON GOVERNMENT CONTRACT FORMS. SEE BLOCK 15 ON A SF1449 OR BLOCK 14 ON A DD1155.
E	UNSPSC CODE	UNITED NATIONS STANDARD PRODUCTS AND SERVICES CODES (UNSPSC) CAN BE FOUND AT WWW.UNSPSC.ORG	THIS IS AN EIGHT DIGIT CODE SUCH AS 43230000 OR 43231600.
F	CLIN	SPECIFY THE ESA CONTRACT LINE ITEM NUMBER (CLIN) ASSIGNED TO THE ITEM BEING REPORTED. THIS MIGHT NOT BE THE SAME ITEM NUMBER THAT APPEARS ON THE ORDER.	THE ACTUAL ORDER MAY CITE SEQUENTIAL CLIN NUMBERS (0001, 0002, 0003, ETC.) BUT ITEM 0001 OF THE ORDER PURCHASED CLIN ____ ON THE ESA .
G	PRODUCT DESCRIPTION	SPECIFY THE PRODUCT DESCRIPTION LISTED IN THE ESA	
H	RESELLER P/N	MANDATORY ENTRY IF THE ORDER USES THIS PART NUMBER.	VENDOR SPECIFIC IF APPLICABLE.
I	PUBLISHER P/N	SPECIFY THE PART NUMBER LISTED IN THE ESA	
J	ESA UNIT PRICE	SPECIFY THE UNIT PRICE LISTED IN THE ESA	
K	UNIT PRICE ON ORDER	SPECIFY THE UNIT PRICE LISTED IN THE ORDER. PRICE PER ITEM IS EXPRESSED AS DOLLARS AND CENTS. DO NOT ROUND.	
L	UNIT PRICE ON ORDER W/O FEES	THIS IS A CALCULATED NUMBER BASED ON A FORMULA THAT IS ALREADY INCLUDED IN THE REPORT CELLS. NOTE THAT FEES ARE NOT TO BE COMPOUNDED AND THE FORMULA ALREADY TAKES THIS INTO CONSIDERATION. THIS FORMULA MUST BE ADJUSTED WHEN REPORTING A SALE THAT HAD AN AUTHORIZED FEE REDUCTION.	FORMULA = UNIT COST BEFORE APPLICATION OF IFF AND ACT FEES
M	QTY	SPECIFY THE QUANTITY LISTED IN THE ORDER.	
N	TOTAL PRICE ON ORDER W/O FEES	THIS IS A CALCULATED NUMBER BASED ON A FORMULA THAT IS ALREADY INCLUDED IN THE REPORT CELLS.	FORMULA = UNIT PRICE ON ORDER W/O FEES X QTY
O	TOTAL IFF FEE @ .75%	THIS IS A CALCULATED NUMBER BASED ON A FORMULA THAT IS ALREADY INCLUDED IN THE REPORT CELLS.	FORMULA = TOTAL PRICE ON ORDER W/O FEES X .0075
P	TOTAL ACT FEE @ 2%	THIS IS A CALCULATED NUMBER BASED ON A FORMULA THAT IS ALREADY INCLUDED IN THE REPORT CELLS. THIS FORMULA MUST BE ADJUSTED WHEN REPORTING A SALE THAT HAD AN AUTHORIZED FEE REDUCTION.	FORMULA = TOTAL PRICE ON ORDER W/O FEES X .02 FORMULA = TOTAL PRICE ON ORDER W/O FEES X AUTHORIZED FEE %
Q	TOTAL PRICE ON ORDER	THIS IS A CALCULATED NUMBER BASED ON A FORMULA THAT IS ALREADY INCLUDED IN THE REPORT CELLS. ENSURE THAT THE REPORT ENTRY THAT WAS AUTOMATICALLY CALCULATED MATCHES THE ACTUAL ORDER.	FORMULA = TOTAL PRICE ON ORDER W/O FEES + TOTAL IFF FEE + TOTAL ACT FEE
R	DATE ORDERED	SPECIFY THE DATE OF ORDER	THIS INFORMATION CAN USUALLY BE FOUND IN THE "AWARD/EFFECTIVE DATE", "DATE SIGNED" OR "DATE OF ORDER" BLOCKS ON GOVERNMENT CONTRACT FORMS. SEE BLOCKS 3 OR 31 ON A SF1449 OR BLOCK 3 ON A DD1155.
S	ACTUAL SHIP DATE	SPECIFY THE SHIPMENT DATE OR INVOICE DATE WHICHEVER IS THE BASIS FOR REPORTING.	NOTATE THE REPORT HEADER DESCRIPTION WITH THE APPLICABLE DESCRIPTION (EITHER SHIPMENT DATE OR INVOICE DATE).
T	END USER NAME	SPECIFY THE <u>GOVERNMENT</u> POC LISTED IN THE ORDER AS " <u>SHIP TO</u> " OR "LICENSEE"	THIS INFORMATION CAN USUALLY BE FOUND IN THE "DELIVER TO" OR "SHIP TO" BLOCKS ON GOVERNMENT CONTRACT FORMS. SEE BLOCK 15 ON A SF1449 OR BLOCK 14 ON A DD1155.
U	END USER PHONE	SPECIFY THE <u>GOVERNMENT</u> POC PHONE NUMBER LISTED IN THE ORDER AS " <u>SHIP TO</u> " OR "LICENSEE"	THIS INFORMATION CAN USUALLY BE FOUND IN THE "DELIVER TO" OR "SHIP TO" BLOCKS ON GOVERNMENT CONTRACT FORMS. SEE BLOCK 15 ON A SF1449 OR BLOCK 14 ON A DD1155.
V	END USER EMAIL	SPECIFY THE <u>GOVERNMENT</u> POC EMAIL LISTED IN THE ORDER AS " <u>SHIP TO</u> " OR "LICENSEE"	THIS INFORMATION CAN USUALLY BE FOUND IN THE "DELIVER TO" OR "SHIP TO" BLOCKS ON GOVERNMENT CONTRACT FORMS. SEE BLOCK 15 ON A SF1449 OR BLOCK 14 ON A DD1155.
W	ORDERING ACTIVITY	SPECIFY THE ORDERING OFFICE. THIS IS NORMALLY THE CONTRACTING OFFICE THAT ISSUED THE ORDER OR THIS COULD BE A CONTRACTOR WHO WAS AUTHORIZED TO PURCHASE ON BEHALF OF A GOVERNMENT END USER UNDER FAR PART 51. IF THE ORDERING ACTIVITY IS THE SAME AS THE END USER DO NOT LEAVE THIS FIELD BLANK, NOTATE "SAME AS END USER".	THIS INFORMATION CAN USUALLY BE FOUND IN THE "ISSUED BY" BLOCK ON GOVERNMENT CONTRACT FORMS. SEE BLOCK 9 ON A SF1449, OR BLOCK 6 ON A DD1155, OR BLOCKS 6 AND 7 ON A SF30. DO NOT CITE THE PAYMENT OFFICE.
X	ORDERING ACTIVITY POC	SPECIFY THE POC FOR THE ORDERING OFFICE. IF THE ORDERING ACTIVITY POC IS THE SAME AS THE END USER POC DO NOT LEAVE THIS FIELD BLANK, NOTATE "SAME AS END USER".	THIS INFORMATION CAN USUALLY BE FOUND IN THE "ISSUED BY" BLOCK ON GOVERNMENT CONTRACT FORMS. SEE BLOCK 9 ON A SF1449, OR BLOCK 6 ON A DD1155, OR BLOCKS 6 AND 7 ON A SF30. NOTE THAT FURTHER CONTACT INFO FOR THE ISSUING OFFICE IS SOMETIMES LISTED IN THE "ADMINISTERED BLOCK" OR THE SIGNATURE BLOCK.
Y	ORDERING ACTIVITY PHONE	SPECIFY THE POC PHONE NUMBER FOR THE ORDERING OFFICE. IF THE ORDERING ACTIVITY POC IS THE SAME AS THE END USER POC DO NOT LEAVE THIS FIELD BLANK, NOTATE "SAME AS END USER".	THIS INFORMATION CAN USUALLY BE FOUND IN THE "ISSUED BY" BLOCK ON GOVERNMENT CONTRACT FORMS. SEE BLOCK 9 ON A SF1449, OR BLOCK 6 ON A DD1155, OR BLOCKS 6 AND 7 ON A SF30. NOTE THAT FURTHER CONTACT INFO FOR THE ISSUING OFFICE IS SOMETIMES LISTED IN THE "ADMINISTERED BLOCK" OR THE SIGNATURE BLOCK.
Z	COMMENTS	INCLUDE ANY ADDITIONAL COMMENTS OR CLARIFICATIONS.	FOR EXAMPLE, USE THIS FIELD TO: - NOTATE WHEN THE ORIGINAL SALE WAS REPORTED FOR ANY CREDIT ENTRIES. - NOTATE THE BASIS FOR AN UNUSUAL PRICE SUCH AS A PRORATED ITEM. - NOTATE AN AUTHORIZED FEE REDUCTION

* NOTE THAT ALL REFERENCES TO **ESA** PERTAIN TO THE UNDERLYING ENTERPRISE SOFTWARE INITIATIVE (ESI) AGREEMENT. THE **ESI** AGREEMENT MAY BE A BLANKET PURCHASE AGREEMENT (BPA) OR AN INDEFINITE DELIVERY INDEFINITE QUANTITY (IDIQ) CONTRACT.

FEES AND PAYMENTS

- 1. GSA Industrial Funding Fee (IFF).** The BPA unit prices include the applicable GSA IFF. The contractor shall be responsible for all required filings to GSA and for payment of this fee in accordance with applicable GSA instructions.
- 2. Acquisition, Contracting, and Technical (ACT) Fee.** The cost of awarding, administering and managing this BPA is included in the prices charged to ordering activities. The ACT fee is 2%. The contractor shall remit the ACT fee on a calendar quarterly basis (i.e. January – March, April – June, July – September, and October – December) or as otherwise requested by the Software Product Manager (SPM). Payment is due thirty (30) days following approval of the Report of Sales for the completed quarter. ACT fees that have not been paid within the prescribed thirty (30) days shall be considered a debt to the United States Government under the terms of FAR 32.6. The Government may exercise all its rights under the contract, including withholding or setting off payments and interest on the debt (see contract FAR clause 52.232-17, Interest). Failure of the Contractor to pay the ACT Fee in a timely manner may result in termination of the BPA.
- 3. Fee Distribution.** The Army, Air Force, DLA, DISA and Navy are participating in a fee-sharing program. The Contractor shall collect the 2% ACT fee and distribute in accordance with the following procedures. Fee sharing shall be determined by the End User Agency or Service identified in the monthly Report of Sales. This field shall be notated Army, Air Force, DLA, DISA, Navy or DOD as appropriate. Marine Corps sales are reported under the Navy designation. Fee checks shall not be issued until written approval is received for the Report of Sales.

The Air Force, Army, DLA, DISA, Navy and GSA (for SmartBUY Federal government Civilian Agency orders) are participating in an ACT fee-sharing program. For orders within DoD, the 2% ACT fee is split equally between the DoD Component whose customer places the order and the Component that manages the contract. The Contractor shall collect the 2% ACT fee and distribute in accordance with the following procedures. ACT fee sharing shall be determined by the End User Agency or Service identified in the monthly Report of Sales. This field shall be notated Air Force, Army, DLA, DISA, Navy, DoD or Non-DoD as appropriate. In the case of SmartBUY orders (Federal Government Civilian Agencies) non-DoD orders and non DoD support contractor orders, excluding the Intelligence Community and non Coast Guard orders or support vendors to same, the 2% ACT fee is split equally between the Agency that manages the contract and GSA SmartBUY Program Management Office.)

3.1 ALL SALES:

The 2% ACT fee is split equally between the DoD Component whose customer places the order or GSA SmartBUY for non-DoD Federal agencies and the DoD Component that manages the ESI agreement. For example, an Air Force order issued against an ESI/SmartBUY agreement managed by the Army results in one half (or 1%) of the 2% fee being returned to the Air Force acquisition organization (listed under Air Force Sales). The Air Force will retain the entire 2% fee under orders issued for Air Force activities or those activities that do not collect a fee under the ESI agreements managed by the Air Force. The contractor is responsible for distributing the ACT fee to all applicable Services in accordance with the instructions herein. The amount of ACT Fee due the Air Force shall be calculated at 1% for Army sales, 1% for Navy sales, 1% for DLA sales, 1% for DISA sales and 2% for all

other sales. For SmartBUY agreements, GSA would receive a 1% ACT fee of Federal non-DoD agency sales.

The amount of ACT Fee due the Air Force shall be calculated at 1% of all Air Force sales.

The contractor shall remit ACT Fee to the address provided below by corporate or cashier's check made payable to "3801-LI". Checks must be notated with the following information:
BPA FA8771-09-A-0301
ESI-SW Fee Sharing

***Checks must be accompanied by a transmittal letter (format to be provided) that cites the applicable accounting data to ensure proper crediting of the payment.

Send check and transmittal letter to:
Disbursing Operations Directorate
FOR: 3801-Limestone Field Site
8899 E 56th Street
Indianapolis, IN 46249-9339

Email a copy of the check and letter to: kabfinance@gunter.af.mil

Please include with the above documents the Customer Usage Check Report (CCR) and Delivery Order Status Report (DOSR) or the Report of Sales (per BPA requirements)

Subject Line Format of e-mail should be as follows:
Contract Number with hyphens, CCR or DOSR Month Year, Contract Name, Contractor Name
[Example: FA0000-00-A-0000, CCR June 2006, ESI SW, Vendor, Inc.]

Point of Contact regarding any questions:
Ricky Blackmon
Phone: 334-416-2888
Email: ricky.blackmon@gunter.af.mil

Mail is also an alternative means of submitting copies. Please forward a copy to the address below:
HQ 754 ELSG/ESQ
Attention: Ricky Blackmon
490 East Moore Drive, Bldg 892
MAFB-Gunter Annex, AL 36114-3014

3.2 ARMY SALES:

The amount of ACT Fee due the Army shall be calculated at 1% of all Army sales.

The contractor shall remit ACT Fee to the address provided below by corporate or cashier's check made payable to "Treasurer of the United States". Checks must be notated with the following information:

BPA FA8771-09-A-0301
SCP Fee Reimbursement

***Checks must be accompanied by a transmittal letter (format to be provided) that cites the applicable accounting data to ensure proper crediting of the payment.

Send check and transmittal letter to:
Project Director, Computer Hardware, Enterprise Software and Solutions (PD CHESS)
PEO Enterprise Information Systems
SFAE-PS-SCP (Attn: Margaret Kirsch)
Squier Hall, Bldg. 283
Fort Monmouth, NJ 07703

Email a copy of the check and letter to: MONM-EISASCPVndrRpts@Conus.army.mil

3.3 NAVY SALES:

The contractor shall remit ACT Fee to the address provided below by corporate or cashier's check made payable to "Treasurer of the United States". No transmittal letter is required with submission of Navy fee checks.

Checks must include the following information to ensure proper crediting of the payment:

BPA FA8771-09-A-0301
DoD Telos Enterprise Software Agreement
ACT Fee

For US Postal Service mail or USPS Express Mail:
SPAWARSYSCEN ATLANTIC
Code 54550, Bldg. V-53
Attn: Deborah Midyette
P.O. Box 1376
Norfolk, VA 23501-1376

For Federal Express, United Parcel Service, DHL or Other Courier Services:
SPAWARSYSCEN ATLANTIC
St. Juliens Creek Annex
Attn: Deborah Midyette, Code 54550
Building 181 Marsh Road
Portsmouth VA 23702-2737

Email a copy of the FMO check to the SPM: Sandra.Sirbu@navy.mil

3.4 DLA SALES

The amount of ACT Fee due DLA shall be calculated at 1% of all DLA sales.

The contractor shall remit ACT Fee to the address provided below by corporate or cashier's check made payable to "Treasurer of the United States". No transmittal letter is required with submission of DLA fee checks.

Checks must include the following information to ensure proper crediting of the payment:

BPA FA8771-09-A-0301
DoD Telos Enterprise Software Agreement
Quarterly ACT Fee

Send check to:

Defense Logistics Agency
DES Acquisition Staff Directorate
Attn: Connie House, DES-A
8725 John J. Kingman Road, Room 1145
Fort Belvoir, VA 22060-6220

Mail a copy of the check to:

Defense Logistics Agency
Attn: Susan Lizzi, J-654
8725 John J. Kingman Road
Fort Belvoir, VA 22060-6221

Or email a copy of the check to:

Email: Susan.Lizzi@dla.mil

3.5 DISA SALES

The amount of ACT Fee due DISA shall be calculated at 1% of all DISA sales.

The contractor shall remit ACT Fee to the address provided below by corporate or cashiers check made payable to "Treasurer of the United States". Checks must be notated with the following information:

BPA FA8771-09-A-0301
DoD Telos Enterprise Software Agreement
Quarterly ACT Fee

****Checks must be accompanied by a transmittal letter (format to be provided) that cites the applicable accounting data to ensure proper crediting of the payment.

Send check and transmittal letter to:

DFAS-CO
Finance and Accounting Office
Attn: Disbursement Office (Tom Triplett)
3990 East Broad St., Bldg. 21
Columbus, Ohio 43213

Provide copies of this letter and check to: Jonnice.Medley@disa.mil

3.6 GSA SALES

The amount of ACT Fee due GSA shall be calculated at 1% of all Civilian agency sales.

The contractor shall remit ACT Fee by corporate or cashier's check made payable to "Treasurer of the United States". Checks must be notated with the following information:
BPA FA8771-09-A-0301
ESI-SW Fee Sharing

***Checks must be accompanied by a transmittal letter (sample enclosed) that cites the applicable accounting data to ensure proper crediting of the payment.

Send check and transmittal letter to:

GSA
P. O. Box 880908
Dallas, TX 75388-0908

Mail a copy of the check and transmittal letter to:

GSA
Attn: Pebble Randolph
SmartBUY Program Management Office
10304 Eaton Place
Fairfax, VA 22310

Attachment 5

FY09 Fee Transmittal Letters

[For AF Fee Transmittals]
(COMPANY NAME BLOCK)

(DATE BLOCK)

MEMORANDUM FOR DEFENSE FINANCE and ACCOUNTING SERVICE

Disbursing Operations Directorate
FOR: 3801-Limestone Field Site
8899 E 56th Street
Indianapolis, IN 46249-9339

FROM: (Company Name)
(Street Address)
(City, State and Zip Code)

SUBJECT: Collection of Checks for **ESI SW** – FY09
(Contract #**FA8771-09-A-0301**)

1. This transmittal letter is to be used in lieu of a cash collection voucher (DD Form 1131).

2. Line of accounting to collect this check into is as follows:

5793400 309 47MZ 4G4ZKW 040000 43940 72806F 667100 F67100 SC: 97 CSN:
007999

FSR: F022320 PSR: P037714 DSR: 650961

MORD: F2XTKB8275M004

NOTE: Please do not alter any of the information above.

3. Direct questions to (Company POC, Phone Number).

[Signature Block]

1 Atch: Check # -----

Additional Requirements are as Follows:

1. Make checks payable to: 3801-LI
2. Send both the check and this transmittal letter to above address.
3. Email both:
 - A copy of check and transmittal letter to: kabfinance@gunter.af.mil.
 - Please include with the above documents the CCR and DOSR or Sales Rpt (per BPA requirements).
 - Subject Line Format of e-mail should be as follows:
Contract Number with hyphens, CCR or DOSR Month Year, Contract Name, and Contractor Name
[Example: FA0000-00-A-0000, CCR June 2009, ESI SW, Vendor, Inc.]
4. Point of Contact regarding any questions: Ricky Blackmon by phone: 334-416-2888 or Email at: ricky.blackmon@gunter.af.mil

5. Mail is also an alternative means of submitting copies. Please forward a copy to the address below:

HQ 754 ELSG/ESQ
ATTENTION: Ricky Blackmon
490 East Moore Drive, Bldg 892
MAFB-Gunter Annex, AL 36114-3014

Date:

MEMORANDUM FOR Army Small Computer Program
PEO Enterprise Information Systems
Assistant Project Manager, Army Small Computer Program
SFAE-PS-EI-SCP (Attn: Financial Support Group)
Fort Monmouth, NJ 07703-5605

From: (Company name):
(POC for this transaction):
(Street Address):
(City, State, and Zip Code):

SUBJECT: Collection of Checks for Telos Corporation/BPA# FA8771-09-A-0301,
FY09-10, etc.

1. Collection of the check will include the following:
 - a. Please make check payable to United States Treasury
 - b. Mail original check to address below:

PEO Enterprise Information Systems
Assist Project Manager, Army Small Computer Program
SFAE-PS-EI-SCP (Attn: Financial Support Group)
Fort Monmouth, NJ 07703-5605

2. Direct questions to: Margie Kirsch
732.427.6613

3. Provide copies of this letter and check to:

AMSEL-dsa-scp-CR@mail1.monmouth.army.mil

Date:

MEMORANDUM FOR General Service Administration

SmartBUY Program Management Office

Attn: *Sharon Terango*

10304 Eaton Place

Fairfax, VA 22030

From: (Company name):

(POC for this transaction):

(Street Address):

(City, State, and Zip Code):

SUBJECT: Collection of Checks for Telos Corporation/BPA# FA8771-09-A-0301, FY09-10, etc.

1. Collection of the check will include the following:
2. Please make check payable to General Services Administration
3. Mail original check to address below:

GSA
SmartBUY Program Management Office
Attn: *Sharon Terango (3A-08)*
10304 Eaton Place
Fairfax, VA 22030

4. . Direct questions to: *Sharon Terango*
703-306-6104