



**GENERAL SERVICES ADMINISTRATION
AUTHORIZED FEDERAL SUPPLY SCHEDULE PRICE LIST**

On-line access to contract ordering information, terms and conditions, up-to-date pricing, and the option to create an electronic delivery order are available through GSA *Advantage!*, a menu-driven database system. The INTERNET address GSA *Advantage!* is: GSAAdvantage.gov.

SCHEDULE NUMBER MAS

SCHEDULE NAME MULTIPLE AWARD SCHEDULE

LARGE CATEGORY INFORMATION TECHNOLOGY

SUBCATEGORY IT SERVICES

SPECIAL ITEM NUMBERS 511210 Software Licenses
54151 Software Maintenance Services
54151ECOM Electronic Commerce and Subscription Services
54151S Information Technology Professional Services
OLM Order-Level Materials

FSC CLASS FSC CLASS 7030 – Information Technology Software

FPDS CODES FPDS Code D301 IT Facility Operation and Maintenance
FPDS Code D302 IT Systems Development Services
FPDS Code D304 IT and Telecom – Telecommunications and Transmission
FPDS Code D306 IT Systems Analysis Services
FPDS Code D307 Automated Information Systems Design and Integration Services
FPDS Code D308 Programming Services
FPDS Code D310 IT Backup and Security Services
FPDS Code D311 IT Data Conversion Services
FPDS Code D313 Computer Aided Design/Computer Aided Manufacturing (CAD/CAM) Services
FPDS Code D316 IT Network Management Services
FPDS Code D317 Creation/Retrieval of IT Related Automated News Services, Data Services, or Other Information Services (All other information services belong under Schedule 76)
FPDS Code D399 Other Information Technology Services, Not Elsewhere Classified

CONTRACT NUMBER: GS-35F-470BA

CONTRACT PERIOD: AUGUST 7, 2014 – AUGUST 6, 2024
PRICELIST CURRENT THROUGH MODIFICATION #0025, 11 SEPTEMBER 2019

CONTRACTOR: AgilQuest Corporation
9407 Hull Street Road
Richmond, Virginia 23236
Office: 888-745-7455
Email: sales@agilquest.com
Fax: 804-745-6243

Point of Contact: Don Davidson, AgilQuest Corporation
o: 804-474-4909 | m: 256-508-2801
don.davidson@agilquest.com
agilquest.com

Business Size: Small



CUSTOMER INFORMATION

| | | |
|-----------|--|--|
| 1a | Table of awarded special item number(s) with appropriate cross-reference to item descriptions and awarded price(s). | 511210 Software Licenses 54151 Software Maintenance Services 54151ECOM Electronic Commerce and Subscription Services 54151S Information Technology Professional Services OLM Order-Level Materials |
| 1b | Identification of the lowest priced model number and lowest unit price for that model for each special item number awarded in the contract. This price is the Government price based on a unit of one, exclusive of any quantity/dollar volume, prompt payment, or any other concession affecting price. Those contracts that have unit prices based on the geographic location of the customer, should show | See pricelist |
| 1c | If the Contractor is proposing hourly rates, a description of all corresponding commercial job titles, experience, functional responsibility and education for those types of employees or subcontractors who will perform services shall be provided. If hourly rates are not applicable, indicate "Not applicable" for this item | See below |
| 2 | Maximum Order | \$500,000 |
| 3 | Minimum Order: | \$100 |
| 4 | Geographic Coverage (delivery area): | Domestic |
| 5 | Point(s) of production (city, county, and State or foreign country). | N/A |
| 6 | Discount from list prices or statement of net price: | See attached price list. Prices shown are net of discount. |
| 7 | Quantity Discounts: | None |
| 8 | Prompt payment terms. | 1% Net 10 days. Information for Ordering Offices: Prompt payment terms cannot be negotiated out of the contractual agreement in exchange for other concessions. |



| | | |
|------------|---|--|
| 9a | Notification that Government purchase cards are accepted at or below the micro-purchase threshold | Government Purchase Cards are accepted at or below the micro-purchase threshold. |
| 9b | Notification whether Government purchase cards are accepted or not accepted above the micro-purchase threshold. | Contractor will accept the Government Purchase Card above the micro-purchase threshold. |
| 10 | Foreign Items (list items by country of origin). | N/A |
| 11a | Time of Delivery: | 30 days ARO or Negotiable |
| 11b | Expedited Delivery | Negotiable |
| 11c | Overnight & 2-day delivery | Negotiable |
| 11d | Urgent Requirements | Negotiable |
| 12 | FOB Point(s) | Destination |
| 13a | Ordering Address: | 9407 Hull Street Road Richmond, Virginia 23236 |
| 13b | Ordering procedures: | For supplies and services, the ordering procedures, information on Blanket Purchase Agreements (BPA's) are found in Federal Acquisition Regulation (FAR) 8.405-3 |
| 14 | Payment Address: | 9407 Hull Street Road Richmond, Virginia 23236 |
| 15 | Warranty Provision: | Standard Commercial Warranty |
| 16 | Export packing charges, if applicable: | N/A |
| 17 | Terms and conditions of Government purchase card acceptance (any thresholds above the micro-purchase level): | Contractor agrees |
| 18 | Terms and conditions of rental, maintenance, and repair (if applicable): | N/A |
| 19 | Terms and conditions of installation (if applicable): | N/A |
| 20 | Terms and conditions of repair parts indicating date of parts price lists and any discounts from list prices (if applicable): | N/A |
| 20a | Terms and conditions for any other services (if applicable): | N/A |
| 21 | List of service and distribution points (if applicable): | N/A |
| 22 | List of participating dealers (if applicable): | N/A |



- 23** Preventive maintenance (if applicable): N/A
- 24a** Special attributes such as environmental attributes (e.g., recycled content, energy efficiency, and/or reduced pollutants): N/A
- 24b** Section 508 Compliance for EIT: www.agilquest.com
- 25** Data Universal Number System (DUNS) number 869385286
- 26** Notification regarding registration in SAM database Yes



TERMS AND CONDITIONS APPLICABLE TO TERM SOFTWARE LICENSES (511210) AND SOFTWARE MAINTENANCE AS A SERVICE (54151)

1. INSPECTION/ACCEPTANCE

The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The ordering activity reserves the right to inspect or test any software that has been tendered for acceptance. The ordering activity may require repair or replacement of nonconforming software at no increase in contract price. The ordering activity must exercise its post acceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the software, unless the change is due to the defect in the software .

2. ENTERPRISE USER LICENSE AGREEMENTS REQUIREMENTS (EULA)

The Contractor shall provide all Enterprise User License Agreements.

3. GUARANTEE/WARRANTY

a. Unless specified otherwise in this contract, the Contractor’s standard commercial guarantee/warranty as stated in the contract’s commercial pricelist will apply to this contract.

The Warranty can be found in the attached EULA at the end of the price list.

b. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

c. Limitation of Liability. Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the ordering activity for consequential damages resulting from any defect or deficiencies in accepted items.

4. TECHNICAL SERVICES

The Contractor, without additional charge to the ordering activity, shall provide a hot line technical support number 804-745-0467 for the purpose of providing user assistance and guidance in the implementation of the software. The technical support number is available from 8 AM to 5 PM, Easter Time.

5. SOFTWARE MAINTENANCE

a. **Software maintenance as it is defined: (select software maintenance type):**

_____ **1. Software Maintenance as a Product (SIN 511210 or SIN 54151)**

Software maintenance as a product includes the publishing of bug/defect fixes via patches and updates/upgrades in function and technology to maintain the operability and usability of the software product. It may also include other no charge support that are included in the purchase price of the product in the commercial marketplace. No charge support includes items such as



user blogs, discussion forums, on-line help libraries and FAQs (Frequently Asked Questions), hosted chat rooms, and limited telephone, email and/or web-based general technical support for user's self-diagnostics.

Software maintenance as a product does NOT include the creation, design, implementation, integration, etc. of a software package. These examples are considered software maintenance as a service.

Software Maintenance as a product is billed at the time of purchase.

 X 2. **Software Maintenance as a Service (SIN 54151)**

Software maintenance as a service creates, designs, implements, and/or integrates customized changes to software that solve one or more problems and is not included with the price of the software. Software maintenance as a service includes person-to-person communications regardless of the medium used to communicate: telephone support, on-line technical support, customized support, and/or technical expertise which are charged commercially. Software maintenance as a service is billed arrears in accordance with 31 U.S.C. 3324.

Software maintenance as a service is billed in arrears in accordance with 31 U.S.C. 3324.

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

END USER LICENSE AGREEMENT (EULA) – The End User License Agreement (EULA), web services (Terms of Service), or other user agreements, agreed to by Agilquest Corporation and dated June 23, 2014 for OnBoard Software, OnBoard OnDemand, AgilWork eLearning Solutions Manager, AgilWork eLearning Solutions Module, and CommanderBI software or service (if applicable), is hereby incorporated to the Schedule Contract GS-35F

6. PERIODS OF TERM LICENSES (SIN 511210) AND MAINTENANCE (SIN 54151)

a. The Contractor shall honor orders for periods for the duration of the contract period or a lesser period of time.

b. Term licenses and/or maintenance may be discontinued by the ordering activity on thirty (30) calendar days written notice to the Contractor.

c. Annual Funding. When annually appropriated funds are cited on an order for term licenses and/or maintenance, the period of the term licenses and/or maintenance shall automatically expire on September 30 of the contract period, or at the end of the contract period, whichever occurs first. September 30 of the contract period, or at the end of the contract period, whichever occurs first. Renewal of the term licenses and/or maintenance orders citing the new appropriation shall be required, if the term licenses and/or maintenance is to be continued during any remainder of the contract period.



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

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

7. CONVERSION FROM TERM LICENSE TO PERPETUAL LICENSE

Not applicable. The Contractor does not offer conversion from term to perpetual licenses.

8. TERM LICENSE CESSATION

Not applicable. The Contractor does not offer perpetual licenses.

9. UTILIZATION LIMITATIONS (SIN 511210 AND SIN 54151)

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

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

(1) Title to and ownership of the software and documentation shall remain with the Contractor, unless otherwise specified.

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

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

(4) The ordering activity shall have the right to use the computer software and documentation with the computer for which it is acquired at any other facility to which that computer may be transferred, or in cases of Disaster Recovery, the ordering activity has the right to transfer the software to another site if the ordering activity site for which it is acquired is deemed to be unsafe for ordering activity personnel; to use the computer software and documentation with a backup computer when the primary computer is inoperative; to copy computer programs for safekeeping (archives) or backup purposes; to transfer a copy of the software to another site for purposes of



benchmarking new hardware and/or software; and to modify the software and documentation or combine it with other software, provided that the unmodified portions shall remain subject to these restrictions.

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

10. SOFTWARE CONVERSIONS (SIN 511210 AND SIN 54151)

Not applicable. The Contractor does not offer perpetual licenses.

11. DESCRIPTIONS AND EQUIPMENT COMPATIBILITY

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

12. RIGHT TO COPY PRICING.

Not applicable. The Contractor does not offer right-to-copy licenses.



AGILQUEST CORPORATION

PROGRAM PRODUCTS LICENSE AGREEMENT

This Program Products License Agreement ("License Agreement") is entered into this ____ day of _____, 20__ ("Effective Date") by and between AgilQuest Corporation, a corporation organized under the laws of the Commonwealth of Virginia, U.S.A. having its principal offices at 9407 Hull Street, Richmond, VA 23236 ("AgilQuest") and the GSA Customer, an U.S. Government agency or instrumentality ("Customer") having its principal offices at the address indicated in an applicable GSA Customer Purchase Order ("Order").

AgilQuest and Customer agree:

- I. Licensed Products; License Fees: The products covered by this License Agreement ("Program Products") are described in an applicable GSA Customer Purchase Order and shall consist of machine-readable instructions, a collection of machine-readable data and any related user documentation in any form provided by AgilQuest. Customer shall pay AgilQuest the fees specified on the Order and other fees that may become due under this License Agreement in accordance with the terms hereof.
- II. Services: AgilQuest shall provide maintenance services of the type described in the Order. Customer may retain AgilQuest to perform other services pursuant to the execution of a new Order. These services shall be described in a written statement of work ("SoW"), if required by the Contracting Officer. This License Agreement shall apply to all services performed by AgilQuest for Customer during the term of this License Agreement unless otherwise set forth in writing and signed by both Customer and AgilQuest.
- III. License: AgilQuest hereby grants to Customer, and Customer hereby accepts, subject to the restrictions and limitations set forth in this License Agreement, a non-exclusive, non-transferable license to load, run and use the Program Products. Customer acknowledges that, in particular but without limitation, it has no right to:
 - a. reverse engineer, decompile or disassemble the Program Products, or otherwise derive source code therefrom,
 - b. directly or indirectly modify, adapt, alter, merge or create any derivative work based in whole or in part on the Program Products, except that Customer may modify any of the reporting forms included in the Program Products;
 - c. use the Program Products in the course of managing, supporting or operating reservation systems for any entity other than the Customer;
 - d. sublicense, rent, lend, lease or otherwise distribute the Program Products to others; or
 - e. make any copies of any of the Program Products, except as required for operational backups.

Customer may enter into the Program Products database, individuals who are permitted to make reservations, employees, independent contractors, consultants, and/or agents of Customer (collectively, "Personnel"). Customer may enter into the database of the Program Products, as reservable workspaces, Workspaces (as defined in an Order.) of Customer (collectively, "Workspaces").

The Program Products may include software licensed by third parties. Customer's right to use the Program Products on the terms otherwise set forth in this License Agreement is not affected thereby.

IV. Ownership of Intellectual Property: The Customer acknowledges and agrees that AgilQuest is the sole and exclusive owner of the Program Products, and all copyright and other intellectual property interests therein, including without limitation all right, title and interest in any of the Program Products created by AgilQuest. All programs, inventions, trade secrets, copyrights and other intellectual property developed under Section II above or otherwise developed in the course of performance of this Agreement, whether solely by AgilQuest or jointly with Customer, shall be and remain the property of the Party designated as the owner of the same in the applicable GSA Customer Purchase Order or SoW. If AgilQuest is the owner of the intellectual property developed under the Order of the SOW, unless otherwise specified therein that intellectual property shall automatically become part of the Program Products licensed under this License Agreement. AgilQuest's obligations under Exhibit B shall, however, not apply to any items developed by AgilQuest under Section II above, or otherwise developed in the course of performance of this Agreement, unless a separate GSA Customer Purchase Order is executed.

V. Warranties: Ownership: AgilQuest warrants that it has the full power and authority to grant the rights granted in this License Agreement and that, to the best of its knowledge, the use of the Program Products as authorized by this



License Agreement does not infringe the copyrights or patents, or misappropriate the trade secret or other intellectual property or proprietary rights, of any third party. *Media:* AgilQuest warrants that the media, if any, on which the Program Products are provided shall, upon delivery to the Customer, be free of material defects in material and workmanship and free of any viruses that can be detected by commercially available anti-virus software. *Services:* AgilQuest warrants that any services provided shall be provided in a workmanlike manner in accordance with generally accepted standards of professional care and skill applicable to the type of work performed. *Performance:* AgilQuest warrants that, for a period of 60 days after the Effective Date, the Program Products shall perform substantially in accordance with the functionality stated in the user documentation delivered at the time of installation when used in the specified operating environment described in the GSA Customer Purchase Order. Furthermore, AgilQuest warrants that any component of the Program Products that may hereafter be purchased by Customer and licensed under this License Agreement will perform substantially in accordance with the applicable Documentation for a period of 60 days from the date of first delivery of such component to Customer. If the Customer gives AgilQuest written notice during the 60-day warranty period of the specific failure of the Program Products to comply with this warranty, AgilQuest shall, at its sole discretion and as Customer's exclusive remedy, either: (i) repair or remedy the cited failure, (ii) develop a workaround that enables the Program Products to substantially meet the stated functionality, or (iii) replace the copy of the Program Products that does not satisfy this warranty with a copy that complies with this warranty. If AgilQuest, after exercising reasonable efforts to satisfy the terms of this warranty, is unable to do so, Customer shall have, as its exclusive remedy, the option of (x) continuing to use the Program Products under the terms of this License Agreement; or (y) if the breach of warranty relates to portions of the Licensed Products as a whole, and not just to a component of the same that is purchased after the Effective Date, or that is priced separately in the GSA Schedule Price List, terminating this License Agreement and returning the Program Products and receiving a full refund of all License Fees paid by Customer under this License Agreement for the Program Products, (z) If the breach of warranty relates to one or more components of the Program Products that are priced separately, either in the GSA Schedule Price List or otherwise, returning such component(s) and receiving a full refund of all License Fee paid by Customer under this Agreement for such component(s). AgilQuest does not warrant uninterrupted or error-free operation of the Program Products. The foregoing limited express warranty shall not apply to the extent that the failure, nonperformance or inability to cure the same results from: (i) the Customer using the Program Products in any manner not authorized by this License Agreement; (ii) the Customer using the Program Products in an operating environment other than that described in the Order; (iii) the failure to comply with this warranty being caused by any source other than the Program Products; (iv) the Customer failing to give AgilQuest information and data pertinent to the claimed failure or subject to Government security requirements, failing to give AgilQuest access to the Customer's facilities, equipment and/or personnel reasonably necessary in order for AgilQuest to test and remedy the claimed failure; or (v) AgilQuest being unable to replicate the problem reported by the Customer or the Customer being unable to demonstrate such problem under the same operating circumstances. AGILQUEST MAKES NO WARRANTIES OF ANY KIND OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS SECTION V WITH RESPECT TO THE PROGRAM PRODUCTS, OR ANY SERVICE PROVIDED HEREUNDER, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AGAINST INTERFERENCE WITH YOUR ENJOYMENT OF THE INFORMATION, OR AGAINST INFRINGEMENT.

Confidentiality: "Confidential Information" means the Program Products and any technical documentation or information relating to the Program Products disclosed to Customer by AgilQuest, or any information discovered by Customer upon inspection of such products, which are the Confidential Information of AgilQuest, and (c) any business information, data, know-how, trade secrets, designs, plans, reports, lists of customers and prospects and other technical and business information of every kind and description disclosed by a Party to the other Party, which are the Confidential Information of the Party that disclosed such information. When the end user is an instrumentality of the U.S. Government, neither this EULA nor the GSA Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Agreement to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation, or its bona fide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Agreement.

Confidential Information shall not, however, include information which: (i) is or becomes generally known other than as a result of a breach of this License Agreement, breach of confidentiality, or other wrongful act; (ii) was lawfully in the receiving Party's possession prior to receipt from the disclosing party without obligation of confidentiality; or (iii) is received by the receiving Party independently from a third party who lawfully discloses such information. Customer shall store any copies of the Program Products that AgilQuest may authorize it to make in a secure location, inaccessible except to personnel having a need for access to same, and the Parties shall otherwise safeguard the Confidential Information of the other against unauthorized use or disclosure with measures at least as stringent as it uses to safeguard its own confidential, proprietary and trade secret information, and in no event with precautions and safeguards that are less than reasonable under the circumstances. Each Party shall advise all personnel to whom it permits access to any of



the Confidential Information of the other Party of their obligations under this License Agreement. Customer shall not, during the term of this License Agreement or at any time hereafter, use any Confidential Information of the other Party except as allowed under this License Agreement. The obligations of confidentiality in this License Agreement are in addition to, and not in lieu of, the Parties' underlying legal and equitable obligations to hold information in confidence.

VI. Limitation of Liability and Remedy: IN NO EVENT SHALL AGILQUEST OR ANY OF ITS OFFICERS, DIRECTORS OR, EMPLOYEES, BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, RELIANCE OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA OR BUSINESS INFORMATION, OR OTHER PECUNIARY OR NONPECUNIARY LOSS) DUE TO A CLAIM MADE IN CONNECTION WITH OR ARISING UNDER THIS AGREEMENT, WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE OR OTHER LEGAL THEORY. IN NO CASE SHALL THE AGGREGATE AMOUNT OF DAMAGES PAYABLE TO CUSTOMER FOR ALL SUCH CLAIMS EXCEED AN AMOUNT EQUAL TO THE LAST ANNUAL LICENSE FEES PAID BY CUSTOMER TO AGILQUEST PRIOR TO THE DATE OF THE EVENT GIVING RISE TO THE CLAIM FOR WHICH THE CALCULATION IS BEING MADE. AGILQUEST'S TOTAL LIABILITY UNDER ANY ORDER ISSUED HEREUNDER, HOWEVER, SHALL NOT EXCEED THE AMOUNT PAID BY CUSTOMER TO AGILQUEST UNDER SUCH ORDER. THE FOREGOING EXCLUSIONS/LIMITATIONS OF LIABILITY SHALL NOT APPLY (1) TO PERSONAL INJURY OR DEATH CAUSED BY AGILQUEST'S NEGLIGENCE; (2) FOR FRAUD; (3) FOR EXPRESS REMEDIES UNDER LAW OR THE CONTRACT; OR (4) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

VII. Indemnity. AgilQuest shall indemnify Customer from and against any judgment, liability, or damage or fine payable to any third party resulting from any claim or cause of action filed by such third party to the extent based on an allegation that use of the Program Products as authorized by this License Agreement, infringe, misappropriate or otherwise violate the copyright, patent or trade secret or other proprietary rights of such third party ("Claim"), and shall indemnify Customer from and against its reasonable attorneys fees and defense-related costs and expenses incurred in defending against such Claim. This obligation to indemnify shall not apply to the extent the Claim arises from: modifications or customizations to the designs, specifications, features or functionality of the Program Products made at Customer's direction; use of the Program Products other than as authorized by this License Agreement, or modification of the Program Products by the Customer or anyone other than AgilQuest or its agents; or failure of the Customer to use the most recent Maintenance Release (as defined in Exhibit A) provided to it by AgilQuest, to the extent that such failure persists after AgilQuest gives Customer written notice that use of such Maintenance Release is necessary in order to avoid infringement and gives Customer a reasonable opportunity to install such Maintenance Release. Further, AgilQuest shall have no obligation to indemnify Customer to the extent the failure of the Customer to promptly notify AgilQuest of any Claim for which it seeks indemnity prejudices AgilQuest. AgilQuest shall have the option to intervene in any litigation, at its own expense, through counsel of its choosing. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28.U.S.C.§516. In the event that a settlement or other resolution binding upon AgilQuest arising from a Claim prevents the Customer from using all or part of the Program Products as authorized by this License Agreement, AgilQuest, without additional charge, shall at its option: (i) work with the Government to secure a license from the third party authorizing the Customer to continue use of the Program Products; (ii) modify the Program Products so as to avoid any claim of infringement or misappropriation; (iii) replace the Program Products, without additional charge, with compatible, functionally comparable, non-infringing product, or (iv) terminate this License Agreement and refund to the Customer the annual license fees paid by Customer under this License Agreement for the period during which the termination occurred.

VIII. Term and Termination: This License Agreement shall commence on the Effective Date and shall remain in effect without limitation in duration as set forth in an applicable GSA Customer Purchase Order unless sooner terminated as provided for in the FAR, the underlying GSA Schedule Contract and/or any applicable GSA Customer Purchase Order. When the end user is instrumentality of U.S., recourse against the United States for any alleged breach of this Agreement must be made as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, AgilQuest shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.



- a. **Events on Termination:** Upon termination or expiration of this License Agreement, all licenses granted herein shall terminate immediately, the Program Products may automatically, or AgilQuest may cause them to, cease to operate, Customer shall immediately return to AgilQuest its Confidential Information and provide a written representation that it no longer retains any Confidential Information; each Party further shall immediately return any of the other's physical property, including but not limited to equipment, documents, and electronic storage media. The Customer further shall immediately cease all use of the Program Products, return all transportable copies of the Program Products, and provide a representation that it has deleted and erased, in a manner that precludes restoration, all non-transportable copies of the Program Products. The Customer's obligations of confidentiality shall remain in effect without limitation in duration.

IX. Miscellaneous Terms:

- a. **Terms Applicable to Government Licensee.** If the Customer is a unit or agency of the U.S. Government ("Government"), the Program Products shall be classified as "Commercial Computer Software," as defined in the applicable provisions of the Federal Acquisition Regulation ("FAR") and supplements thereto, and the Program Products are provided only with the rights stated herein pursuant to FAR 12.212(a) and (ii) FAR 52.227-14 "Rights in Data" (Dec. 2007) or DFARS 252.227.2015 "Technical Data-Commercial Items" (Jun. 2013), as applicable.
- b. **Entire Agreement:** This License Agreement, the underlying GSA Schedule Contract, the Schedule Price List and any applicable GSA Customer Purchase Orders set forth the entire agreement between the parties with respect to the subject matter hereof and supersede any prior or contemporaneous oral or written agreement or representation related thereto. This Agreement, however, shall not take precedence over the terms of the underlying GSA Schedule Contract or any specific, negotiated terms of the GSA Customer's Purchase Order. No addition or amendment may be made to this License Agreement except by written agreement signed by both parties.
- c. **Survival:** The provisions of sections. Ownership of Intellectual Property, Confidentiality, and Limitation of Liability and Remedy above shall survive termination of this License Agreement.
- d. **Waiver:** The failure of either Party to insist on strict performance of any of the provisions of this License Agreement, or to exercise any right granted hereunder, shall not be construed as a relinquishment of any right or a waiver of any provision of this License Agreement. No waiver of any provision or right shall be valid unless it is in writing and signed by a duly authorized representative of the Party making the waiver.
- e. **Assignment:** This License Agreement may not be assigned by either Party, directly or indirectly, by virtue of merger or otherwise, without the prior written consent of the other. Assignment by AgilQuest is subject to FAR 52.232-23 "Assignment of Claims" (Jan, 1986) and FAR subpart 42.13 "Novation and Change-of-Name Agreements" (Sep. 2013).
- f. **Notice:** Notices required or provided for by this License Agreement shall be in writing and sent to each Party at its address set forth in an applicable GSA Customer Purchase Order, or such other address as it may from time to time designate in writing.
- G. **Force Majeure:** Pursuant to FAR 52.212-4(f), neither Party shall be liable for any default or delay in the performance of its obligations under the agreement (i) if and to the extent such default or delay is caused, directly or indirectly, by acts of God or the public enemy, acts of Government in its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather and delays of common carriers. In such event the non-performing Party shall be excused from further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such Party continues to use its best efforts to recommence performance or observance whenever and to whatever extent possible without delay. Any Party so delayed in its performance shall notify the Party to whom performance is due as soon as practicable.



AgilQuest Corporation

GSACustomer: _____

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Address: 9407 Hull Street Road, Richmond,
VA 23236

Address: _____



Exhibit A

AgilQuest Program Products License Agreement

Program Maintenance and Support

1. Maintenance Services: AgilQuest shall assist Customer with operation of the Program Products as Customer may from time to time request, as provided herein. Customer may submit requests for assistance to AgilQuest through Customer's Authorized Contacts via a Support Hot Line. AgilQuest shall use its best efforts to return each call to the Support Hot Line made by an Authorized Contact within one hour of the time that the call was made and provide the requested assistance according to the procedures set forth at Section 2 below. An "Authorized Contact" for this purpose shall mean a person who is designated in writing to AgilQuest by Customer as being authorized to report Incidents under this Agreement. The Services described in this Exhibit A shall be available between 8:30 a.m. and 5:00 p.m. Eastern Time, Monday through Friday, except on federal holidays. AgilQuest shall supply Customer all Maintenance Releases to the Program Products when commercially available. "Maintenance Releases" shall mean bug fixes, error fixes, and incremental improvements in capabilities and functionality that are made generally available to AgilQuest's licensees of the Program Products without any compensation in addition to that paid for the Program Product to which they relate. A new "Version" shall mean a version of the Program Products that includes a material improvement in functionality or performance, as compared to a Maintenance Release. New Versions and Maintenance Releases are mutually exclusive, and the characterization of a product as a new Version or Maintenance Release shall lie in AgilQuest's sole discretion, provided that such characterization shall be substantially the same with respect to all licensees of the Program Products.

2. Procedures: The procedures for providing maintenance services are as follows:

Level 1 - Customer Help Desk

Customer shall ensure that all requests for service are first directed to an Authorized Contact. The Authorized Contact shall identify the reported problem according to one of the following categories:

Priority Level 1- Any of the following:

- A complete or substantial loss of service when using a production installation of OnBoard,
- Real or perceived data loss or data corruption making an essential part of the production installation of OnBoard unusable, or
- The inability to use a mission critical application within a production installation of OnBoard.

Priority Level 2- Any of the following:

- The functionality of the software is adversely affected, but the problem can be circumvented, or
- Certain functions within the software are disabled, but the software remains operable.

Priority Level 3:

- No loss of service and no significant effect on the usability of the software. This priority level is typically assigned to questions, comments and enhancement requests.

Level 2 - AgilQuest Help Desk

Customer's Authorized Contacts may request AgilQuest's assistance in addressing any error or other request for assistance at any time by calling the AgilQuest Support Hot Line, providing Customer's name, describing the problem and the Category in which Customer believes the problem falls. Customer shall report all priority level 1 or 2 requests for service to AgilQuest promptly. AgilQuest will either confirm or reclassify Customer's assessment of the priority level in which the request for service falls at the time that it returns Customer's call to the Support Hot Line. AgilQuest will respond to requests for assistance in the order in which they are received, except that it shall respond to requests for assistance with a higher priority level (level 1 being the highest level) prior to addressing requests for assistance that it identifies as having a lower priority level 3. AgilQuest will use its best efforts to determine the cause of each reported request for service and propose a solution within the following time frames, measured from the time that AgilQuest receives Customer's call to the Support Hot Line;

- Priority Level 3 requests: 72 hours.
- Priority Level 4 requests: 24 hours.
- Priority Level 5 requests: 4 hours.

3. Customer Responsibilities: The Customer shall:

- Provide problem determination and resolution assistance to AgilQuest wherever there are interfaces between the Program Products and other hardware or software, (e.g., telephone switch, network);



- Provide by name one individual and one backup person who are authorized to request services from AgilQuest's Support Hot Line;
- Provide the Specified Operating Environment described in the GSA Customer Purchase Order;
- Provide AgilQuest, personnel the necessary physical, security, and remote connectivity, access and permissions to both client and server machines that operate the Program Products in order to allow the installation, setup, testing and ongoing support;
- Provide to AgilQuest, the support needed to obtain the connectivity, access and permissions that will allow the Program Products and its servers (database, application server, repository), interfaces and applications (Agent/Operator, hotspot editor, etc.) to function properly. Support includes, but is not limited to, opening the necessary network ports, granting access to IP addresses, setting proper application security.

Furthermore, AgilQuest shall have no obligation to Customer, and shall have no liability to Customer for the failure of the Program Products to function properly to the extent caused by Customer's failure to provide any of the above.

4. Exclusions: The following services are not included in the services offered under this Exhibit A:

- On-site services, unless such services are required to fix an error;
- Implementation services such as data entry, floor plan graphics work, data conversion, tailoring of the system, installation of Program Product versions and Maintenance Releases, database administration;
- Customizations, enhancements, changes or additions to AgilQuest's Program Products;
- Errors caused by Customer's failure to maintain the Specific Operating Environment specified in the GSA Customer Purchase Order, such as modifications, changes, or upgrades to telephone switches, LANs, workstations, power interruptions, and password changes;
- Through the third anniversary of the License Agreement, services for products other than the Program Products covered by the License Agreement, with its most current Maintenance Release, or with the next prior Maintenance Release;
- After the third anniversary of this Agreement, Service for products other than the most current version being distributed by AgilQuest as of the date of the service request, or the next prior version, in each case with the most current Maintenance release for that version;
- Service for products that have been modified by Customer.

5. Fees: AgilQuest shall respond to Customer's requests for assistance in connection with use or performance of the Program Products within the first 90 days after the Effective Date of the License Agreement. All services provided after that date, other than problems resulting from Errors, shall be provided pursuant to the execution of a new GSA Customer Purchase Order and/or a SoW, if required by the Contracting Officer. An "Error" for this purpose shall mean failure of the Program Products to perform in accordance with the applicable Documentation due to bugs or defects in the Program Products.

6. Optional Support Services. If Customer has selected and ordered one of the optional support service packages described below, AgilQuest shall provide service of the type selected. Selection of a support service package under this Section 6 may be made by executing a new or modified GSA Customer Purchase Order. Support Services listed below must be requested by Customer's personnel identified to AgilQuest in writing as authorized to request such services ("Authorized Person"). AgilQuest may, but shall not be required, to respond to any Request made by anyone other than an Authorized Person. "Incident" means a request for service related to a failure of the Program Products to perform in accordance with the Documentation due to a bug or defect in the Program Products, or due to any other reason, and any other requests for assistance in use of the Program Products raised by Customer after Customer's compliance with its obligations under Section 2 above. "Incident," however, does not include a request for any of the following items, all of which are hereby expressly excluded from the services to be provided under this Section: (a) site implementations or training for administrators, concierges and end users; (b) updates of any kind that can be accomplished with the assistance of the AgilQuest tool known as the "User Management Process" or "UMP" unless Customer has licensed a UMP from AgilQuest; (c) back up services other than AgilQuest's own, independent back up to be provided under Section 2.1 a. above; (d) addressing Incidents, inquiries, or providing services of any kind, related to a staging server, or any server other than Customer's production server; (e) end user support requested by Customer's personnel other than the Authorized Contacts; (f) product customizations, including new phone driver development; and (g) integration to other Customer systems. AgilQuest shall use commercially reasonable efforts to remedy any faults or errors that are identified with respect to the Program Products. AgilQuest shall diagnose such errors to the extent that it is able to do so given the access it has to such systems and the knowledge it has of such systems, but AgilQuest shall have no obligation to cure errors or malfunctions of hardware, or of software other than the Program Products, or to provide any services in connection with correction of errors or malfunctions of hardware or software provide by third parties except in connection with the interface of such systems with the Program Products.



Support Service Packages

A. Services Included

| Services Description | Bronze | Silver | Gold |
|---|--|--|--|
| Access to New Product Releases | Access is given to all Maintenance Releases of the Licensed Version. | Access is given to all Maintenance Releases of the Licensed Version. | Access is given to all Maintenance Releases of the Licensed Version. |
| # of Incidents per year (a “year” meaning a consecutive twelve-month period beginning on the Effective Date or an anniversary of that date) | 1000 | 2500 | 5000 |
| # of Authorized Persons Permitted. | 2 | 5 | 10 |
| Access to Technical Support Engineers (i.e., Authorized Contacts may speak to AgilQuest’s technical Support Engineer as reasonably requested in connection with resolving reported Incidents. | Yes | Yes. | Yes. |
| Phone Support | 9x5 Support – Phone access to the AgilQuest Support Center Monday through Friday, 9:00 AM to 6:00 PM EST excluding federal holidays. | 24x5 Support – Phone access to the AgilQuest Support Center Monday through Friday, 24 hours a day, excluding federal holidays. | 24x7 Support – Phone access to the AgilQuest Support Center 24 hours a day, 365 days a year, excluding federal holidays. |
| Email Support | Email support available during contracted hours; submission of technical support cases 24x7 | Email support available during contracted hours; submission of technical support cases 24x7 | Email support available during contracted hours; submission of technical support cases 24x7 |

B. Target Response And Resolution Times. At AgilQuest, we understand that following up to customer incidents in a timely fashion is critical to customer satisfaction and maintaining a long-term relationship with our customers. The table below displays the response and resolution goals that we strive to achieve for every customer incident reported to us.

| Service Description | Priority Level 1 (Critical) | Priority Level 2 (Significant) | Priority Level 3 (Normal) |
|---------------------|-----------------------------|--------------------------------|---------------------------|
| Response Time | 1 Business hour | 2 Business hours | 1 Business day |



| | | | |
|-------------------------|--|---|---|
| Initial Resolution Time | All commercially reasonable efforts until resolution is reached. | 30 Business days | 45 business days |
| Final Resolution Time | Next product or service pack release. | Future product or service pack release. | Future product or service pack release. |

The following table defines the three levels of severity for Priority for reported incidents.

| | |
|---------------------------------|---|
| Severity 1 (Critical) | Any of the following: <ul style="list-style-type: none"> • A complete or substantial loss of the OnBoard system not being used in a test mode (“Production System”). • Real or perceived data loss or data corruption making an essential part of the Production System unusable. • The inability to use a mission critical applications within a Production System. |
| Severity 2 (Significant) | Any of the following: <ul style="list-style-type: none"> • The functionality of the Production System is adversely affected, but can be circumvented. • Certain functions within the Production System are disabled, but the Software remains operable. |
| Severity 3 (Normal) | No loss of service and no significant effect on the usability of the software. This Priority level is typically used for questions, comments and enhancement requests. |

The Services do not include anything other than the Services listed above and do not include items specifically excluded herein. By way of illustration, the following Services are not included:

- (a) site implementation(s), additional site migration (s), or training for administrators, concierges and/or end users;
- (b) incidents, inquiries, or services of any kind related to a staging server, or any server other than Customer’s production server;
- (c) end user support requested by Customer personnel other than the Authorized Contacts;
- (d) integration of the Software with other systems or devices;
- (e) support for software other than the Program Products;
- (f) custom reports or strategic utilization reporting and analysis; and
- (g) onsite assistance



**TERMS AND CONDITIONS APPLICABLE TO INFORMATION TECHNOLOGY (IT)
PROFESSIONAL SERVICES (54151S)**

1.

SCOPE

- a. The prices, terms and conditions stated under Special Item Number 54151S Information Technology Professional Services apply exclusively to IT Professional Services within the scope of this Information Technology Schedule.
- b. The Contractor shall provide services at the Contractor's facility and/or at the ordering activity location, as agreed to by the Contractor and the ordering activity.

2. PERFORMANCE INCENTIVES I-FSS-60 Performance Incentives (April 2000)

- a. Performance incentives may be agreed upon between the Contractor and the ordering activity on individual fixed price orders or Blanket Purchase Agreements under this contract.
- b. The ordering activity must establish a maximum performance incentive price for these services and/or total solutions on individual orders or Blanket Purchase Agreements.
- c. Incentives should be designed to relate results achieved by the contractor to specified targets. To the maximum extent practicable, ordering activities shall consider establishing incentives where performance is critical to the ordering activity's mission and incentives are likely to motivate the contractor. Incentives shall be based on objectively measurable tasks.

3. ORDER

- a. Agencies may use written orders, EDI orders, blanket purchase agreements, individual purchase orders, or task orders for ordering services under this contract. Blanket Purchase Agreements shall not extend beyond the end of the contract period; all services and delivery shall be made and the contract terms and conditions shall continue in effect until the completion of the order. Orders for tasks which extend beyond the fiscal year for which funds are available shall include FAR 52.232-19 (Deviation – May 2003) Availability of Funds for the Next Fiscal Year. The purchase order shall specify the availability of funds and the period for which funds are available.
- b. All task orders are subject to the terms and conditions of the contract. In the event of conflict between a task order and the contract, the contract will take precedence.

4. PERFORMANCE OF SERVICES

- a. The Contractor shall commence performance of services on the date agreed to by the Contractor and the ordering activity.
- b. The Contractor agrees to render services only during normal working hours, unless otherwise agreed to by the Contractor and the ordering activity.
- c. The ordering activity should include the criteria for satisfactory completion for each task in the Statement of Work or Delivery Order. Services shall be completed in a good and workmanlike manner.
- d. Any Contractor travel required in the performance of IT Services must comply with the Federal Travel Regulation or Joint Travel Regulations, as applicable, in effect on the date(s) the travel is performed. Established Federal Government per diem rates will apply to all Contractor travel. Contractors cannot use GSA city pair contracts.

5. STOP-WORK ORDER (FAR 52.242-15) (AUG 1989)

- (a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the



Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either-

- (1) Cancel the stop-work order; or
 - (2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.
- (b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if-
- (1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and
 - (2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.
- (c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.
- (d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

6. INSPECTION OF SERVICES

In accordance with FAR 52.212-4 CONTRACT TERMS AND CONDITIONS--COMMERCIAL ITEMS (MAR 2009) (DEVIATION I - FEB 2007) for Firm-Fixed Price orders and FAR 52.212-4 CONTRACT TERMS AND CONDITIONS -COMMERCIAL ITEMS (MAR 2009) (ALTERNATE I -OCT 2008) (DEVIATION I – FEB 2007) applies to Time-and-Materials and Labor-Hour Contracts orders placed under this contract.

7. RESPONSIBILITIES OF THE CONTRACTOR

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character. If the end product of a task order is software, then FAR 52.227-14 (Dec 2007) Rights in Data – General, may apply.

8. RESPONSIBILITIES OF THE ORDERING ACTIVITY

Subject to security regulations, the ordering activity shall permit Contractor access to all facilities necessary to perform the requisite IT Professional Services.

9. INDEPENDENT CONTRACTOR

All IT/ Professional Services performed by the Contractor under the terms of this contract shall be as an independent Contractor, and not as an agent or employee of the ordering activity.

10. ORGANIZATIONAL CONFLICTS OF INTEREST

- a. Definitions.



“Contractor” means the person, firm, unincorporated association, joint venture, partnership, or corporation that is a party to this contract.

“Contractor and its affiliates” and “Contractor or its affiliates” refers to the Contractor, its chief executives, directors, officers, subsidiaries, affiliates, subcontractors at any tier, and consultants and any joint venture involving the Contractor, any entity into or with which the Contractor subsequently merges or affiliates, or any other successor or assignee of the Contractor.

An “Organizational conflict of interest” exists when the nature of the work to be performed under a proposed ordering activity contract, without some restriction on ordering activities by the Contractor and its affiliates, may either (i) result in an unfair competitive advantage to the Contractor or its affiliates or (ii) impair the Contractor’s or its affiliates’ objectivity in performing contract work.

b. To avoid an organizational or financial conflict of interest and to avoid prejudicing the best interests of the ordering activity, ordering activities may place restrictions on the Contractors, its affiliates, chief executives, directors, subsidiaries and subcontractors at any tier when placing orders against schedule contracts. Such restrictions shall be consistent with FAR 9.505 and shall be designed to avoid, neutralize, or mitigate organizational conflicts of interest that might otherwise exist in situations related to individual orders placed against the schedule contract. Examples of situations, which may require restrictions, are provided at FAR 9.508.

11. INVOICES

The Contractor, upon completion of the work ordered, shall submit invoices for IT Professional services. Progress payments may be authorized by the ordering activity on individual orders if appropriate. Progress payments shall be based upon completion of defined milestones or interim products. Invoices shall be submitted monthly for recurring services performed during the preceding month.

12. PAYMENTS

For firm-fixed price orders the ordering activity shall pay the Contractor, upon submission of proper invoices or vouchers, the prices stipulated in this contract for service rendered and accepted. Progress payments shall be made only when authorized by the order. For time and materials orders, the Payments under Time and Materials and Labor Hour Contracts at FAR 52.212-4 (MAR 2009) (ALTERNATE I – OCT 2008) (DEVIATION I – FEB 2007) applies to time and materials orders placed under this contract. For labor hour orders, the Payment under Time and Materials and Labor Hour Contracts at FAR 52.212-4 (MAR 2009) (ALTERNATE I – OCT 2008) (DEVIATION I – FEB 2007) applies to labor hour orders placed under this contract. 52.216-31(Feb 2007) Time-and-Materials/Labor-Hour Proposal Requirements—Commercial Item Acquisition. As prescribed in 16.601(e)(3), insert the following provision:

(a) The Government contemplates award of a Time-and-Materials or Labor-Hour type of contract resulting from this solicitation.

(b) The offeror must specify fixed hourly rates in its offer that include wages, overhead, general and administrative expenses, and profit. The offeror must specify whether the fixed hourly rate for each labor category applies to labor performed by—

(1) The offeror;

(2) Subcontractors; and/or

(3) Divisions, subsidiaries, or affiliates of the offeror under a common control.

13. RESUMES

Resumes shall be provided to the GSA Contracting Officer or the user ordering activity upon request.



14. INCIDENTAL SUPPORT COSTS

Incidental support costs are available outside the scope of this contract. The costs will be negotiated separately with the ordering activity in accordance with the guidelines set forth in the FAR.

15. APPROVAL OF SUBCONTRACTS

The ordering activity may require that the Contractor receive, from the ordering activity's Contracting Officer, written consent before placing any subcontract for furnishing any of the work called for in a task order.

16. DESCRIPTION OF IT PROFESSIONAL SERVICES AND PRICING

Refer to GSA pricing.



TERMS AND CONDITIONS APPLICABLE TO ELECTRONIC COMMERCE AND SUBSCRIPTION SERVICES (SPECIAL ITEM NUMBER 54151ECOM)

1. SCOPE

The prices, terms and conditions stated under Special Item Number 54151ECOM Electronic Commerce (EC) Services apply exclusively to EC Services within the scope of this Information Technology Schedule.

2. ELECTRONIC COMMERCE CAPACITY AND COVERAGE

The Ordering Activity shall specify the capacity and coverage required as part of the initial requirement.

3. INFORMATION ASSURANCE

a. The Ordering Activity is responsible for ensuring to the maximum extent practicable that each requirement issued is in compliance with the Federal Information Security Management Act (FISMA)

b. The Ordering Activity shall assign an impact level (per Federal Information Processing Standards Publication 199 & 200 (FIPS 199, "Standards for Security Categorization of Federal Information and Information Systems") (FIPS 200, "Minimum Security Requirements for Federal Information and Information Systems") prior to issuing the initial statement of work. Evaluations shall consider the extent to which each proposed service accommodates the necessary security controls based upon the assigned impact level. The Contractor awarded SIN 54151ECOM is capable of meeting at least the minimum security requirements assigned against a low-impact information system (per FIPS 200).

c. The Ordering Activity reserves the right to independently evaluate, audit, and verify the FISMA compliance for any proposed or awarded Electronic Commerce services. All FISMA certification, accreditation, and evaluation activities are the responsibility of the ordering activity.

4. DELIVERY SCHEDULE.

The Ordering Activity shall specify the delivery schedule as part of the initial requirement. The Delivery Schedule options are found in Information for Ordering Activities Applicable to All Special Item Numbers, paragraph 6. Delivery Schedule.

5. INTEROPERABILITY

When an Ordering Activity requires interoperability, this requirement shall be included as part of the initial requirement. Interfaces may be identified as interoperable on the basis of participation in a sponsored program acceptable to the Ordering Activity. Any such access or interoperability with teleports/gateways and provisioning of enterprise service access will be defined in the individual requirement.

6. ORDER

a. Agencies may use written orders, EDI orders, blanket purchase agreements, individual purchase orders, or task orders for ordering electronic services under this contract. Blanket Purchase Agreements shall not extend beyond the end of the contract period; all electronic services and delivery shall be made and the contract terms and conditions shall continue in effect until the completion of the order. Orders for tasks which extend beyond the fiscal year for which funds are available shall include FAR 52.232-19 (Deviation – May 2003) Availability of Funds for the Next Fiscal Year. The purchase order shall specify the availability of funds and the period for which funds are available.

b. All task orders are subject to the terms and conditions of the contract. In the event of conflict between a task order and the contract, the contract will take precedence.

7. PERFORMANCE OF ELECTRONIC SERVICES

The Contractor shall provide electronic services on the date agreed to by the Contractor and the ordering activity.

8. RESPONSIBILITIES OF THE CONTRACTOR

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character.

9. RIGHTS IN DATA

The Contractor shall comply FAR 52.227-14 RIGHTS IN DATA – GENERAL and with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character.

10. ACCEPTANCE TESTING



If requested by the ordering activity the Contractor shall provide acceptance test plans and procedures for ordering activity approval. The Contractor shall perform acceptance testing of the systems for ordering activity approval in accordance with the approved test procedures.

11. WARRANTY

The Contractor shall provide a warranty covering each Contractor-provided electronic commerce service. The minimum duration of the warranty shall be the duration of the manufacturer's commercial warranty for the item listed below:

Refer to warranty under SIN 511210.

The warranty shall commence upon the later of the following:

- a. Activation of the user's service
- b. Installation/delivery of the equipment

The Contractor, by repair or replacement of the defective item, shall complete all warranty services within five working days of notification of the defect. Warranty service shall be deemed complete when the user has possession of the repaired or replaced item. If the Contractor renders warranty service by replacement, the user shall return the defective item(s) to the Contractor as soon as possible but not later than ten (10) working days after notification.

12. MANAGEMENT AND OPERATIONS PRICING

The Contractor shall provide management and operations pricing on a uniform basis. All management and operations requirements for which pricing elements are not specified shall be provided as part of the basic service.

13. TRAINING

The Contractor shall provide normal commercial installation, operation, maintenance, and engineering interface training on the system. If there is a separate charge, indicate below: None.

14. MONTHLY REPORTS

In accordance with commercial practices, the Contractor may furnish the ordering activity/user with a monthly summary ordering activity report.

15. ELECTRONIC COMMERCE SERVICE PLAN

- a. Describe the electronic service plan and eligibility requirements: Contact Contractor.
- b. Describe charges, if any, for additional usage guidelines: Contact Contractor.
- c. Describe corporate volume discounts and eligibility requirements, if any: Contact Contractor



Forum Terms of Service (Applicable to Products awarded under SIN 54151ECOM)

Introduction

- 1) **Forum Terms of Service:** Forum Terms of Service apply to Accounts and Users that use the Service for the purpose of publishing Assets to be made available to Users of the Service for the purposes of booking the Assets.
- 2) **Competitors:** Competitors may not access the Service, except with AgilQuest's prior written consent. In addition, competitors may not access the Service for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or other competitive purposes.
- 3) **Authorization to Use:** By both parties executing this Agreement in writing, the undersigned Ordering Activity under GSA Schedule contracts ("you" or "Ordering Activity") acknowledge that you have read these Terms of Service and agree to be bound by them. Any use of this Service shall constitute your representation that you are 18 years of age. Furthermore, if you are accepting these Terms of Service on behalf of, or for the benefit of the Account, whether as an employee of the Account or otherwise, then your acceptance of these Terms and your use of this Service also constitutes your representation that you are authorized by the Account to accept these Terms for the Account. If you do not agree to these Terms, or if you are not authorized to do so on behalf of the Account for which you are accessing this Service, you are not authorized to use this Service.
Change of Terms: AgilQuest reserves the right, at its sole discretion, to modify these Terms any time to keep them current with the Service offered and with terms offered to all Accounts. No such change shall, however, (i) change the fee for the Term for which Subscriber has paid the fee, or (ii) change these Terms in a material way for the Term for which Subscriber has paid except for addition of terms that relate to functionality of the Service added after such payment was made. AgilQuest will keep these Terms marked with the most current date of any change. It is Account's responsibility to review the Terms for any changes made since the last update. Using the Service after a change has been made to the Terms or policies constitutes the Account agreement to the change except as expressly set forth above. Any material modification to these Terms shall be presented to Ordering Activity for review and will not be effective unless and until both parties sign a written agreement updating these Terms.
- 4) **Definitions**
 - 1) "Booking" means a reservation for an Asset requested by User.
 - 2) "Account" means the party that pays the Fees.
 - 3) "Account Content" means information, text, graphics, images, music, software, audio, video, information or other materials of any kind posted on the Service by Account.
 - 4) "AgilQuest Content" means information, text, graphics, images, music, software, audio, video, information or other materials of any kind posted on the Service by AgilQuest.
 - 5) "Asset" means any space, equipment, service or other item that is made available by Account for Booking by means of the Service.
 - 6) "Derived Data" means all aggregated and anonymized data collected by means of the Service that is not related to an identified or identifiable natural person, and all analysis or other information derived from the same.
 - 7) "Effective Date" means the date on which Account submits its Order Form for the Service.
 - 8) "Feedback" means, comments and suggestions related in some way to the Service.
 - 9) "Fee(s)" means any the fees payable to AgilQuest specified on the Order Form.



- 10) “Generated Data” means information related to Bookings collected by, or generated by, the Service in connection with use of the Service by Account and Users to whom it permits access to the Service.
- 11) “Local Element” means that portion of the Forum Service that are loaded onto any local device, such as, Room Displays, Account or User’s personal computers, and User’s or Account’s smartphones, including without limitation applications downloaded by Users from any application store or other application delivery source.
- 12) “Order Form” means any ordering document or online order specifying any Service to be provided hereunder and any Fees to be due for the Service.
- 13) “Service” means the Agilquest Forum platform and all subcomponents of it, including any mobile application, interface, module or API (application programming interface) that might from time to time be made available by AgilQuest in connection with use of this Service.
- 14) “Terms” means these Terms of Service as they may be changed from time to time as provided above.
- 15) “Term” means the twelve-month period commencing with the Effective Date on the Order Form or invoice and each subsequent twelve-month period for which Account pays the applicable Fees.
- 16) “User” means a person or entity that makes use of the Service.

Scope of Service

AgilQuest will make available to Account the Service of the type and quantity for which the Account has subscribed and paid in accordance with the Order Form submitted by Account and accepted by AgilQuest. AgilQuest will use commercially reasonable efforts to make the online Services available 24 hours a day, 7 days a week, except for: (i) planned downtime for maintenance, and (ii) any unavailability caused by circumstances beyond AgilQuest’s reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, Internet service provider failure or delay, non-AgilQuest software, or denial of service attack. AgilQuest may modify the features and functionality of the Service at any time. We will not materially decrease the overall functionality of the Service. Account may request AgilQuest’s assistance in connection with use of the Service at any time by submitting an inquiry through the online AgilQuest Success Portal.

Account and User Obligations

- 1) **Compliance with Law.** It is the obligation of Account to know and comply with applicable laws and government regulations related to the use of the Service.
- 2) **Compliance with Terms of Service.** Account acknowledges that the Terms are binding, and each agrees to comply with the same. Account and Users will immediately notify AgilQuest of any unauthorized use of the Service of which it becomes aware.
- 3) **Security.** Account acknowledges that no method of transmission over the internet, and no method of storing electronic information, can be wholly secure. AgilQuest uses reasonable means to protect information provided by Account and information related to the transactions of Account and Users related to the Service, but it is not possible to ensure the security of information provided over the internet or of electronically stored information. Account is solely responsible for the security of information provided by it during transmission to the Service. By using the Service, Account accepts the risk that any data of any type generated in the course of its use of the Service, may not be completely secure.



Fees Payable

- 1) Fees and Payment Terms. Account shall pay all Fees in accordance with the GSA Schedule Pricelist as specified on AgilQuest's Order Form submitted by Account. Account will pay a late interest charge on all amounts past due in accordance with the Prompt Payment Act (31 USC 3901 et seq) and Treasury regulations at 5 CFR 1315.
- 2) No Other Terms; Taxes. AgilQuest hereby expressly objects to any term in any purchase order unilaterally issued by Account that is in conflict with or in addition to these Terms of Service and no such term will be binding upon AgilQuest unless AgilQuest and Ordering Activity both sign a negotiated Purchase Order, AgilQuest shall state separately on invoices taxes excluded from the fees, and the Ordering Activity agrees either to pay the amount of the taxes (based on the current value of the equipment) or provide evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- 3) Free Trial. AgilQuest will make the Service available on a one-time trial basis free of charge until the earlier of (a) 30 days after the Signature Date of the Order Form, or (b) 30 days after the start date of any trial use of the Service by Account, or (c) termination by AgilQuest in our sole discretion.

Privacy and Remedies

- 1) Privacy Policies. Account will not store or transmit material in violation of third party privacy rights. AgilQuest's attached Privacy Policy is incorporated by reference into this Agreement.
- 2) Remedies. AgilQuest has no obligation to monitor Account's or any User's use of the Service or to enforce compliance with this Agreement, but it has the right to do so for the purpose of monitoring and enforcing compliance.

IP and Data Ownership and Use:

- 1) AgilQuest's Ownership. AgilQuest is the sole and exclusive owner of (i) all software AgilQuest used to perform the Service, and all copyright, trademark, patent and other intellectual property interests therein, including without limitation, any Local Element that might from time to time be made available by AgilQuest in connection with use of this Service, (ii) AgilQuest Content, and (iii) the Derived Data.
- 2) License to Host Account Content and Non-AgilQuest Software. Account grants AgilQuest a worldwide, limited-term license to host, copy, transmit and display Account Content and any non-AgilQuest software created by or for Account for use by Account with the Services, as reasonably necessary for AgilQuest to provide the Services in accordance with this Agreement. Subject to the limited licenses granted herein, AgilQuest acquires no right, title or interest from Account under this Agreement to Non-AgilQuest software or Account Content.
- 3) Account's Ownership. All Account Content to the extent it was owned by Account at the time of posting, remain the sole and exclusive property of the Account.
- 4) Disclosure of Account Content. AgilQuest may disclose the Account Content to any third party used by AgilQuest to provide support, but only to the extent reasonably necessary to provide such Services, and only under confidentiality obligations that are consistent with this section. AgilQuest may also disclose the Account Content as required by law. To the extent that Derived Data is based on Account Content, AgilQuest will not disclose the Derived Data other than as permitted above unless it is aggregated with other data in such a manner that the Derived Data cannot be identified as being related to Account.



5) Feedback. Account hereby grants AgilQuest a perpetual, irrevocable, royalty-free, worldwide right and license, with right to transfer or sublicense, to reproduce, disclose, prepare derivative works of, perform, display, distribute, modify, use, make, have made and sell products and Service based on such Feedback and otherwise exploit the Feedback in any way. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the Ordering Activity shall receive unlimited rights to use such derivative works at no further cost. AgilQuest acknowledges that the ability to use this Agreement and any Feedback provided as a result of this Agreement in advertising is limited by GSAR 552.203-71

6) Non-AgilQuest Software Ownership. Non-AgilQuest entities may create software to be used with the Service via an AgilQuest API. These Non-AgilQuest entities may specify that they are the sole and exclusive owner of the software created to enhance Service, including all copyright, trademark, patent and other intellectual property interests therein, including without limitation, any Local Element that might from time to time be made available by the Non-AgilQuest entity. AgilQuest is not responsible in any way for Non-AgilQuest Software or its use, including but not limited to any warranty or support, any responsibility for any disclosure, or any modification or deletion of Account Content.

Trademarks and Trade Dress.

1) AgilQuest Trademarks. AgilQuest's name, trade names, domain names, trademarks, logos, layout and design, including trade dress, of all and each part of the Service ("AgilQuest Marks") are the sole and exclusive property of AgilQuest. Account may not use any of the same for any purpose without AgilQuest's prior express permission except to state that it offers its Assets via the Service. In particular, but without limitation, Account may not combine any name, trade name, trademark or logo of Account ("Account Marks") with any AgilQuest Mark, or otherwise do anything that would infringe, dilute, weaken, or otherwise damage or impair an AgilQuest Mark.

2) Account's Trademarks. Account grants AgilQuest the right to use any and all Account Marks posted by Account on the Service to the extent permitted by the General Services Acquisition Regulation (GSAR) 552.203-71.

Proprietary Rights and Licenses.

1) AgilQuest reserves all rights in the Service not expressly granted by this Agreement.
2) Account has the right to access the Service subject to the terms of the Order Form and this Agreement.

Confidentiality

"Confidential Information" means the elements of the Service accessible by Account, including without limitation any user documentation and other technical documentation or information relating to the Service or underlying software product disclosed to Account by AgilQuest, or any information discovered by Account upon inspection of such element and any know-how, trade secret, designs, or plans disclosed by AgilQuest to Account, which are the Confidential Information of AgilQuest, and the Account Data, which is the Confidential Information of Account.

Confidential Information shall not, however, include information which: is or becomes generally known other than as a result of a breach of this Agreement, breach of confidentiality, or other wrongful act; was lawfully in the receiving Party's possession prior to receipt from the



disclosing party without obligation of confidentiality; or is received by the receiving Party independently from a third party who lawfully discloses such information. Each Party shall advise all employees to whom it permits access to any of the Confidential Information of the other Party of their obligations under this Agreement. Account shall not, during the term of this Agreement or at any time hereafter, use any Confidential Information of AgilQuest except as allowed under this Agreement. The obligations of confidentiality in this Agreement are in addition to, and not in lieu of, the Parties' underlying legal and equitable obligations to hold information in confidence. Each Party acknowledges that unauthorized use or disclosure of Confidential Information may cause irreparable harm for which there may be no adequate remedy at law, and that if the Confidential Information was used or disclosed in an unauthorized manner AgilQuest shall be entitled, in addition to all other legal and equitable remedies, to preliminary and permanent injunctive relief as well as specific performance directing the implementation of measures to prevent or cure the unauthorized use or disclosure of Confidential Information. AgilQuest recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which requires that certain information be released, despite being characterized as "confidential" by the vendor.

Limitation of Warranty and Liability

1) Limited Warranty. AGILQUEST WARRANTS THAT THE SERVICE WILL, FOR A PERIOD OF SIXTY (60) DAYS FROM THE DATE OF YOUR RECEIPT, PERFORM SUBSTANTIALLY IN ACCORDANCE WITH SERVICE WRITTEN MATERIALS ACCOMPANYING IT. EXCEPT AS EXPRESSLY SET FORTH IN THE FOREGOING, AGILQUEST PROVIDES THE SERVICE AS IS AND WITHOUT ANY WARRANTY OF ANY KIND AND MAKES NO EXPRESS OR IMPLIED WARRANTY OF ANY KIND. AGILQUEST SPECIFICALLY DISCLAIMS ALL INDIRECT OR IMPLIED WARRANTIES TO THE FULL EXTENT ALLOWED BY APPLICABLE LAW, INCLUDING WITHOUT LIMITATION ALL IMPLIED WARRANTIES OF, NON-INFRINGEMENT, MERCHANTABILITY, TITLE OR FITNESS FOR ANY PARTICULAR PURPOSE. SPECIFICALLY, BUT WITHOUT LIMITATION, AGILQUEST DOES NOT WARRANT THE ERROR FREE OR UNINTERRUPTED USE OF THE SERVICE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM AGILQUEST, WHETHER THROUGH THE SERVICE, AGILQUEST CONTENT, OR OTHERWISE WILL CREATE ANY REPRESENTATION OR WARRANTY NOT EXPRESSLY MADE BY MEANS OF THESE TERMS.

2) Limitation of Liability. NEITHER AGILQUEST NOR ANY OF ITS OFFICERS, AGENTS, EMPLOYEES OR REPRESENTATIVES SHALL BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OR PENALTIES (INCLUDING DAMAGES FOR LOST PROFITS, LOST BUSINESS, PERSONAL INJURY, LOST DATA, BUSINESS INTERRUPTION, AND THE LIKE), HOWEVER IT ARISES, WHETHER FOR BREACH OR IN TORT, EVEN IF AGILQUEST HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL AGILQUEST'S MONETARY LIABILITY ARISING OUT OF OR RELATED TO THE SERVICE OR ANY MATTER COVERED BY THIS AGREEMENT EXCEED THE AMOUNTS PAID OR PAYABLE TO IT BY ACCOUNT FOR THE TERM DURING WHICH THE LIABILITY AROSE. THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THESE TERMS AND AGILQUEST'S WILLINGNESS TO PROVIDE THE SERVICE. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH RESULTING FROM



LICENSOR'S NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

3) Reserved.

4) Indemnification by AgilQuest. AGILQUEST SHALL DEFEND ACCOUNT AGAINST ANY CLAIM, DEMAND, SUIT OR PROCEEDING MADE OR BROUGHT AGAINST ACCOUNT BY A THIRD PARTY ALLEGING THAT ANY SERVICE INFRINGES OR MISAPPROPRIATES SUCH THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS (A "CLAIM AGAINST ACCOUNT"), AND WILL INDEMNIFY ACCOUNT FROM ANY DAMAGES, ATTORNEY FEES AND COSTS FINALLY AWARDED AGAINST ACCOUNT AS A RESULT OF, OR FOR AMOUNTS PAID BY ACCOUNT UNDER A SETTLEMENT APPROVED BY AGILQUEST IN WRITING OF, A CLAIM AGAINST ACCOUNT, PROVIDED ACCOUNT (A) PROMPTLY GIVE AGILQUEST WRITTEN NOTICE OF THE CLAIM AGAINST ACCOUNT, (B) GIVE AGILQUEST CONTROL OF THE DEFENSE AND SETTLEMENT OF THE CLAIM AGAINST ACCOUNT (EXCEPT THAT AGILQUEST MAY NOT SETTLE ANY CLAIM AGAINST ACCOUNT UNLESS IT UNCONDITIONALLY RELEASES ACCOUNT OF ALL LIABILITY), AND (C) GIVE US ALL REASONABLE ASSISTANCE, AT AGILQUEST EXPENSE. IF AGILQUEST RECEIVE INFORMATION ABOUT AN INFRINGEMENT OR MISAPPROPRIATION CLAIM RELATED TO A SERVICE, AGILQUEST MAY IN AGILQUEST DISCRETION AND AT NO COST TO ACCOUNT (I) MODIFY THE SERVICE SO THAT THEY ARE NO LONGER CLAIMED TO INFRINGE OR MISAPPROPRIATE, WITHOUT BREACHING AGILQUEST WARRANTIES UNDER "WARRANTIES" ABOVE, (II) OBTAIN A LICENSE FOR ACCOUNT CONTINUED USE OF THAT SERVICE IN ACCORDANCE WITH THIS AGREEMENT, OR (III) TERMINATE ACCOUNT SUBSCRIPTIONS FOR THAT SERVICE UPON 30 DAYS' WRITTEN NOTICE AND REFUND ACCOUNT ANY PREPAID FEES COVERING THE REMAINDER OF THE TERM OF THE TERMINATED SUBSCRIPTIONS. THE ABOVE DEFENSE AND INDEMNIFICATION OBLIGATIONS DO NOT APPLY TO THE EXTENT A CLAIM AGAINST ACCOUNT ARISES FROM ANY DATA, NON-AGILQUEST SOFTWARE OR ACCOUNT USE OF THE SERVICE IN VIOLATION OF THIS AGREEMENT OR APPLICABLE ORDER FORMS. NOTHING CONTAINED HEREIN SHALL BE CONSTRUED IN DEROGATION OF THE U.S. DEPARTMENT OF JUSTICE'S RIGHT TO DEFEND ANY CLAIM OR SUIT BROUGHT AGAINST THE U.S. PURSUANT TO ITS JURISDICTIONAL STATUTE 28 U.S.C. § 516.

Term and Termination

1) Term and Termination. The Term of Account's right to the Service shall commence on the Effective Date for a one (1) year term unless terminated as provided herein or in the applicable Order Form. This Agreement may be renewed for additional successive one (1) year terms by executing a new Agreement in writing.

2) Termination by Either Party. When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, AgilQuest shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer.

3) Termination. Account may terminate its rights under these Terms in accordance with the Federal Acquisition Regulation termination procedures for .



- 4) Events on Termination. Upon termination or expiration of Account's rights under these Terms, all rights and licenses granted herein shall terminate immediately, the Service may automatically, or AgilQuest may cause it to, cease to operate.
- 5) Suspension. AgilQuest may temporarily suspend the Service if it has reason to believe that Account is using the Service in violation of these Terms in a manner that may result in harm to the Service, to AgilQuest or to any User.

General

- 1) Governing Law. These Terms shall be governed and construed in accordance with the Federal laws of the United States.
- 2) Assignment. Account may not assign or transfer any rights Account may have under this Agreement without AgilQuest's express written consent, and any attempted assignment in violation of this Agreement shall be null and void. - The Anti-Assignment Act, 41 USC 6305, prohibits the assignment of Government contracts without the Government's prior approval. Procedures for securing such approval are set forth in FAR 42.1204. This Agreement will be binding on all permitted assigns.
- 3) Notices. Any notices or other communications permitted or required under these Terms must be in writing. Notices to AgilQuest must be sent to AgilQuest at the address provided via the Service. Notices to Account shall be sent to Account's e-mail address provided for this purpose through the Service.
- 4) Export. The Service may be subject to the export laws of the United States of America, including without limitation the Export Administration Act and related regulations. Account agrees that it shall not make the Service available, directly or indirectly, to any country, person or entity to which export or re-export is prohibited by applicable United States law. AgilQuest makes no representation that the Service comply with applicable laws of for use outside the United States of America in all of the locations in which Account may wish to use them. If Account uses the Service outside the United States of America, Account is solely responsible for compliance with all applicable laws, including without limitation export and import regulations of other countries.
- 5) Waiver. The failure of either AgilQuest or Account to insist on strict performance of any of the provisions of this Agreement, or to exercise any right granted hereunder, shall not be construed as a relinquishment of any right or a waiver of any provision of this Agreement. No waiver of any provision or right shall be valid unless it is in writing and signed by a duly authorized representative of the party making the waiver.
- 6) Terms Applicable to Government. If Account is a unit or agency of the U.S. Government ("Government"), the Service and related documentation shall be classified as "Commercial Computer Software," and "Commercial Computer Software Documentation" as defined in 48 C.F.R. Section 12.212, and the Service are licensed to Account only with those rights provided under these Terms.
- 7) Entire Agreement. This Agreement, together with the underlying GSA Schedule Contract, Schedule Pricelist, Purchase Order(s), sets forth the entire agreement between AgilQuest and Account with respect to the subject matter hereof and supersedes any prior or contemporaneous oral or written agreement or representation related thereto.
- 8) Severability. If any provision of these Terms shall be held illegal or unenforceable, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable.



9) Survival. The provisions of the Sections titled Intellectual Property, License to Use Feedback, and Limitation of Warranty and Liability above shall survive termination of this Agreement.

10) Force Majeure. Excusable delays shall be governed by FAR 52.212-4(f).. Any Party so delayed in its performance shall notify the party to whom performance is due as soon as practicable.



**TERMS AND CONDITIONS APPLICABLE TO ORDER-LEVEL MATERIALS (OLMs) -
SUBJECT TO COOPERATIVE PURCHASING**

Order-Level Materials (OLMs) - SUBJECT TO COOPERATIVE PURCHASING Order-Level Materials (OLMs) are supplies and/or services acquired in direct support of an individual task or delivery order placed against a Federal Supply Schedule (FSS) contract or FSS blanket purchase agreement (BPA). OLMs are not defined, priced, or awarded at the FSS contract level. They are unknown before a task or delivery order is placed against the FSS contract or FSS BPA. OLMs are only authorized for inclusion at the order level under a Time-and-Materials (T&M) or Labor-Hour (LH) Contract Line Item Number (CLIN) and are subject to a Not To Exceed (NTE) ceiling price. OLMs include direct materials, subcontracts for supplies and incidental services for which there is not a labor category specified in the FSS contract, other direct costs, and indirect costs. OLMs are purchased under the authority of the FSS Program and are not "open market items."

Items awarded under ancillary supplies/services or other direct cost (ODC) SINs are not OLMs. These items are defined, priced, and awarded at the FSS contract level, whereas OLMs are unknown before an order is placed. Ancillary supplies/services and ODC SINs are for use under all order type CLINs (Fixed-Price (FP), T&M, and LH), whereas the Order-Level Materials SIN is only authorized for use under T&M and LH order CLINs.

The Order-Level Materials SIN is only authorized for use in direct support of another awarded SIN. Price analysis for OLMs is not conducted when awarding the FSS contract or FSS BPA; therefore, GSAR 538.270 and 538.271 do not apply to OLMs. OLMs are defined and priced at the ordering activity level in accordance with GSAR clause 552.238-82 Special Ordering Procedures for the Acquisition of Order-Level Materials. Prices for items provided under the Order-Level Materials SIN must be inclusive of the Industrial Funding Fee (IFF). The cumulative value of OLMs in an individual task or delivery order cannot exceed 33.33% of the total value of the order.



GSA APPROVED PRICING

GSA IT Product and Maintenance Pricing for SIN 511210 & SIN 54151

Note: Pricing is on an annual basis, except () annual support fees, which are hourly.*

| SIN | MFR PART NO | PRODUCT NAME | PRODUCT DESCRIPTION | UOI | GSA PRICE (inclusive of the .75% IFF) | WARRANTY | COO |
|--------|--------------|------------------------------------|---|---|---------------------------------------|----------|-----|
| 511210 | OD-OD1 | OnDemand / Hosting or SaaS service | OnDemand / Hosting or SaaS service for OnBoard and Commander BI software. | Annual basis | \$14,508.82 | 60 days | USA |
| 511210 | OB-R573-100 | OnBoard Software (0 to 100) | OnBoard - Workplace Management Software for hoteling, desk sharing, room booking, conference room management and catering for managing a flexible, productive and mobile work environment | Annually Recurring Software Fees (concurrent license) | \$104.79 | 60 days | US |
| 511210 | OB-R573-250 | OnBoard Software (101 to 250) | OnBoard - Workplace Management Software for hoteling, desk sharing, room booking, conference room management and catering for managing a flexible, productive and mobile work environment | Annually Recurring Software Fees (concurrent license) | \$68.51 | 60 days | US |
| 511210 | OB-R573-500 | OnBoard Software (251 to 500) | OnBoard - Workplace Management Software for hoteling, desk sharing, room booking, conference room management and catering for managing a flexible, productive and mobile work environment | Annually Recurring Software Fees (concurrent license) | \$40.30 | 60 days | US |
| 511210 | OB-R573-1000 | OnBoard Software (501 to 1000) | OnBoard - Workplace Management Software for hoteling, desk sharing, room booking, conference room management and catering for managing a flexible, productive and mobile work environment | Annually Recurring Software Fees (concurrent license) | \$33.85 | 60 days | US |

| SIN | MFR PART NO | PRODUCT NAME | PRODUCT DESCRIPTION | UOI | GSA PRICE (inclusive of the .75% IFF) | WARRANTY | COO |
|--------|---------------|--|---|---|---------------------------------------|----------|-----|
| 511210 | OB-R573-2500 | OnBoard Software (1,001 to 2,500) | OnBoard - Workplace Management Software for hoteling, desk sharing, room booking, conference room management and catering for managing a flexible, productive and mobile work environment | Annually Recurring Software Fees (concurrent license) | \$27.41 | 60 days | US |
| 511210 | OB-R573-5000 | OnBoard Software (2,501 to 5,000) | OnBoard - Workplace Management Software for hoteling, desk sharing, room booking, conference room management and catering for managing a flexible, productive and mobile work environment | Annually Recurring Software Fees (concurrent license) | \$22.57 | 60 days | US |
| 511210 | OB-R573-10000 | OnBoard Software (5,001 to 10,000) | OnBoard - Workplace Management Software for hoteling, desk sharing, room booking, conference room management and catering for managing a flexible, productive and mobile work environment | Annually Recurring Software Fees (concurrent license) | \$20.15 | 60 days | US |
| 511210 | CBI-R32-100 | Commander BI Software License Fee (0 to 100) | Commander BI - Business Intelligence software for the workplace that delivers a high degree of accuracy for determining the actual use of space. | Annually Recurring Software Fees (concurrent license) | \$34.58 | 60 days | US |
| 511210 | CBI-R32-250 | Commander BI Software License Fee (101 to 250) | Commander BI - Business Intelligence software for the workplace that delivers a high degree of accuracy for determining the actual use of space. | Annually Recurring Software Fees (concurrent license) | \$22.61 | 60 days | US |
| 511210 | CBI-R32-500 | Commander BI Software License Fee(251 to 500) | Commander BI - Business Intelligence software for the workplace that delivers a high degree of accuracy for determining the actual use of space. | Annually Recurring Software Fees (concurrent license) | \$13.30 | 60 days | US |

| SIN | MFR PART NO | PRODUCT NAME | PRODUCT DESCRIPTION | UOI | GSA PRICE (inclusive of the .75% IFF) | WARRANTY | COO |
|--------|---------------|---|---|---|---------------------------------------|----------|-----|
| 511210 | CBI-R32-1000 | Commander BI Software License Fee (501 to 1000) | Commander BI - Business Intelligence software for the workplace that delivers a high degree of accuracy for determining the actual use of space. | Annually Recurring Software Fees (concurrent license) | \$11.17 | 60 days | US |
| 511210 | CBI-R32-2500 | Commander BI Software License Fee(1,001 to 2,500) | Commander BI - Business Intelligence software for the workplace that delivers a high degree of accuracy for determining the actual use of space. | Annually Recurring Software Fees (concurrent license) | \$9.04 | 60 days | US |
| 511210 | CBI-R32-5000 | Commander BI Software License Fee (2,501 to 5,000) | Commander BI - Business Intelligence software for the workplace that delivers a high degree of accuracy for determining the actual use of space. | Annually Recurring Software Fees (concurrent license) | \$7.45 | 60 days | US |
| 511210 | CBI-R32-10000 | Commander BI Software License Fee (5,001 to 10,000) | Commander BI - Business Intelligence software for the workplace that delivers a high degree of accuracy for determining the actual use of space. | Annually Recurring Software Fees (concurrent license) | \$6.65 | 60 days | US |
| 511210 | MSE-R573-100 | Microsoft Exchange Integration (0 to 100) | Two-way integration between OnBoard and Microsoft Exchange enabling users to work in either platform and have room bookings synchronized in both databases. | Annually Recurring Software Fees (concurrent license) | \$26.20 | 60 days | US |
| 511210 | MSE-R573-250 | Microsoft Exchange Integration (101 to 250) | Two-way integration between OnBoard and Microsoft Exchange enabling users to work in either platform and have room bookings synchronized in both databases. | Annually Recurring Software Fees (concurrent license) | \$17.13 | 60 days | US |
| 511210 | MSE-R573-500 | Microsoft Exchange Integration (251 to 500) | Two-way integration between OnBoard and Microsoft Exchange enabling users to work in either platform and have room bookings synchronized in both databases. | Annually Recurring Software Fees (concurrent license) | \$10.08 | 60 days | US |

| SIN | MFR PART NO | PRODUCT NAME | PRODUCT DESCRIPTION | UOI | GSA PRICE (inclusive of the .75% IFF) | WARRANTY | COO |
|--------|----------------|--|--|---|---------------------------------------|----------|-----|
| 511210 | MSE-R573-1000 | Microsoft Exchange Integration (501 to 1000) | Two-way integration between OnBoard and Microsoft Exchange enabling users to work in either platform and have room bookings synchronized in both databases. | Annually Recurring Software Fees (concurrent license) | \$8.46 | 60 days | US |
| 511210 | MSE-R573-2500 | Microsoft Exchange Integration (1,001 to 2,500) | Two-way integration between OnBoard and Microsoft Exchange enabling users to work in either platform and have room bookings synchronized in both databases. | Annually Recurring Software Fees (concurrent license) | \$6.85 | 60 days | US |
| 511210 | MSE-R573-5000 | Microsoft Exchange Integration (2,501 to 5,000) | Two-way integration between OnBoard and Microsoft Exchange enabling users to work in either platform and have room bookings synchronized in both databases. | Annually Recurring Software Fees (concurrent license) | \$4.97 | 60 days | US |
| 511210 | MSE-R573-10000 | Microsoft Exchange Integration (5,001 to 10,000) | Two-way integration between OnBoard and Microsoft Exchange enabling users to work in either platform and have room bookings synchronized in both databases. | Annually Recurring Software Fees (concurrent license) | \$5.04 | 60 days | US |
| 511210 | OB-ODFR1 | OnBoard OnDemand - FedRAMP Compliant Hosting with Microsoft Azure Government Cloud Computing | Application hosting and management services for the OnBoard Workplace Management Software on Microsoft Azure Government Cloud, offering OnBoard in a FedRAMP approved IaaS (Infrastructure as a Service) provider. | Annually Recurring Hosting Fees | \$29,823.68 | 60 days | US |
| 54151 | *G-TS1 | Gold Technical Support | Gold Technical Support (Principal can perform this service only) Note: *Gold, Silver and Bronze Support Services are based on hourly technical services. There services are sold and charged as labor hours. | Hourly | \$262.97 | N/A | US |

| SIN | MFR PART NO | PRODUCT NAME | PRODUCT DESCRIPTION | UOI | GSA PRICE (inclusive of the .75% IFF) | WARRANTY | COO |
|-------|-------------|--------------------------|--|--------|---------------------------------------|----------|-----|
| 54151 | *S-TS2 | Sliver Technical Support | Silver Technical Support (Consultant II can perform this service only) Note: *Gold, Silver and Bronze Support Services are based on hourly technical services. There services are sold and charged as labor hours. | Hourly | \$197.23 | N/A | US |
| 54151 | *B-TS3 | Silver Technical Support | Bronze Technical Support (Consultant I can perform this service only) Note: *Gold, Silver and Bronze Support Services are based on hourly technical services. There services are sold and charged as labor hours. | Hourly | \$144.63 | N/A | US |



GSA IT Professional Services SIN 54151S

| Labor Category | Minimum Education | Minimum Years of Experience | Functional Responsibilities | GSA Price with IFF |
|-----------------|--|-----------------------------|---|--------------------|
| Principal | Bachelor's degree or higher in related subject area. | 12 | The Principal is the contractor's chief liaison and point of contact with the Government Contracting Officer (CO). Maintains responsibility for formulating work standards, creating strategic project objectives, and managing client issues and feedback. Assumes accountability for supervising designated resources and enforcing quality control practices for each project. | \$262.97 |
| Consultant II | Bachelor's degree or higher in related subject area. | 4 | Serves as a senior-level analytical correspondent within engagement team. Assumes responsibility for contributing to work plan development, reaching engagement milestones, and often leading specific project tasks. Conducts analysis of appropriate consulting tools to satisfy program requirements, and creates project deliverables. Formulates diagnoses, assesses appropriate alternatives, and offers conclusions to PM. | \$197.23 |
| Consultant I | Bachelor's degree or higher in related subject area. | 2 | Serves as a key analytical resource on engagement team. Assumes responsibility for conducting relevant research, distilling data, and creating reports. Actively engages consulting tools and methodologies to meet project objectives and complete program management activities. Maintains responsibility for quality assurance practices and helping to ensure completion and accuracy of system documentation. | \$144.63 |
| Program Manager | BS | 10 | Responsible for the coordination and completion of projects. Oversees all aspects of projects. Sets deadlines, assigns responsibilities, and monitors and summarizes progress of project. Prepares reports for upper management regarding status of project. Familiar with a variety of the field's concepts, practices, and procedures. Relies on experience and judgment to plan and accomplish goals. Performs a variety of tasks. Leads and directs the work of others. | \$197.23 |

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|----------------------------------|-------------------------|----------|--|----------|
| Project Manager | BS | 5 | Responsible for the coordination and completion of projects. Oversees all aspects of projects. Sets deadlines, assigns responsibilities, and monitors and summarizes progress of project. Prepares reports for upper management regarding status of project. Relies on experience and judgment to plan and accomplish goals. Performs a variety of tasks. Leads and directs the work of others. | \$197.23 |
| Implementation Consultant | BS | | Must have demonstrated experience in planning for installation, deployment and change-over of systems. Systems support life cycle and documentation experience required. Excellent interpersonal, communications, analytical and organizational skills also required. The Implementation Specialist is responsible for planning and executing system updates, upgrades, implementations, support and installations. Requires bachelor degree and or equivalent experience. | \$169.65 |
| Trainer | BS equivalent | 1 | Author and deliver training sessions and materials to convey how to properly use the developed solution. Prepares training materials such as training guides, presentations, audio video media, and computer based course material. Prepares course syllabus and agenda. | \$169.65 |
| Senior Data Analyst | BS or equivalent | 5 | The senior data analyst is responsible for analyzing system data requirements and creating logical and physical models of data flow. This position also analyzes complex data systems; documents data flow, relationships and dependencies; and develops automated and reusable routines for extracting information as needed from database systems. | \$195.75 |
| Business Systems Analyst | BS or equivalent | 4 | Evaluates business systems and how they align with user needs. Documents requirements, establishes scope and objectives and determines strategy for implementing systems that achieve business goals. Relies on knowledge and professional discretion to achieve goals. | \$195.75 |

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|-------------------------------------|------------------|---|--|----------|
| Software Developer | BS or equivalent | 5 | Creates and designs new software by analyzing, testing, assessing and implementing programming applications. Supports and installs applications and operating system. Assists in the testing process by conducting reviews and analyses, witnessing tests and participating in software certification. Relies on knowledge and professional discretion to achieve goals. | \$195.75 |
| Technical Support Specialist | BS or equivalent | 2 | Responds to and diagnoses problems through discussion with users. Ensures a timely process through which problems are controlled and managed to resolution. Identifies researches and resolves technical problems through calls, email and personnel request for support. Documents, tracks and monitors problems to ensure a timely resolution. Provides second-tier support to end users for application software and application specific hardware. Interact with network services, software systems engineering, and/or applications development to restore service and/or identify and correct core problem. Recommends systems modifications to reduce user problems and maintain stability of the system. | \$143.55 |

Note: Labor rates are hourly. No substitutions to labor categories as per the technical support plan. SIN 54151S must be purchased with SIN 54151.



GSA Electronic Commercial and Subscription Services SIN 54151ECOM

| SIN | MFR PART NO | PRODUCT NAME | PRODUCT DESCRIPTION | UOI | GSA PRICE (inclusive of the .75% IFF) | COO |
|-----------|-------------|--|---|------|---------------------------------------|-----|
| 54151ECOM | AQF1-200 | Agilquest Forum | Agilquest Forum - Premier Plan - Annual License Fee per Asset for Conference Rooms (unlimited reservations). | Each | \$145.08 | USA |
| 54151ECOM | AQF2-200 | Agilquest Forum | Agilquest Forum - Premier Plan – Annual License Fee per Asset for Workspaces (unlimited reservations). | Each | \$48.36 | USA |
| 54151ECOM | AQFSP-30 | Agilquest Forum Setup and Provisioning | Agilquest Forum Setup and Provisioning **Initial Setup and Provisioning (each instance) Includes up to 10 hours of Implementation Services. NOTE: If additional implementation services are required, they shall be billed on a Time and Material basis at the current billable rate for Professional Services. | Each | \$1,607.9700 | USA |



**USA COMMITMENT TO PROMOTE
SMALL BUSINESS PARTICIPATION
PROCUREMENT PROGRAMS**

PREAMBLE

AgilQuest Corporation provides commercial products and services to ordering activities. We are committed to promoting participation of small, small disadvantaged and women-owned small businesses in our contracts. We pledge to provide opportunities to the small business community through reselling opportunities, mentor-protégé programs, joint ventures, teaming arrangements, and subcontracting.

COMMITMENT

To actively seek and partner with small businesses.

To identify, qualify, mentor and develop small, small disadvantaged and women-owned small businesses by purchasing from these businesses whenever practical.

To develop and promote company policy initiatives that demonstrate our support for awarding contracts and subcontracts to small business concerns.

To undertake significant efforts to determine the potential of small, small disadvantaged and women-owned small business to supply products and services to our company.

To insure procurement opportunities are designed to permit the maximum possible participation of small, small disadvantaged, and women-owned small businesses.

To attend business opportunity workshops, minority business enterprise seminars, trade fairs, procurement conferences, etc., to identify and increase small businesses with whom to partner.

To publicize in our marketing publications our interest in meeting small businesses that may be interested in subcontracting opportunities.

We signify our commitment to work in partnership with small, small disadvantaged and women-owned small businesses to promote and increase their participation in ordering activity contracts. To accelerate potential opportunities please contact:

Don Davidson

Chief Revenue Officer

AgilQuest Corporation

o: 804-474-4909

m: 256-508-2801

don.davidson@agilquest.com

agilquest.com



BPA NUMBER _____

(CUSTOMER NAME)
BLANKET PURCHASE AGREEMENT

Pursuant to GSA Federal Supply Schedule Contract Number(s) _____, Blanket Purchase Agreements, the Contractor agrees to the following terms of a Blanket Purchase Agreement (BPA) EXCLUSIVELY WITH (ordering activity):

(1) The following contract items can be ordered under this BPA. All orders placed against this BPA are subject to the terms and conditions of the contract, except as noted below:

| MODEL NUMBER/PART NUMBER | *SPECIAL BPA DISCOUNT/PRICE |
|--------------------------|-----------------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

(2) Delivery:

| DESTINATION | DELIVERY SCHEDULES / DATES |
|-------------|----------------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

(3) The ordering activity estimates, but does not guarantee, that the volume of purchases through this agreement will be _____.

(4) This BPA does not obligate any funds.

(5) This BPA expires on _____ or at the end of the contract period, whichever is earlier.

(6) The following office(s) is hereby authorized to place orders under this BPA:

| OFFICE | POINT OF CONTACT |
|--------|------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

(7) Orders will be placed against this BPA via Electronic Data Interchange (EDI), FAX, or paper.

(8) Unless otherwise agreed to, all deliveries under this BPA must be accompanied by delivery tickets or sales slips that must contain the following information as a minimum:

- (a) Name of Contractor;
- (b) Contract Number;
- (c) BPA Number;
- (d) Model Number or National Stock Number (NSN);
- (e) Purchase Order Number;
- (f) Date of Purchase;



- (g) Quantity, Unit Price, and Extension of Each Item (unit prices and extensions need not be shown when incompatible with the use of automated systems; provided, that the invoice is itemized to show the information); and
- (h) Date of Shipment.
- (9) The requirements of a proper invoice are specified in the Federal Supply Schedule contract. Invoices will be submitted to the address specified within the purchase order transmission issued against this BPA.
- (10) 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 this BPA and the Contractor's invoice, the provisions of this BPA will take precedence.



**BASIC GUIDELINES FOR USING
“CONTRACTOR TEAM ARRANGEMENTS”**

Federal Supply Schedule Contractors may use “Contractor Team Arrangements” (see FAR 9.6) to provide solutions when responding to an ordering activity requirements.

These Team Arrangements can be included under a Blanket Purchase Agreement (BPA). BPAs are permitted under all Federal Supply Schedule contracts.

Orders under a Team Arrangement are subject to terms and conditions of the Federal Supply Schedule Contract.

Participation in a Team Arrangement is limited to Federal Supply Schedule Contractors.

Customers should refer to FAR 9.6 for specific details on Team Arrangements.

Here is a general outline on how it works:

- The customer identifies their requirements.
- Federal Supply Schedule Contractors may individually meet the customer’s needs, or -
- Federal Supply Schedule Contractors may individually submit a Schedules “Team Solution” to meet the customer’s requirement.
- Customers make a best value selection.