- Collect/compile the AFB Rating Forms at the conclusion of the meetings
- Prepare the AFB Summary Report of the Board's recommendations
- Assist the AFBC in preparing the signed AFB Summary Report to submit to the FDO IAW Table 2
- Assist the AFBC as may be required
- Schedule AFB meetings and notify the Contractor

Award Fee Board - The AFB responsibilities are:

- Advise the FDO concerning the Task Order performance objectives and evaluation criteria and weight factors to be used during subsequent performance periods
- Review and analyze all available data relevant to their respective areas on Contractor performance
- Assess the Contractor's performance for the current period
- Prepare an Award Fee Evaluation and Recommendation Report that itemizes the Contractor's performance
- Provide a recommendation for a performance rating and an award fee to the FDO.
- Attend Midpoint AFB Meetings to review the informal Performance Monitors inputs and to recommend a midpoint qualitative assessment. The midpoint assessment is for Contractor information only, is not scored, and is not used in fee computation.
- Present to the AFB and Contractor the strengths and weaknesses of the Contractor performance for that period.
- Prepare for AFB Meetings by familiarizing themselves with all the relevant issues prior to the AFB meeting. This will be done by reading all the Performance Monitor Evaluation Reports and the Contractor's Self-Evaluation report.
- Review and the AFB meeting summary, prepare by the AFB Coordinator, and sign the AFB Recommendation Report.

4.0 Award Fee Performance Periods, Pool, and Rollover

4.1 Evaluation Period

The Contractor's performance, in achieving the objectives of the SBInet Program in accordance with the award fee performance evaluation categories that are listed in Section 6.0 of this Plan, is evaluated. The SBInet C3I Task Order evaluation periods will be based on the scheduled delivery of products and/or services as mutually agreed to by the Government and the Contractor. Evaluation periods may be revised to reflect current schedules but will not extend beyond the "not-to-exceed" periods identified in Table 1. Should the Contractor accelerate the delivery of C3I products and/or services for each period, the evaluation period will be adjusted accordingly, and the AFB shall conduct evaluation of performance on a similarly accelerated schedule.

C3I Task Order			
Evaluation Period	**Deliverable Products / Services***	**Task Order SOW Reference**	**Award Fee Period "Not-to-Exceed" Date**
Evaluation Period 1	C2I Interim Capability (Operational Archetype)	5.1.1, 5.4.6, and all sub-paragraphs	September 8, 2008
	Software Development Approach	5.2.4 and all sub-paragraphs	
	C3I Infrastructure Requirements Development	5.2.5 and all sub-paragraphs	
Evaluation Period 2	NOC/SOC Development, Intel (2nd half), O&M support	5.2.1.1, 5.4.15, 5.4.16, 5.1.2 and all sub-paragraphs	May 18, 2009
*Actual scheduled completion dates shall be based on the Government approval and/or acceptance of products and/or services described for each evaluation period.			

Table 1. Award Fee Evaluation Periods

The evaluation periods and the allocation of the award fee available for each period may be adjusted by bilateral Task Order modification.

4.2 Award Fee Pool

The Award Fee Pool will be distributed in accordance with the categories and weights established in Attachments 1, 2 and 3 of this plan.

4.3 Award Fee Rollover

CBP may roll-over any unearned award fees to the second evaluation period; however, CBP retains the right and full discretion to not roll-over all or a portion of unearned award fees. The Government will notify the Contractor on the decision to roll any and all unearned award fee as a part of each award fee announcement.

5.0 Evaluation Process, Procedures and Schedule

The Award Fee evaluation process and procedures along with the timeline to be followed in monitoring, assessing, and evaluating Contractor performance during each period are described below. It is designed to take advantage of all reports, data, and meetings required by the Task Order and to minimize the need for additional data and meetings solely for award fee purposes.

ACTIVITY	SCHEDULE	ACTIVITY DESCRIPTION
Midpoint AFB Meeting and Contractor discussion	Mid-point in the performance evaluation period + 15 days	The purpose of the Midpoint review is for the Government and Contractor to assess the performance of the contractor's work effort mid-way through each performance evaluation period. Assignment of Government Performance Monitors will be identified for each area of responsibility to ensure adequate coverage for all areas. Prior to collection of performance monitor inputs, the Contracting Officer will conduct award fee training for the performance monitors. The AFB Coordinator will poll each Performance Monitor for an interim assessment of the Contractor's performance up to that point in the evaluation period. The AFB coordinator will convene a midpoint AFB meeting to review the AFB Chairperson's inputs. Each AFB member shall provide inputs of the Contractor's performance in the form of qualitative assessments to be incorporated into the briefing to the Contractor. The AFB Chairperson shall summarize the midpoint assessment and brief the Contractor on the midpoint evaluation of his performance. The Contractor will be notified in writing 10 days prior to the midpoint of each performance evaluation period, the form and format and date planned for the mid-point performance evaluation. The Contractor may provide self-assessment in response to such notification, to be provided not later than 10 days after receipt of the notification.
Contractor Self-Evaluation (SER) Report	10 days prior to end of epriod	The Contractor shall submit an electronic copy of SER via the network within ten (10) days after the end of each evaluation period. The SER shall contain a description of the Contractor's performance during the period being evaluated, with specific reference to its accomplishments in relation to the applicable evaluation categories.

ACTIVITY	SCHEDULE	ACTIVITY DESCRIPTION
Performance Monitors Evaluation	End of the Period	Performance Monitors will provide their evaluations within fourteen (14) days after the end of each evaluation period. The AFB coordinator will provide the AFB with written Performance Monitor evaluations within 24 hours after receipt of the evaluations.
AFB Meeting	End of the Period + 30 days	The AFB will convene a formal Award Fee Board evaluation meeting after the completion of each performance period to evaluate the Contractor's performance against the performance categories in this Plan. The agenda and procedures for the AFB meeting shall be as follows: **Open Session** ***Contractor Presentation*** The Contractor shall present their performance accomplishments (oral brief of the SER). The oral presentation is limited to an hour. A copy of the presentation shall be submitted to the Government 24 hours prior to the AFB meeting. ***Performance Monitor Presentation*** Each Performance Monitor will present the results of his/her assessment based on the categories being evaluated during the award fee period. Each presentation will be limited to 10 minutes per monitor, per factor. ***90 Minute Recess*** ***Contractor Presentation of Additional Information*** The Contractor shall have 30 minutes to provide additional information, to the AFB for consideration, rebutting the evaluation results briefed during the oral presentations made by the Performance Monitors. The contractor shall be dismissed from the session after presentation of additional information is complete.

ACTIVITY	SCHEDULE	ACTIVITY DESCRIPTION
		Closed Session ***AFB Rating*** The AFB will deliberate on all the information presented and each AFB member will prepare a written AFB Ratings Form to document (his/her) evaluation and recommended scores. ***AFBC Recommendation*** The AFBC will summarize results, positive and negative areas of performance, along with the recommend scores for each CLIN and brief it to the FDO. ***FDO Discussion*** The FDO will review and discuss the AFB's recommendation and will determine the amount of AF earned. The closed session shall be approximately 90 minutes. The FDO will make the final determination regarding the amount of award fee earned by the contractor. The FDO will submit, in a letter, the amount of award fee earned along with justification.
Contract Modification	End of the Period + 40 days	Upon receipt of the letter from the FDO, the CO will issue a unilateral Task Order modification, which identifies the AF ratings, scores, adjusted award fees available, fees earned and rolled over fees, if any.

Table 2. Evaluation Activity Schedule

6.0 Performance Evaluation Categories and Weighting Factors

The Contractor's earned Award Fee for each Performance Period will be a weighted average of the scores for each of the categories as weighted for the applicable period. Refer to Attachment 2 of this plan for weighting of the evaluation categories and Attachment 3 of this plan for the weighting factors.

Award Fee performance evaluation categories for the Task Order are listed below:

6.1 Task Order Management

The contractor will be evaluated for performance against tasks required in C3I SOW sections 5.6 (and all subparagraphs).

6.2 C3I Architecture Requirements, Development and Support Framework

The contractor will be evaluated for performance against tasks required in C3I SOW sections 5.2.5 (and all subparagraphs).

6.3 C2I Interim Capability

The contractor will be evaluated for performance against tasks required in C3I SOW section 5.1.1, 5.2.2, 5.2.3, 5.2.4 (and all subparagraphs).

6.4 C2I Release "N"

The contractor will be evaluated for performance against tasks required in C3I SOW sections 5.2.2, 5.2.3, 5.2.4, 5.3.1.1, 5.3.1.2, and 5.3.1.3 (and all subparagraphs).

6.5 O&M Support

The contractor will be evaluated for performance against tasks required in C3I SOW sections 5.1.2, 5.2.1.1, and 5.3.1.4 (and all subparagraphs).

7.0 Changes to Performance Categories and/or Weight Factors

Within fourteen (14) days of the start of the period, the Government and Contractor may participate in a joint meeting to reach a common understanding of the categories provided. The Government reserves the right to make changes in weights for each performance evaluation category by unilateral modification prior to commencement of each evaluation period.

Changes to the Performance categories after the start of a performance period shall be negotiated between the Government and the Contractor.

8.0 Award Fee Performance Scoring

The Contractor will receive a rating in each performance evaluation category using the adjective and numerical ratings in Table 3 (below):

ADJECTIVE RATING	EQUIVALENT AWARD FEE RANGE (%)	DESCRIPTION
OUTSTANDING	85-100	The contractor has demonstrated an outstanding level of performance in meeting technical, programmatic (cost and labor hours), and schedule requirements. All activities are on or ahead of schedule and within projected labor hours. Deficiencies (if any) are very minor with no adverse effect on overall performance or on meeting project objectives. Minimal government intervention is required. The contractor is cooperative and proactive in keeping the government apprised of project progress and potential problems.
GOOD	60-84	The contractor has demonstrated an acceptable level of performance in meeting the project's technical, programmatic (cost and labor hours), and schedule requirements. Some activities are on or ahead of schedule and some are within projected labor hours. Deficiencies are minor and have a limited impact on overall project performance or on meeting project objectives. Contractor has initiated recovery plan and action to mitigate problems. Level of Government intervention is suitable for a project of this complexity. The contractor is cooperative and keeps the government informed of project progress.
SATISFACTORY	40-59	With significant Government intervention, the contractor has demonstrated a sufficient level of performance in meeting the project's technical, programmatic (cost and labor hours), and schedule requirements. Some activities were over schedule and slightly exceeded projected labor hours. Deficiencies in some areas of the project had a negative impact on meeting project objectives. The contractor anticipated most (but not all) problems and was inconsistent in keeping the Government informed.
UNSATISFACTORY	0	The contractor has demonstrated an unacceptable level of performance in meeting technical, programmatic (cost and labor hours), and schedule requirements. All of the activities are behind schedule and significantly exceeded labor hours. Deficiencies (some major) have adversely affected overall project performance and associated project objectives. Government intervention was required and remedial action taken in one or more areas. The contractor did not anticipate problems nor keep the government informed. Recovery actions (if any) were ineffective and were disruptive to government operations.

Table 3. Adjectival Ratings

9.0 Termination

If the contract or task order is terminated for the convenience of the Government after the start of an award-fee evaluation period, the award fee deemed earned for that period shall be determined by the FDO using the normal award fee evaluation process. After termination for convenience, the remaining award fee pool cannot be earned by the Contractor and, therefore, will not be paid. If terminated for default, there will be no award fee earned.

10.0 Definitions

Award Fee (AF) - The award fee is the incentive fee that the Contractor may earn in whole or part during performance of the Task order. The objective of an award fee in the contract is to provide motivation for the Contractor to excel in the areas that are critical to the success and meeting the objectives of the Program (e.g., technical quality, cost, schedule, integration, communications, planning, partnership and collaboration, leadership, subcontract management, and management).

Award Fee Board (AFB) - The AFB is comprised of the members identified in paragraph 2.0 and fulfills the roles and responsibilities identified in paragraph 3.0.

Award Fee Board Chairperson (AFBC) - The AFB Chairperson will be designated in accordance with paragraph 2.0 and fulfill the roles and responsibilities identified in paragraph 3.0.

Award Fee Board Coordinator - The AFB Coordinator will be designated by the AFB and fulfill the roles and responsibilities identified in paragraph 3.0.

AFB Rating Form - A form filled out by each AFB member showing their rationale and rating of each performance criteria factor.

Award Fee Evaluation and Recommendation Report - A written report that summarizes the evaluation of Contractor performance and provides the recommended score and amount of award fee to be allocated for each CLIN that is scored during the period to the FDO.

Award Fee Board Recommendation Report – The final written report prepared by the AFB Coordinator and approved by the Award Fee Board that summarizes the evaluation of Contractor performance and provides the recommended ratings, scores and earned award fee. This report consists of a summary of the AFB Rating Forms.

Contractor's Award Fee Self-Evaluation Report – A report or presentation prepared by the Contractor that is submitted to the Contracting Officer and presented to the AFB within ten (10) days after the end of the evaluation period. The Contractor shall furnish to the AFB information, including a statement of cost and hours incurred and a statement addressing metric performance data to assist the AFB in evaluating the Contractor's performance during that evaluation period. The Contractor shall

electronically provide to the PCO and AFB Coordinator a written self-assessment of its performance under the Contract Performance Element within ten (10) days after the end of the evaluation period. This information shall include an evaluation on the Contractor's efforts, accomplishments, and products and services due and delivered for the period, including problems, risks and risk mitigations.

Day – A "day," unless otherwise specified, represents a calendar day.

Fee Determination Official (FDO) -The FDO is identified in accordance with paragraph 2.0 and fulfills the roles and responsibilities identified in paragraph 3.0.

Midpoint AFB Meetings – The midpoint AFB shall be conducted in accordance with the events described in Table 2.

Performance Monitors - The Performance Monitor(s), as designated by the AFB Chairperson, will fulfill the roles and responsibilities identified in paragraph 3.0.

Performance Monitor Evaluation Report (PMER) - Each Performance Monitor will prepare an evaluation report of the Contractor's performance and provide recommended scores for the Contractor's performance in the Performance Monitor's area of responsibility to the Award Fee Board Coordinator. Attachment 1 is a sample of information to be included in this report.

Attachment 1: Award Fee Evaluation Periods

(b) (4)

Table 4. Award Fee Available By Evaluation Period

(b) (4)

Table 5. Award Fee Periods

* The FDO determined in a letter dated 20 November 2008 that $500,000 would be carried over from Evaluation Period 1 to Evaluation Period 2. This amount, $500,000, may be earned if the contractor delivers a complete and fully qualified production enhanced NOC/SOC to the Government on or before 4/17/09. In addition, the contractor must deliver a complete and fully qualified production enhanced NOC/SOC to the Government at a fair and reasonable cost. See the FDO's 20 November 2008 letter for additional details.

Attachment 2: Award Fee Board Performance Report

(b) (4)

[redacted]

(b) (4)

[redacted]

Attachment 3: Award Fee Criteria and Weighting Factors

Task Order Management

Extent to which:

- Qualified personnel are assigned and timeliness of assignment; responsive to Background Investigation (BI)/security package submissions; personnel actions affected overall project schedule and performance
- Management practices result in the delivery of planned products and services while controlling labor hours
- Management practices identify and mitigate risks associated with the tasks on this project
- Management approach is integrated with other SBInet task orders and deliveries
- EVM and management reports depict the current state of the project and communications result in the ability to respond and resolve issues

Outstanding	Good	Satisfactory	Unsatisfactory
• ***Highly qualified*** personnel assigned ***on time***; ***met*** BI/security requirements; ***favorable*** schedule impact • Management practices resulted in the delivery of planned products and services that ***exceeded the*** Government's expectations ***while controlling labor hours*** • ***Meaningful*** risks identified with ***proactive*** mitigation approach had favorable impact to program • Program/Schedule planning ***met/exceeded*** expectations; planned activities ***on/ahead of*** schedule • EVM and management reports ***accurately depicted*** the current state of the project and horizontal communications resulted in ***excellent*** recommendations and ***sufficient*** time to ***successfully*** respond and resolve issues.	• ***Qualified*** personnel assigned ***on time***; ***met*** BI/security requirements; ***recoverable*** schedule impact • Management practices resulted in the delivery of planned products and services that ***met most of the*** Government's expectations ***while controlling labor hours*** • ***Meaningful*** risks identified with ***acceptable*** mitigation approach had ***little/favorable*** impact to program • Program/Schedule planning ***met*** expectations; planned activities ***on*** schedule • EVM and management reports ***depicted*** the current state of the project and horizontal communications resulted in ***useful*** recommendations and time to ***successfully*** respond and resolve ***most*** issues.	• ***Adequate*** personnel assigned ***mostly on time***; ***most met*** BI/security requirements; ***slight*** schedule impact • Management practices resulted in the delivery of planned products and services that ***did not meet some of the*** Government's expectations ***or slightly exceeded labor hours*** • ***Mostly meaningful*** risks identified with ***government-corrected*** mitigation approach had ***slight*** impact to program • Program/Schedule planning ***met*** expectations ***with assistance from the Government***; planned activities ***recoverable in the*** schedule • EVM and management reports ***did not always depict*** the current state of the project and horizontal communications resulted in ***a limited amount of*** time to respond and resolve issues.	• ***Sub-standard*** personnel assigned ***late to the project***; ***many did not meet*** BI/security requirements; ***significant*** schedule impact • Management practices resulted in the delivery of planned products and services that ***failed to meet the*** Government's expectations ***and significantly exceeded labor hours*** • ***Few meaningful*** risks identified with ***government- corrected*** mitigation approach had ***major*** impact to program • Program/Schedule planning ***has not met*** expectations; planned activities ***were not accomplished within the*** schedule • EVM and management reports ***inaccurately depicted*** the current state of the project and horizontal communications resulted in ***substandard*** recommendations and ***inability to*** respond and resolve issues.

Contractor- Government Interface

Extent to which the contractor:

- Facilitates a partnership by relating to the client and creating a positive experience
- Delivers and accepts honest, direct feedback to and from the client.
- Provides management and technical support to the IPT
- Exhibits professionalism, listening skills, availability, responsiveness, reliability with the client

Outstanding	Good	Satisfactory	Unsatisfactory
• Lines of communication were ***superior, timely,*** and led to ***efficient and proactive*** management by the contractor and ***greatly assisted*** the Government in making program decisions. • Government was ***extremely satisfied*** with the management and technical support provided to the IPTs. • Government was ***extremely satisfied*** with the level of professionalism, listening skills, availability, responsiveness, reliability • Government was ***extremely satisfied*** with how the contractor delivered and accepted honest, direct feedback	• Lines of communication were ***adequate, timely,*** and led to ***efficient*** management by the contractor and ***assisted*** the Government in making program decisions. • Government was ***satisfied*** with the management and technical support provided to the IPTs. • Government was ***satisfied*** with the level of professionalism, listening skills, availability, responsiveness, reliability • Government was ***satisfied*** with how the contractor delivered and accepted honest, direct feedback	• Lines of communication were ***strained,*** and ***sometimes*** led to ***inefficient*** management by the contractor and ***poorly assisted*** the Government in making program decisions. • ***After significant intervention***, the Government was ***generally satisfied*** with the management and technical support provided to the IPTs. • ***After significant intervention***, the Government was ***generally satisfied*** with the level of professionalism, listening skills, availability, responsiveness, reliability • ***After significant intervention***, the Government was ***generally satisfied*** with how the contractor delivered and accepted honest, direct feedback	• Lines of communication were ***inadequate,*** and led to ***ineffective*** management by the contractor and ***did not assist*** the Government in making program decisions. • Government was ***dissatisfied*** with the management and technical support provided to the IPTs. • Government was ***dissatisfied*** with the level of professionalism, listening skills, availability, responsiveness, reliability • Government was ***dissatisfied*** with how the contractor delivered and accepted honest, direct feedback

Technical Performance: Requirements and Design (CBP System Life Cycle Stages 2 and 3)

Extent to which:

- The desired capabilities and other requirements (specified and derived) are defined, analyzed, managed, tested, traded and tracked throughout the life cycle, from initial identification to the verification and validation efforts.
- The architecture enables the translation of the required operational capabilities into system and software architectures and requirements
- The allocation of system requirements to software components is verified and software-related entry and exit criteria are used for baseline control.
- Preliminary and detailed design activities address the need for re-architecture evaluation and demonstrate how the architecture is designed with respect to reliability, maintainability, sustainability, and risk.
- The impact of requirements changes on software is assessed and addressed.
- Design trades to support requirements are made to balance program cost, schedule, performance, supportability, security, and risk.
- Requirements are evaluated against quality criteria, including priority, testability, verifiability, and potential for change.
- Technical process and system performance measures are suitable to the project and used to determine program progress and status.

Outstanding	Good	Satisfactory	Unsatisfactory
• Factors were ***successfully*** addressed and the contractor's approach ***exceeded*** the Government's expectations • The Government was ***extremely satisfied*** with the detailed design of the C3I system	• ***Most*** factors were ***successfully*** addressed and the contractor's approach ***met*** the Government's expectations • The Government was ***satisfied*** with the detailed design of the C3I system with ***no significant rework*** prior to acceptance by the Government	• ***Some required Government intervention to meet*** expectations • The Government was ***only satisfied*** with the detailed design of the C3I system ***after significant rework was accomplished—impacting the C3I (but not the program) schedule***	• ***Most*** factors were ***un-successfully*** addressed and the contractor's approach ***did not meet*** the Government's expectations • The Government was ***not satisfied*** with the detailed design of the C3I system ***and all efforts to correct problems resulted in an impact to the SBInet program schedule***

Technical Performance: Construction (CBP System Life Cycle Stage 4)

Extent to which:

- Software and systems engineering risks are linked in the program planning and software risks are assessed and mitigated, including interface risks and interdependency risks.
- System interfaces from System of Systems (SoS) and external system dependencies are verified and updated.
- Technical process and system performance measures are suitable to the project and used to determine program progress and status.
- Test planning describes the test environment and artifacts to support frequent and dynamic testing, test-driven development, and tracking of software baselines.
- Software criticality and safety, including error handling & recovery and system assurance, are assessed and addressed.
- Implementation of total life cycle system management (i.e., Deployment Preparation, Performance Based Logistics, increased reliability and reduced total ownership cost) is accomplished to improve system availability.

Outstanding	Good	Satisfactory	Unsatisfactory
• Factors were ***successfully*** addressed and the contractor's approach ***exceeded*** the Government's expectations • The Government was ***extremely satisfied*** with the construction and integration of the C3I system	• ***Most*** factors were ***successfully*** addressed and the contractor's approach ***met*** the Government's expectations • The Government was ***satisfied*** with the construction and integration of the C3I system with ***no significant rework*** prior to acceptance by the Government	• ***Some required Government intervention to meet*** expectations • The Government was ***only satisfied*** with the construction and integration of the C3I system ***after significant rework was accomplished—impacting the C3I (but not the program) schedule***	• ***Most*** factors were ***un-successfully*** addressed and the contractor's approach ***did not meet*** the Government's expectations • The Government was ***not satisfied*** with the construction and integration of the C3I system ***and all efforts to correct problems resulted in an impact to the SBInet program schedule***

Technical Performance: Acceptance and Readiness (CBP System Life Cycle Stage 5)

Extent to which:

- Test planning describes the test environment and artifacts to support frequent and dynamic testing, test-driven development, and tracking of software baselines.
- Software and systems engineering risks are linked in the program planning and software risks are assessed and mitigated, including interface risks and interdependency risks.
- Engineering activities are managed during system fielding.
- Software plans and related processes are followed and integrated with system engineering plans and processes.
- Technical process and system performance measures are suitable to the project and used to determine program progress and status.
- System interfaces from System of Systems (SoS) and external system dependencies are verified and updated.

Outstanding	Good	Satisfactory	Unsatisfactory
• Factors were ***successfully*** addressed and the contractor's approach ***exceeded*** the Government's expectations • The Government was ***extremely satisfied*** with the readiness of the C3I system for fielding.	• ***Most*** factors were ***successfully*** addressed and the contractor's approach ***met*** the Government's expectations • The Government was ***satisfied*** with the readiness of the C3I system for fielding with ***no significant rework*** prior to acceptance by the Government	• ***Some required Government intervention to meet*** expectations • The Government was ***only satisfied*** with the readiness of the C3I system for fielding ***after significant rework was accomplished—impacting the C3I (but not the program) schedule***	• ***Most*** factors were ***un-successfully*** addressed and the contractor's approach ***did not meet*** the Government's expectations • The Government was ***not satisfied*** with the readiness of the C3I system for fielding ***and all efforts to correct problems resulted in an impact to the SBInet program schedule***

Technical Performance: Operations (CBP System Life Cycle Stage 6)

Extent to which:

- Software and systems engineering risks are linked in the program planning and software risks are assessed and mitigated, including interface risks and interdependency risks.
- Test planning describes the test environment and artifacts to support frequent and dynamic testing, test-driven development, and tracking of software baselines.
- Software criticality and safety, including error handling & recovery and system assurance, are assessed and addressed.
- The process for integrating program protection is compliant with the contractor's and the Government's policies.
- Software defect analysis and software reliability & availability assessment is addressed during software development and operations & maintenance.
- Implementation of total life cycle system management (i.e., Deployment Preparation, Performance Based Logistics, increased reliability and reduced total ownership cost) is accomplished to improve system availability.

Outstanding	Good	Satisfactory	Unsatisfactory
• Factors were ***successfully*** addressed and the contractor's approach ***exceeded*** the Government's expectations • The Government was ***extremely satisfied*** with the performance of the C3I system and responsiveness of the contractor to sustain the system during operations	• ***Most*** factors were ***successfully*** addressed and the contractor's approach ***met*** the Government's expectations • The Government was ***satisfied*** with the performance of the C3I system and responsiveness of the contractor to sustain the system during operations	• ***Some required Government intervention to meet*** expectations • The Government was ***only satisfied*** with the functionality and availability of the C3I system ***after significant Government intervention***	• ***Most*** factors were ***un-successfully*** addressed and the contractor's approach ***did not meet*** the Government's expectations • The Government was ***not satisfied*** with the performance of the C3I system and failures of the C3I system resulted in SBInet not meeting availability requirements

Documentation • Extent to which quality and timely delivery of documentation, as specified in the Contract Requirements Deliverable List (CDRL) schedule and/or the program schedule, is accepted by the Government.			
Outstanding	**Good**	**Satisfactory**	**Unsatisfactory**
• Documentation of all deliverables ***highly organized, accurate, and extremely easy to understand.*** • ***Proactive*** reporting of potential documentation problems ***exceeded*** the Government's expectations • Document delivery received ***ahead*** of schedule • Documentation has a ***exceptional*** level of clarity an			

Section B – Supplies or Services and Prices/Costs

Award – Estimated 16 Months – December 7, 2007 through May 18, 2009			
CLIN	**Description**	**Estimated Costs**	**Base Fee – 2%**
CLIN 0001	Release 0.5 Development and Production (5.1.1) Service Pack NTE (5.1.3, 5.4.14 and 6.2.14) **Estimated CLIN Performance Period: December 7, 200 – February 7, 2009**	(b) (4)	
CLIN 0001A	Operations and Maintenance (O&M) (b) (4) NOC/SOC **Estimated CLIN Performance Period: March 2008 – Ap 30, 2009** - Release 0.5 (5.1.2) - Network Operations/System Operations Center (NOC/S operations (5.2.1.1.6)		
CLIN 0002	SW Production & Maintenance Environment **Estimated CLIN Performance Period: December 7, 200 – May 18, 2009** Initiation (5.2.1.1) - NOC/SOC ((5.2.1.1.1, 5.2.1.1.2, 5.2.1.1.3, 5.2.1.1.4, 5.2.1.1.5, 5.4.15, and 6.2.13)		
CLIN 0003	Initial Capabilities Definition **Estimated CLIN Performance Period: December 7, 200 – February 7, 2009** - Architecture/Approach (5.2.3) - C2I Facilities (5.2.5.1) - Intel (5.2.5.2) - Comms (5.2.5.3) - Data (5.2.5.4)		
CLIN 0004	SW Development Environment **Estimated CLIN Performance Period: December 7, 200 – February 7, 2009** - Software Development Environment Operations (5.2.2) - Software Development Plan (5.2.4)		
CLIN 0004A	Development Environment & Facilities (5.2.2) **Estimated CLIN Performance Period: March 2008 – February 7, 2009**		
CLIN 0005	Total Initial Award – Maximum Fixed Fee (b) (4)		
CLIN 0006	Initial Award – Maximum Award Fee Pool (b) (4)		
Total Estimated Task Order Award – (CLINs 0001 through 0006)			

Optional CLINs

CLIN	Description
CLIN 0007A	"Release 2" production (5.3.2.2 & 5.3.2.3)
CLIN 0008	Operations and Maintenance - Release 0.5, 1, 2, and 3 (5.1.2, 5.3.1.4, 5.3.2.4, 5.3.3.4)
CLIN 0009	Development Environment & Facilities (5.2.2)
CLIN 00010	"Release 3" Spiral Development (5.3.3.1)
CLIN 00010A	"Release 3" Production (5.3.3.2 & 5.3.3.3)
CLIN 0011	"Release 4" Spiral Development (5.3.4.1)
CLIN 0011A	"Release 4" production (5.3.4.2 & 5.3.4.3)
CLIN 0012	Operations and Maintenance – Release 3, 4, and 5 (5.3.3.4, 5.3.4.4, 5.3.5.4)
CLIN 0013	Development Environment & Facilities (5.2.2)
CLIN 0014	"Release 5" Spiral Development (5.3.5.1)
CLIN 0014A	"Release 5" Production (5.3.5.2 & 5.3.5.3)

Section B – Contract Pricing Terms and Conditions

General:

1. The Contractor shall provide all supplies and perform all services in accordance with the attached Statement of Work (SOW) entitled "SBInet Command, Control, Communication and Intel (C3I) Common Operating Picture" (Attachment 1).

2. Period of Performance:

   The estimated period of performance for the initial task order award is 16 months. Should all Contract Line Item Numbers (CLINs) be implemented, it is anticipated that the period of performance for the entire effort is approximately three (3) years. See paragraph 3 below for additional terms related to the CLINs and Period of Performance.

   The schedule for completion for the CLINS ordered in the initial task order award is in accordance with the schedule and delivery terms included in the SOW (attachment 1).

3. Task Order Contract Type:

   This task order is issued under the SBInet contract (HSBP1006D12353) which is an indefinite delivery/indefinite quantity (IDIQ) contract.

   This task order is initially issued on a Cost Plus Award Fee (CPAF) basis for the base period and, at inception only includes implementation of line items 0001, 0001A, 0002, 0003, 0004, 0004A, 0005, and 0006. The development (CLINs 0007-0014A) assumed under this order is iterative in nature with each level of development (i.e,"spiral") undertaken (as described and defined in the Government's statement of work (SOW) at attachment 1) is being built upon and derived from the successful completion and acceptance of the previous "spiral". Line items 0007 through 0014A are not being ordered with the initial task order and, as such, are not being funded and contractor performance shall not begin at this time. The un-priced Line Items not being implemented with the initial order may be ordered on a bilateral basis and funded via a fully executed modification to the task order at the appropriate times during performance but shall be subject to negotiations of the CLIN elements (i.e. cost, contract type, schedule, etc.) prior to issuance of the applicable modification. **As such, the contractor shall not begin performance on or incur any costs related to any line items except, CLIN 0001, 0001A, 0002, 0003, 0004, and 0004A, until such time that the additional line items are turned-on by a fully executed and funded modification to the task order.**

4. Initial Task Order Award – CLINs 0001 through 0006 are awarded under the task order and incremental funding is provided as follows:

Estimated Costs:

	Estimated Cost	Base Fee
CLIN 0001 Service Pack NTE	[redacted]	
CLIN 0001A		
CLIN 0002		
CLIN 0003		
CLIN 0004		
CLIN 0004A		
CLIN 0005*		
CLIN 0006*		

(b) (4)

Total Cost Estimate (Incl Fee): $60,318,973

Funded Estimated Costs:

	Funded Estimated Cost	Funded Base Fee
CLIN 0001 Service Pack NTE	[redacted]	
CLIN 0001A		
CLIN 0002		
CLIN 0003		
CLIN 0004		
CLIN 0004A		
CLIN 0005*		
CLIN 0006*		

(b) (4)

Total Funded Cost Estimate (Incl Fee): $66,629,778

Task Order (TO) Value including Overrun:

	Estimated Cost	Base Fee
CLIN 0001 Service Pack NTE	(b) (4)	
CLIN 0001A		
CLIN 0002		
CLIN 0003		
CLIN 0004		
CLIN 0004A		
CLIN 0005*		
CLIN 0006*		

Total TO Value (Incl Fee & overrun): $67,411,744

*Fee amounts are based on the estimated costs excluding FCCOM and travel. The base fee is a fixed fee amount. The award fee may be earned in whole or in part based on the negotiated Award Fee Plan at attachment 2. See item 5 below for additional terms.

5. Fee – This order is issued on a CPAF basis. Fee will be apportioned as follows:

Base/Fixed Fee (b) (4)	(b) (4)
Potential Award Fee (b) (4)	(b) (4)
Maximum Fee Amount	(b) (4)

Fee may be invoiced by the contractor under the contract as follows:

a) The table above in Section B – "Supplies or Services and Prices/Costs" provides the base fee available for each CLIN awarded on the C3I task order. CLIN 0005 was established to provide a total base (fixed) fee pool. The Government plans to pay the contractor an incremental amount of the base fee pool during each invoice period during the 16-month period of performance. The amount to be paid in each monthly increment will be calculated as follows:

Total remaining fixed fee amount of all CLINs when authorized to proceed by the contracting officer

.... divided by ...

The number of months remaining on the task order

For example the first month's payment would be calculated as follows:

Total remaining fixed fee amount of all CLINs when authorized to proceed by the contracting officer [CLINS 1, 2, 3, 4 = [redacted]

.... divided by ...

The number of months remaining on the task order [16]

[redacted]

b) Award Fee will be invoiced and paid in accordance with the negotiated Award Fee Plan (Attachment 2).

6. All travel costs shall be in accordance with the Federal Travel Regulations (FTR), and in accordance with the Master Contract (HSBP1006D01353) clause H.30.1. Travel costs will be excluded from fee computations and determinations.

7. The contractor shall report project cost and schedule performance in monthly Contractor Performance Reports in accordance with the Master Contract (HSBP1006D01353) Clauses H.9 and H.10.

8. The Integrated Baseline Review (IBR) is expected to be completed no later than 60 days after date of award of this task order.

9. Pre-Contract Costs: Pre-Contract costs were authorized on October 1, 2007 by the Contracting Officer (CO) in conjunction with this task order requirements. These costs were included in the task order total cost estimate per item 4 above. The contractor shall submit fully supported invoice(s) for the costs incurred between October 1, 2007 and December 7, 2007 within 30 days of receipt of the executed task order. The following clause applies:

Homeland Security Acquisition Regulation (HSAR) 3052.231-70

PRECONTRACT COSTS
(DEC 2003)

The Contractor shall be entitled to reimbursement for pre-contract costs incurred on or after __October 1, 2007__ in an amount not to exceed _$2.6 Million_ that, if incurred after this contract had been entered into, would have been reimbursable under this contract.

(End of clause)

Special Data Rights Clauses:

10. This Task Order relates to a major system acquisition and support of a major system acquisition. FAR Clauses 52.227-21 and 52.227-22 as referenced in Section I of the IDIQ Contract shall apply to all performance and deliverables completed pursuant to this Task Order. Changes made to the software/data as part of the task order SOW are covered by the cost estimates and that equitable adjustments made as a result of revisions made per the ECP provisions in the base contract would be covered by the ECP clauses.

11. Government Purpose Rights (GPR) for Computer Software and/or Technical Data

    Pursuant to performance under this task order, JEBC2 and SoSCOE computer software shall be provided with SPECIALLY NEGOTIATED LICENSE RIGHTS as set forth in the respective JEBC2 and SoSCOE computer software license agreements, attached herein as Attachment 3 and Attachment 4.

    In addition the terms and conditions of the JEBC2 and SoSCOE computer software license agreements, the following definitions shall apply to the SPECIALLY NEGOTIATED LICENSE RIGHTS:

    "Government Purpose Rights" shall mean the rights to use, modify, reproduce, release, perform, display, or disclose computer software or technical data within the Government without restriction; and to release or disclose computer software or technical data outside the Government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose that data for United States government purposes.

    "Government Purpose" shall mean any activity in which the United States Government is a party, including cooperative agreements with international or multi-national defense organizations or sales or transfers by the United States Government to foreign governments or international organizations. Government purposes include competitive procurement, but do not include the rights to use, modify, reproduce, release, perform, display, or disclose computer software or computer software documentation for commercial purposes or authorize others to do so.

12. The attached specially negotiated software license agreements for JEBC2 (Attachment 3) and SoSCOE (Attachment 4) are hereby incorporated into this task order.

13. Reservation of Rights

    At each stage following the development of computer software pursuant to this task order and prior to any productization or deployment of computer software, CBP reserves the right to enter into negotiations to discuss data rights issues and any existing and contemplated computer software license agreements.

(b) (6) [redacted] 2-4-2009

Contractor Signature Date

Printed Name and Title

JEBC2 SOFTWARE LICENSE AGREEMENT

THIS AGREEMENT, effective as of November 28, 2007 "Effective Date", is made by and between The Boeing Company, having offices in Arlington, Virginia ("Boeing"), and the Department of Homeland Security, Customs and Border Protection having operations in Washington, D.C. ("CBP"). Boeing and CBP may be referred to hereinafter individually as a "Party" or collectively as "Parties".

WHEREAS, Boeing owns or controls computer software and related documentation referred to as Joint Effects Based Command and Control ("JEBC2") that may be useful as a surrogate for Battle Command software, and

WHEREAS, JEBC2 will be used in the development of prototype software for SBInet Contract Number HSBP1006D011353, Command, Control, Communications, and Intelligence ("C3I") Common Operating Picture ("COP") Task Order Number HSBP1208J19363 ("Program"); and

WHEREAS, in support of the SBInet C3I COP development, the Program requires the development and production of prototype software for the purpose of the evaluation of the functionality that could be provided to the CBP in the first release of software for the above-identified Task Order; and

WHEREAS, JEBC2 may provide one of the starting points for said prototype development and production and support CBP evaluations of C3I functionality; and

WHEREAS, BOEING is willing to grant such right and license for Prototype Evaluation Purposes and Production Purposes on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the above premises and the mutual covenants and premises contained herein, the Parties agree as follows:

I. DEFINITIONS

For purposes of this Agreement, the terms set forth below will have the indicated definitions and shall be capitalized where these definitions apply. As used in this Agreement, the singular shall also mean the plural and the plural the singular, where appropriate.

1.1(a) "Licensed Core Software" shall mean Version 3.0 of JEBC2 in executable or binary code form, as of the Effective Date of this Agreement, including any modifications to JEBC2 exclusively funded by Boeing and made available to CBP, and expressly excluding any COTS or OSS as defined below.

1.1(b) "Licensed Modified Software" shall mean all modules of the JEBC2 software, including source code, executable code, and/or binary code, funded completely or in part by CBP under SBInet Contract Number HSBP1006D011353, Command, Control, Communications, and Intelligence (C3I) Common Operating Picture ("COP") Task Order Number HSBP1208J19363.

1.2 "COTS" shall mean commercial-off-the-shelf software of companies, listed in Exhibit "A", attached hereto and incorporated herein by reference.

1.3 "Open Source Software (OSS)" shall mean publicly available software of others, listed in Exhibit "A", attached hereto and incorporated herein by reference.

1.4 "Documentation" shall mean manuals and other printed or written information provided by Boeing to CBP to describe or explain Licensed Software, its use, or its operation.

1.5 "Prototype Evaluation Purposes" shall mean evaluation by CBP of the Licensed Software in conjunction with and as part of the evaluation of the Prototype SBInet COP prototype software that is provided under the Program and as offered in SBInet Contract HSBP1006D01353, Submittal of Proposal for the Command, Control, Communications, and Intelligence (C3I) Task Order dated October 15, 2007.

1.6 "Production Purposes" shall mean the productization or distribution for operational use of the Licensed Core Software and Licensed Modified Software, including any and all spirally developed upgrade efforts deployed within SBInet systems

1.7 "Government Purpose Rights" shall mean the rights to use, modify, reproduce, release, perform, display, or disclose computer software or technical data within the Government without restriction; and to release or disclose computer software or technical data outside the Government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose that data for United States government purposes..

1.8 "Government Purpose" shall mean any activity in which the United States Government is a party, including cooperative agreements with international or multi-national defense organizations or sales or transfers by the United States Government to foreign

governments or international organizations. Government purposes include competitive procurement, but do not include the rights to use, modify, reproduce, release, perform, display, or disclose computer software or computer software documentation for commercial purposes or authorize others to do so.

II. DELIVERY AND LICENSE GRANT

2.1 Boeing shall provide to CBP (a) One copy of the Licensed Core Software to the extent it is incorporated in or used by the Prototype SBInet COP, and (b) one copy of Documentation, by furnishing to CBP at the address specified in Miscellaneous, paragraph 12.2, for Prototype Evaluation Purposes and Production Purposes in accordance with the terms and conditions of this Agreement and as offered in SBInet Contract HSBP1006D01353, Submittal of Proposal for the Command, Control, Communications, and Intelligence (C3I) Task Order dated October 15, 2007. Licensed Core Software shall be provided in executable and binary form only. The Licensed Core Software, Documentation, any copies thereof, and intellectual property rights subsisting in or pertaining to Licensed Core Software and Documentation, are and shall, subject to the terms of SBInet Contract HSBP1006D01353 and this Agreement, remain the sole property of Boeing. All Licensed Modified Software shall be delivered with Government Purpose Rights.

2.2 Boeing agrees to grant and hereby grants CBP, and CBP hereby accepts, a non-exclusive, non-transferable license, without the right to sublicense others except for other Department of Homeland Security (DHS) employees and Contractors, and to Governmental entities such as U.S. Northcom and U.S. Program Executive Office (PEO) Control, Command, Communications, and Intelligence (C3I) solely in the United States solely for Prototype Evaluation Purposes and Production Purposes, to:

(a) Install and use the Licensed Core Software and Documentation, and subsequent releases thereof furnished to CBP by Boeing, on computers owned by the Parties described above for the Prototype Evaluation Purposes and Production Purposes; and
(b) Make a single copy of the Licensed Core Software and Documentation for backup or archival purposes so long as all such copies retain Boeing's copyright and proprietary notices.

2.3 The license granted hereunder does not include the right to:

(a) Print, copy, reproduce, or electronically transmit Licensed Core Software or Documentation in whole or in part, in any form whatever, except as specifically provided herein;

(b) Use Licensed Core Software to provide computing services for third parties; or

(c) Make modifications, modify or make any derivative works of the Licensed Software except as set forth in Section 9 hereunder;

(d) Use Licensed Core Software for any purpose other than Prototype Evaluation Purposes and Production Purposes.

2.4 CBP agrees that the Licensed Core Software and the Documentation shall at all times remain PROPRIETARY SOFTWARE of The Boeing Company which shall be asserted in SBI Contract Number HSBP1006D01353 by an appropriate clause which shall reference this Agreement, and shall, at all times, contain the following data marking legend:

SPECIAL LICENSE RIGHTS – JEBC2 SOFTWARE AND DOCUMENTATION
The U.S. Office of Customs and Border Protection's rights to use, modify, reproduce, display, or disclose this JEBC2 Software and Documentation are restricted by Contract No. HSBP1006D011353, Task Order HSBP1208J19363Attachment 3 JEBC2 License. Any reproduction of this software or portions thereof marked with this legend must also reproduce the markings.

III. LICENSE FEE

In view of the overall purpose of this Agreement and the terms and conditions set forth herein, as long as CBP is not in material breach of this Agreement, the Licensed Core Software and Documentation is licensed hereunder on a royalty-free basis. Licensing under such terms is in no way intended to prejudice the inherent economic value of the Licensed Software.

IV. PROTECTION

4.1 CBP acknowledges and agrees that the Licensed Core Software and the Documentation contain the valuable proprietary, confidential and/or trade secret information of Boeing and third parties entrusting same to Boeing, the unauthorized disclosure of which would cause irreparable harm to Boeing and those third parties. CBP therefore agrees not to disclose the Licensed Core Software or the Documentation to any third party other than its employees (and those identified in Section 2.2 above) who are fully apprised of the obligations of CBP under this Agreement and who are under written obligations to protect the proprietary, confidential and/or trade secret information of third parties, including Boeing, in the possession

of CBP. The obligation of CBP not to disclose such proprietary, confidential and/or trade secret information shall not apply to any information which CBP can demonstrate by means of written documentation:

(a) Is in the public domain or in the possession of CBP without restriction at the time of receipt under this Agreement;
(b) Is used or disclosed with prior written approval of Boeing;
(c) Is independently developed by CBP; or
(d) Is made available by Boeing to a third party on an unrestricted, non-confidential basis.

4.2 CBP agrees to take appropriate steps to ensure that Licensed Core Software and Documentation are not copied, misappropriated, or otherwise used in violation of this Agreement. CBP agrees to fully cooperate in identifying unauthorized copying, appropriation, or use of Licensed Core Software or Documentation.

4.3 CBP agrees not to reverse assemble, reverse compile, or otherwise reverse engineer Licensed Software or authorize or permit others to do so.

V. COTS AND OPEN SOURCE SOFTWARE

5.1 Certain third party COTS (listed in Exhibit "A" hereto) is currently incorporated in and/or required to run the Licensed Software. This Agreement does not provide CBP any rights to use such COTS. **CBP AGREES THAT PRIOR TO USING THE LICENSED SOFTWARE IT WILL EITHER 1) OBTAIN, AT ITS OWN EXPENSE, THE NECESSARY LICENSE RIGHTS TO SUCH COTS FOR ITS PURPOSES CONSISTENT WITH THE LICENSED USE OF THE LICENSED SOFTWARE; OR 2) VERIFY THAT CBP HAS OBTAINED THE NECESSARY LICENSE RIGHTS TO SUCH COTS FOR ITS PURPOSES CONSISTENT WITH THE LICENSED USE OF THE LICENSED SOFTWARE.**

5.2 Certain third party Open Source Software (listed in Exhibit "A" hereto) is currently incorporated in and/or required to run the Licensed Software. **CBP AGREES WITH RESPECT TO LICENSED SOFTWARE TO COMPLY WITH THE APPLICABLE LICENSE TERMS FOR EACH SUCH OPEN SOURCE SOFTWARE. BOEING WILL INFORM CBP IF ANY SUCH OPEN SOURCE SOFTWARE REQUIRES AUTHORIZATION AND CONSENT OF CBP FOR PURPOSES OF THIS LICENSE AGREEMENT (SEE EXHIBIT A).**

5.3 CBP authorizes and consents pursuant to 28 U.S.C. 1498 (b) to any infringement of any copyright in any work protected under the copyright laws of the United

States for all use and manufacture contemplated by this Agreement. Additionally, such authorization and consent shall be made an express contract term of SBInet Contract HSBP1006D01353.

VI. ASSIGNMENT

6.1 Except as otherwise provided in this Agreement, CBP shall have no right to transfer the Licensed Core Software or Documentation to any third party, by sale or otherwise, or assign the license or other rights and obligations contained in this Agreement without the express written consent of Boeing.

VII. MAINTENANCE, INSTALLATION, SUPPORT, AND UPDATES

7.1 Boeing will provide personnel, to the extent reasonably available, to assist with set up, integration, testing and analyses at the CBP for the purposes and duration of the Task Order Number HSBP1208J19363.

7.2 Boeing will notify CBP of any updates to Licensed Core Software, funded exclusively by Boeing with no United States Government funding, released by Boeing as they become available. Any such updates which Boeing determines, at its sole discretion, should be made available to CBP shall be subject to the terms and conditions of this Agreement. If any such update furnished to CBP includes COTS or Open Source Software not included in Exhibit "A", Boeing shall so inform CBP by unilaterally amending and providing CBP a revised Exhibit "A". The requirements of Article V, COTS and Open Source Software, will be applicable to all COTS and Open Source Software on the revised Exhibit "A".

7.3 Other than as provided in Paragraphs 7.1 and 7.2 of this Article VII, Maintenance, Installation, Support and Updates, Boeing shall have no obligation to install, support, maintain, debug, or update the Licensed Software, COTs or Open Source Software.

7.4 CBP agrees to timely disclose to Boeing problems with the Licensed Software in accordance with the problem reporting process established and disclosed to CBP hereinafter by Boeing.

VIII. DISCLAIMERS AND LIABILITY

8.1 LICENSED SOFTWARE AND DOCUMENTATION ARE PROVIDED ON AN "AS IS" BASIS, AND BOEING MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, WHETHER ARISING BY LAW, CUSTOM, OR CONDUCT, WITH RESPECT TO THE LICENSED SOFTWARE AND DOCUMENTATION OR OTHER MATERIAL OR SERVICES, INCLUDING, WITHOUT LIMITATION, ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE. IN NO EVENT SHALL BOEING BE LIABLE FOR CONSEQUENTIAL, EXEMPLARY, OR INCIDENTAL DAMAGES EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8.2 CBP shall be liable only to the extent permitted under the Federal Torts Claims Act (FTCA).

8.3 NOTHING CONTAINED IN THIS AGREEMENT SHALL BE CONSTRUED AS A WARRANTY OR REPRESENTATION THAT THE USE OF THE LICENSED SOFTWARE OR DOCUMENTATION WILL BE FREE FROM INFRINGEMENT OF PATENTS, UTILITY MODELS, COPYRIGHTS OR OTHER INTELLECTUAL PROPERTY OR INDUSTRIAL PROPERTY RIGHTS OF THIRD PARTIES.

8.4 CBP acknowledges and agrees that the Licensed Software has heretofore been used internally at Boeing as a development tool. The Licensed Software is not a catalog product of the Boeing Company, and as such, may require a significant amount of further development and customization before it is suitable for any particular application.

8.5 With respect to the Open Source Software in Exhibit A, Boeing makes no representations whatsoever and all such Open Source Software shall be provided "as is."

IX. MODIFICATIONS

9.1 All Licensed Modified Software shall be delivered in both executable and binary and source code format with Government Purpose Rights as required under Task Order HSBP1208J19363.

X. TERM AND TERMINATION

10.1 This Agreement shall be effective as of the date set forth above as the Effective Date, or if left blank, as of the date of execution by CBP and shall remain in force until termination or expiration of the Task Order Number HSBP1208J19363.

10.2 CBP shall have the right to terminate this Agreement any time upon notice in writing to Boeing.

10.3 Boeing may terminate this Agreement upon sixty (60) days written notice if:

(a) CBP defaults on any term, covenant, or condition contained in this Agreement and such default or condition is not cured to Boeing's reasonable satisfaction within the notice period; or

(b) Upon the termination of SBInet Contract Number HSBP1006D011353.

10.4 Upon termination or expiration of this Agreement, CBP shall:

(a) Discontinue use of Licensed Core Software and Documentation and any copies thereof and, upon the written instruction of Boeing, shall deliver to Boeing or destroy all previously delivered Licensed Core Software and Documentation, and any copies thereof except CBP may retain the executable Licensed Core Software to the extent it is necessary to operate the Licensed Modified Software;

(b) Except as set forth in 10.4(a) above, erase or destroy all of Licensed Core Software and Documentation and copies thereof contained in or stored in any form or medium, including the memory and storage devices of a computer or computer system;

(c) Certify in writing that the foregoing has been accomplished within thirty (30) days of the expiration or termination of this Agreement.

10.5 The termination rights set forth above shall be in addition to, and not in substitution for, any other remedies that may be available to Boeing or CBP, and any termination and the exercise of such rights shall not relieve Boeing and CBP from any obligations accrued to the date of such termination or relieve Boeing or CBP from liability and damages to CBP or Boeing for breach of this Agreement.

10.6 Notwithstanding any expiration or termination of this Agreement, the provisions of Articles IV, PROTECTION; V, COTS AND OPEN SOURCE SOFTWARE; VIII, DISCLAIMERS AND LIABILITY; IX, MODIFICATIONS; X, TERM AND TERMINATION; XI, EXPORT CONTROL; and XII, MISCELLANEOUS, shall survive such expiration or termination.

XI. EXPORT CONTROL

CBP will comply with all U.S. export control laws and regulations. The information that Boeing discloses pursuant to this Agreement may be subject to the provisions of the Export Administration Act of 1979 and the Export Administration Regulations promulgated there under,

the Arms Export Control Act, and the International Traffic in Arms Regulations, and the sanctions laws administered by the Office of Foreign Assets Control. CBP acknowledges that these statutes and regulations impose restrictions on import, export and transfer to third countries of certain categories of data, and that licenses from the U.S. Department of State and/or the U.S. Department of Commerce may be required before such data can be disclosed hereunder, and that such licenses may impose further restrictions on use and further disclosure of such data.

XII. MISCELLANEOUS

12.1 This Agreement, along with SBInet Contract Number HSBP1006D011353, Command, Control, Communications, and Intelligence (C3I) Common Operating Picture ("COP") Task Order Number HSBP1208J19363, constitute the entire and only agreements between the parties relating to the subject matter hereof, and all prior negotiations, representations, agreements and understandings are superseded hereby. No agreement altering or supplementing the terms hereof shall be effective unless made by means of a written document signed by the duly authorized representatives of the parties. In the event of any conflict between this Agreement and SBInet Contract Number HSBP1006D011353, Command, Control, Communications, and Intelligence (C3I) Common Operating Picture ("COP") Task Order Number HSBP1208J19363, the terms of this Agreement shall govern.

12.2 Any notice required by this Agreement shall be effective when given by prepaid, first class, certified mail, return receipt requested, addressed to Boeing or CBP, as set forth below, or to such other addresses as may be given under the terms of this paragraph 12.2 of Article XII, Miscellaneous:

BOEING:

The Boeing Company.
1421 Jefferson Davis Highway
Suite 200 / MC: 793J-P002
Arlington, Virginia 22202-3259
Attention [redacted]

CBP:

ATTN: Marla Sands, Contracting Officer
Department of Homeland Security
Customs and Border Protection
1300 Pennsylvania Ave NW, NP1310
Washington DC 92647-2099

12.3 If any provision or part of any provision, of this Agreement is found to be invalid, then such provision, or the invalid part thereof, shall be stricken from the Agreement, and the remaining provisions shall remain in full force and effect.

12.4 As between Boeing and CBP, this Agreement shall be construed and enforced in accordance with the federal laws of the United States of America.

12.5 The Parties expressly agree that one copy of the Licensed Core Software, in source code format, shall be escrowed by an independent third party upon the request of the Licensee and successful negotiation of appropriate funding. The Parties shall negotiate in good faith to negotiate an escrow agreement within 90 days of the effective date of this Agreement. . The release of the Licensed Core Software from escrow shall be authorized only to fulfill the contractual requirements for the C3I task order and shall be triggered in the event of a Termination for Default of the SBInet Contract Number HSBP1006D011353, Command, Control, Communications, and Intelligence (C3I) Common Operating Picture ("COP") Task Order Number HSBP1208J19363; or in the event such Termination for Default is converted into a Constructive Termination for Convenience or a no-cost settlement, and Boeing can no longer support the software.

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute this Agreement in duplicate originals.

(b) (6)

Boeing SBInet Contract Administrator
THE BOEING COMPANY

11-29-07
Date

(b) (6)

Maria Sands
SBInet Contracting Officer
US Customs and Border Protection

12/7/07
Date

EXHIBIT A – COTS and Open Source Software

COTS *:

- BattleSpace Developers Option (Boeing Product)

OPEN SOURCE SOFTWARE (License information to be provided to LICENSEE by BOEING) *:

- jcommon-0.7.1.jar (GNU LGPL)
- jfreechart-0.9.4.jar (GNU LGPL)
- jibx-bind.jar (XPP3 license)
- jibx-run.jar (XPP3 license)
- jnl.jar
- junit.jar (Common Public License)
- log4j-1.2.8.jar (Apache License Version 1.1)
- openmap.jar (BBN License)
- ptplot5_1.jar (UC Berkeley License)
- servlet.jar (Apache License Version 2.0)
- xpp3.jar (XPP3 licence)
- log4j-1.2.8 (Apache License Version 1.1)
- commons-beanutils.jar (Apache License Version 2.0)
- Commons-beanutils-core
- commons-Chain-1.0
- commons-digester.jar (Apache License Version 2.0)
- commons-logging.jar (Apache License Version 2.0)
- commons-collections.jar (Apache License Version 1.1)
- Commons-Collections-testframework-3.1 (Apache License Version 2.0)
- Beanutils (Apache License Version 2.0)
- Chain (Apache License Version 2.0)
- Collections (Apache License Version 2.0)
- Digester (Apache License Version 2.0)
- Logging (Apache License Version 2.0)
- Commons-Pool-1.3 (Apache License Version 2.0)
- Xalan-j_2_6_0 (Apache License Version 2.0)
- Jdom-1.0b8 (Apache Style License)
- jakarta-regexp-1.2.jar (Apache License Version 2.0)

- Log4cpp (LGPL)
- jgb v0.6.5.a (LGPL)
- rxtx v2.1.7 (LGPL)
- tcl
- sdl (LGPL)
- gtk (LGPL)
- GLUT v3.7
- Gecko (Mozilla Public License)
- AVFormat, AVCodec, AVUtil (LGPL)

OPEN SOURCE SOFTWARE SUBJECT TO U.S. GOVERNMENT AUTHORIZATION AND CONSENT (28 USC 1498(B)) FOR THE PROGRAM*:

*Note – Boeing reserves the right at all times to update this list of COTS and OPEN SOURCE SOFTWARE. Additionally this list may change with later versions of the LICENSED SOFTWARE.

SOSCOE SOFTWARE LICENSE FOR COMMERCIAL-OFF-THE-SHELF AND OPEN SOURCE COMPONENTS

THIS AGREEMENT, effective as of November 28, 2007, is made by and between:

The Boeing Company, having an address at 5301 Bolsa Avenue, Huntington Beach, California 92647-2099 (hereinafter referred to as "BOEING"), and Customs and Border Protection (hereinafter referred to as "LICENSEE").

WHEREAS, BOEING is the Lead Systems Integrator for the TACOM Life Cycle Management Command (TACOM) under Contract W56HZV-05-C-0724 for the Future Combat Systems (FCS) System Development and Demonstration (SDD) Phase Program;

WHEREAS, under Contract W56HZV-05-C-0724, BOEING is developing certain computer software and computer software documentation referred to as the System of Systems Common Operating Environment ("SOSCOE"), which is an information management backbone and application interface structure for implementation of a distributed network and comprises all databases, data sets, and software required to make the SOSCOE fully functional under operating conditions, including, without limitation, information assurance, ontologies, and task integration networks;

WHEREAS, BOEING has the right to license COTS and Open Source Software incorporated in SOSCOE, and to provide SOSCOE to LICENSEE, as set forth herein;

WHEREAS, use of SOSCOE is required on the FCS Program and on other programs with which the FCS Program is required to interface;

WHEREAS, it is of critical importance to the FCS Program and in general that the dissemination of SOSCOE be carefully controlled, the quality of SOSCOE be assured, and configuration control of SOSCOE be maintained,

WHEREAS, the US Government has certain rights to SOSCOE under Contract W56HZV-05-C-0724 in the FCS Program and BOEING has responsibilities under that Agreement to ensure that the dissemination of SOSCOE is carefully controlled, the quality of SOSCOE is assured, and configuration control of SOSCOE is maintained; and the Government and Boeing have mutually determined that this AGREEMENT facilitates fulfillment of those responsibilities, and;

WHEREAS, LICENSEE is a U.S. Government entity or contractor charged with performance of the Secure Border Initiative ("SBInet") (hereinafter referred to as "the Licensed Programs"), and desires to obtain a license for the COTS and Open Source software incorporated in SOSCOE for the purpose of prototype evaluation and production purposes of the SBInet Command, Control, Communications and Intelligence (C3I) Task Order HSBP1208J19363 under Contract Number HSBP1006D01353 (hereinafter referred to as the Purpose);

WHEREAS, both parties agree other Department of Homeland Security ("DHS") Components may require use of SOSCOE which will require DHS and Boeing to execute additional licensing agreements with respect to COTS and Open Source components of SOSCOE.

WHEREAS LICENSEE will enter into a DISTRIBUTION AGREEMENT with TACOM as to portions of SOSCOE developed by Boeing under the FCS Program that are subject to Government Purpose Rights, and which are not COTS or Open Source software (the "GPR Portions");

NOW, THEREFORE, in consideration of the mutual covenants and premises contained herein, the parties agree as follows:

I. DEFINITIONS

For purposes of this Agreement, the following terms shall have the indicated meanings:

1.1 "LICENSED SOFTWARE" shall mean the COTS and Open Source software incorporated into the current version of SOSCOE (designated "Build 1.9") and any updates or enhancements of said COTS or Open Source software, and additional or replacement COTS or Open Source Software if incorporated in future Builds of SOSCOE and provided to LICENSEE hereunder.

1.2 "COTS" shall mean commercial-off-the-shelf software of other companies.

1.3 "Open Source Software" shall mean publicly available software of others which may be used under license at no cost (if there is a cost, such will be considered COTS).

1.4 "DOCUMENTATION" shall mean manuals and other printed or written information provided by BOEING to LICENSEE to describe or explain LICENSED SOFTWARE and/or SOSCOE, its use, or its operation.

1.5 "PM FCS (BCT)" shall mean the Government Program Manager for the Future Combat Systems Program.

II. DELIVERY AND LICENSE GRANT

2.1 BOEING shall, within two (2) weeks of the date hereof, provide to LICENSEE (a) _1__ copy of SOSCOE (which incorporates and integrates LICENSED SOFTWARE and the GPR Portions), and (b) _1__ copy of DOCUMENTATION, by delivery to LICENSEE at the address specified in Paragraph 12.2 or such other address that may be mutually agreed in writing between BOEING and LICENSEE for use in accordance with the terms and conditions of this Agreement. SOSCOE shall be provided in executable code form, and also to the extent considered appropriate by the PM FCS (BCT), in source code form.

2.2 BOEING hereby grants LICENSEE, subject to Article V, a fully paid-up, non-exclusive, non-transferable license, in the United States, solely for the Purpose, to:

(a) Install and use up to two hundred (200) copies (this number will be increased by Boeing upon request of LICENSEE by a notice in writing to LICENSEE subject to Boeing's determination of availability based on its licenses for the COTS incorporated in SOSCOE and approval of PM FCS (BCT)) of the LICENSED SOFTWARE and subsequent releases thereof furnished to LICENSEE by BOEING, in Licensee's Command Centers;

(b) Otherwise, install and use LICENSED SOFTWARE and subsequent releases thereof furnished to LICENSEE by BOEING, at LICENSEE's facilities and/or in LICENSEE's equipment/vehicles under LICENSEE's control;

(c) Use DOCUMENTATION; and

(d) Make a reasonable number of copies of the LICENSED SOFTWARE and DOCUMENTATION so long as all such copies are marked with existing third party copyright and proprietary notices, and adequate records of such copies are maintained and made available for review by BOEING at reasonable times and places.

2.3 The license granted hereunder shall not include the right to:

(a) Print, copy, reproduce, or electronically transmit LICENSED SOFTWARE or DOCUMENTATION in whole or in part, in any form whatever, except as specifically provided herein; or

(b) Use LICENSED SOFTWARE to provide computing services for third parties.

2.4 It is understood that SOSCOE (rather than just the LICENSED SOFTWARE) is provided as a convenience to LICENSEE, and that the GPR Portions are subject to the DISTRIBUTION AGREEMENT.

III. LICENSE FEE

3.1 In view of the overall purpose of this Agreement, and the terms and conditions set forth herein, the license fee shall be considered as paid up.

IV. PROTECTION

4.1 The LICENSED SOFTWARE may include proprietary information of a third party, and any such third party shall be a third party beneficiary of this Article IV and also Article II relative to its proprietary information. LICENSEE therefore agrees not to disclose the LICENSED SOFTWARE or the related DOCUMENTATION other than for the Purpose and only to its employees (and, in the case of U.S. Government Organizations, its Government support contractor employees at LICENSEE's facilities) who are fully apprised of LICENSEE's obligations under this Agreement and who are under written obligations to protect the proprietary information of third parties in LICENSEE's possession.

4.2 LICENSEE agrees to take appropriate steps to ensure that the LICENSED SOFTWARE and the DOCUMENTATION are not copied, misappropriated, or otherwise used in violation of this Agreement. LICENSEE agrees to fully cooperate in identifying and prosecuting unauthorized copying, appropriation, or use of the LICENSED SOFTWARE or the DOCUMENTATION.

4.3 LICENSEE's right to reverse assemble, reverse compile, or otherwise reverse engineer Open Source Software in LICENSED SOFTWARE is subject to the limitations in the applicable licenses for Open Source Code software listed in Exhibit A. LICENSEE agrees not to reverse assemble, reverse compile, or otherwise reverse engineer COTS in LICENSED SOFTWARE without prior written approval of the PM FCS (BCT).

V. COTS AND OPEN SOURCE SOFTWARE

5.1 This Agreement does not provide LICENSEE any rights to use the COTS and Open Source Software which are listed in Exhibit A other than use with SOSCOE and only for the Purpose. COTS and Open Source Software included in LICENSED SOFTWARE are listed in Exhibit A. **LICENSEE AGREES TO COMPLY WITH THE APPLICABLE LICENSE TERMS FOR EACH OF SUCH OPEN SOURCE SOFTWARE.**

5.2 Java Platform Interface. LICENSEE may not create additional classes, interfaces, or subpackages that are contained in the "java" or "sun" packages or similar as specified by Sun Microsystems, Inc. ("Sun") in any class file naming convention. In

the event that LICENSEE creates an additional API(s) which: (i) extends the functionality of a Java Environment; and, (ii) is exposed to third party software developers for the purpose of developing additional software which invokes such additional API, LICENSEE must promptly publish broadly an accurate specification for such API for free use by all developers. Nothing in this Paragraph prohibits LICENSEE from developing, using, and/or distributing "LICENSEE Software" written in languages other than Java, and/or creating API's there from, even though such LICENSEE Software possesses capabilities that may be similar to the (Sun) Software (JDMK), SO LONG AS: (a) such LICENSEE Software is developed without infringing Sun's intellectual property rights; and (b) such LICENSEE Software is not created within the "java" or "sun" packages or similar as specified by Sun in any class file naming convention.

5.3 Trademarks and Logos. This AGREEMENT does not authorize LICENSEE to use any Sun name, trademark or logo. LICENSEE acknowledges that Sun owns the Java trademark and all Java-related trademarks, logos and icons including the Coffee Cup and Duke ("Java Marks") and agrees to: (i) comply with the Java Trademark Guidelines at http://www.sun.com/policies/trademarks; (ii) not do anything harmful to or inconsistent with Sun's rights in the Java Marks; and (iii) assist Sun in protecting those rights, including assigning to Sun any rights acquired by Licensee in any Java Mark.

VI. ASSIGNMENT

6.1 Subject to Article II and IV, LICENSEE shall have no right to transfer the LICENSED SOFTWARE or DOCUMENTATION to any third party, by sale or otherwise, or to sublicense or assign the license or other rights and obligations contained in this Agreement without the express written consent of BOEING.

VII. MAINTENANCE, INSTALLATION, SUPPORT, AND UPDATES

7.1 BOEING may, in its sole discretion, provide installation support and initial training for the LICENSED SOFTWARE or SOSCOE as BOEING deems appropriate,

consistent with BOEING's resources and manpower reasonably available to provide such services.

7.2 BOEING will, if directed by the PM FCS (BCT), notify LICENSEE of any updates and/or additions to LICENSED SOFTWARE released by BOEING under the FCS Program, as they become available, e.g., subsequent SOSCOE Builds. Any such updates which the PM FCS (BCT) determines are required for the Purpose, will be made available to LICENSEE upon direction of the PM FCS (BCT) in accordance with the terms and conditions of this Agreement (if any such update to be made available includes COTS or Open Source Software which is not but should be included in Exhibit A, BOEING shall so inform LICENSEE by providing LICENSEE a revised Exhibit A, as the requirements of Article V will be applicable to all COTS and Open Source Software on the revised Exhibit A). While unlikely, COTS included in an addition to LICENSED SOFTWARE may require a separate license (which may require a fee) with the third party owner before use is authorized by LICENSEE. BOEING will promptly advise LICENSEE in this regard and amend this Agreement accordingly should that circumstance arise.

7.3 Subject to Paragraphs 7.1 and 7.2, BOEING shall have no obligation to install, support, maintain, debug, or update the LICENSED SOFTWARE, but may do so at its discretion.

7.4 LICENSEE agrees to timely disclose to BOEING problems with the LICENSED SOFTWARE in accordance with the problem reporting process established by BOEING (BOEING will inform LICENSEE of this process).

VIII. DISCLAIMERS AND LIABILITY

8.1 SUBJECT TO CONTRACT W56HZV-05-C-0724, SOSCOE and LICENSED SOFTWARE ARE PROVIDED ON AN "AS IS" BASIS, AND BOEING MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, WHETHER ARISING BY LAW, CUSTOM, OR CONDUCT, WITH RESPECT TO SOSCOE AND THE LICENSED SOFTWARE AND DOCUMENTATION OR OTHER MATERIAL OR SERVICES, INCLUDING, WITHOUT LIMITATION, ALL WARRANTIES OF MERCHANTABILITY

AND FITNESS FOR PARTICULAR PURPOSE. IN NO EVENT SHALL BOEING OR LICENSEE BE LIABLE FOR CONSEQUENTIAL, EXEMPLARY, OR INCIDENTAL DAMAGES EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8.2 SUBJECT TO CONTRACT W56HZV-05-C-0724, NOTHING CONTAINED IN THIS AGREEMENT SHALL BE CONSTRUED AS A WARRANTY OR REPRESENTATION THAT THE USE OF SOSCOE OR THE LICENSED SOFTWARE OR DOCUMENTATION WILL BE FREE FROM INFRINGEMENT OF PATENTS, UTILITY MODELS, COPYRIGHTS OR OTHER INTELLECTUAL PROPERTY OR INDUSTRIAL PROPERTY RIGHTS OF THIRD PARTIES.

IX. MODIFICATIONS

9.1 LICENSEE may as required for the Purpose modify the LICENSED SOFTWARE, but only after obtaining written permission from the PM FCS (BCT). Any such permission will take into consideration applicable restrictions on the COTS in LICENSED SOFTWARE and will be subject to the licenses for the Open Source Software listed in Exhibit A. If LICENSEE does make any such modifications, it will promptly provide a copy thereof, in both executable and source code form, to the PM FCS (BCT) with Government Purpose Rights (as defined in DFARS 252.227-7014). Any modifications of LICENSED SOFTWARE made by Boeing with funding from LICENSEE under Contract Number HSBP1006D01353 and Task Order HSBP1208J19363 will be provided to LICENSEE with Government Purpose Rights as set forth in said Task Order and subject to the terms of the DISTRIBUTION AGREEMENT.

X. TERM AND TERMINATION

10.1 This Agreement shall be effective as of the date of execution by LICENSEE.

10.2 LICENSEE shall have the right to terminate this Agreement any time upon notice in writing to BOEING and the PM FCS (BCT).

10.3 Subject to the approval of the PM FCS (BCT), BOEING may terminate this Agreement upon sixty (60) days written notice if:

(a) LICENSEE defaults on any term, covenant, or condition contained in this Agreement and such default or condition is not cured to BOEING's reasonable satisfaction within the notice period; or

(b) BOEING reasonably determines that LICENSEE no longer has a need to use LICENSED SOFTWARE for the Purpose; or

(c) The DISTRIBUTION AGREEMENT with LICENSEE has been terminated.

10.4 Upon termination of this Agreement LICENSEE shall:

(a) Discontinue use of LICENSED SOFTWARE and any copies thereof and, upon the written instruction of BOEING, shall deliver to BOEING or destroy all previously delivered LICENSED SOFTWARE and DOCUMENTATION, and any copies thereof;

(b) Erase or destroy all of LICENSED SOFTWARE and DOCUMENTATION and copies thereof contained in or stored in any form or medium, including the memory and storage devices of a computer or computer system;

(c) Certify in writing that the foregoing have been accomplished within thirty (30) days of termination.

10.5 The termination rights set forth above shall be in addition to, and not in substitution for, any other remedies that may be available to BOEING, and any termination and the exercise of such rights shall not relieve LICENSEE from any obligations accrued prior to the date of such termination or relieve LICENSEE from liability and damages to BOEING for breach of this Agreement.

10.6 Notwithstanding any expiration or termination of this Agreement, the provisions of Articles IV, V, VIII, IX, X, XI and XII shall survive such expiration or termination.

XI. EXPORT CONTROL; CRITICAL PROGRAM INFORMATION

11.1 The information that BOEING discloses pursuant to this Agreement may be subject to the provisions of the Export Administration Act of 1979 and the Export Administration Regulations promulgated thereunder, the Arms Export Control Act, and the International Traffic in Arms Regulations, and the sanctions laws administered by the Office of Foreign Assets Control. LICENSEE acknowledges that these statutes and regulations impose restrictions on import, export and transfer to third countries of certain categories of data, and that licenses from the U.S. Department of State and/or the U.S. Department of Commerce may be required before such data can be disclosed hereunder, and that such licenses may impose further restrictions on use and further disclosure of such data.

11.2 If SOSCOE or LICENSED SOFTWARE or portions thereof are at any time designated as Critical Program Information ("CPI") under the FCS Program Protection Plan which is included in Boeing's Agreement with the Government for the FCS Program, LICENSEE agrees to comply with all applicable CPI requirements relative to SOSCOE and LICENSED SOFTWARE.

XII. MISCELLANEOUS

12.1 This Agreement, Contract Number HSBP1006D01353, and Task Order HSBP1208J19363 to Boeing constitutes the entire and only agreements between the parties relating to the subject matter hereof, and all prior negotiations, representations, agreements and understandings are superseded hereby. No agreement altering or supplementing the terms hereof shall be effective unless made by means of a written document signed by the duly authorized representatives of the parties. In the event of any conflict between this Agreement and Contract Number HSBP1006D01353 and Task Order HSBP1208J19363, the terms of this Agreement shall govern.

12.2 Any notice required by this Agreement shall be effective when given by prepaid, first class, certified mail, return receipt requested, addressed to BOEING or LICENSEE, as set forth below, or to such other addresses as may be given from time to time under the terms of this Paragraph:

BOEING:
The Boeing Company
5301 Bolsa Avenue
Huntington Beach, California 92647
[redacted] (b) (4), (b) (6) [redacted]

LICENSEE:
Department of Homeland Security
Customs and Border Protection
1300 Pennsylvania Ave. NW, NP1310
Washington DC 20229
Attn: Ms. Marla Sands

12.3 If any provision or part of any provision, of this Agreement is found to be invalid, then such provision, or the invalid part thereof, shall be stricken from the Agreement, and the remaining provisions shall remain in full force and effect. IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to execute this Agreement.

[redacted] (b) (6)

Contracts Management
Future Combat Systems
Title

November 28, 2007
Date

[redacted] (b) (6)

Signature
Marla Sands
SBInet Contracting Officer
US Customs and Border Protection
Title

12/7/07
Date

EXHIBIT A –COTS and Open Source Software v. 1.9

COTS*

- Java Dynamic Management Kit – Sun Microsystems, Inc.
- Jabber XCP – Jabber, Inc.
- ICE – ZeroC, Inc.
- OS Abstractor - MapuSoft
- DB2 Enterprise - IBM
- Tivoli Directory Server - IBM
- Cape Clear Server – Cape Clear Software
- Systinet UDDI Registry - HP
- TrendMicro InterScan VirusWall – Trend Micro
- Fast Search & Transfer Data Search 360 – Fast Search & Transfer
- PCI (Pass Client Interface) – Future Skies Inc.

OPEN SOURCE SOFTWARE (License information to be provided to LICENSEE by BOEING) *:

- Xerces Java 2.6.2
- Xalan – Java 2.7.0
- Xalan C++ 1.10
- Xerces 2.7.0
- Apache Axis java
- OpenSSL fips 1
- JXTA
- ANTLR (Another Tool for Language Recognition)
- Adaptive Communication Environment (ACE)
- JACE
- Apache Axis C++
- Tomcat (For versions 5.0, 4.1, 3.3)
- Loki Library
- UUID Library (libuuid version 1.3.5)
- Graphical Editing Framework (GEF)
- Eclipse 3.10
  - jUnit 3.8.1
  - Apache Lucene 1.4.3
  - Apache Ant 1.6.2
- Jena
  - jUnit.jar
  - icu4j.jar
  - concurrent.jar
  - commons-logging.jar
  - log4j-1.2.7.jar

  - jakarta-oro-2.0.5.jar
  - xercesImpl.jar
  - xml-apis.jar
  - jena.jar
  - antlr.jar
  - rdf-api-2001-01-19.jar
- OWL API SWRL
  - log4j.jar
  - kazuki.jar
  - xmlparserapis.jar
  - ekit.jar
  - ekitspell.jar
  - jcalendar.jar
  - protege-owl.jar
  - jUnit.jar
  - icu4j.jar
  - concurrent.jar
  - commons-logging.jar
  - log4j-1.2.7.jar
  - jakarta-oro-2.0.5.jar
  - xercesImpl.jar
  - xml-apis.jar
  - jena.jar
  - antlr.jar
  - rdf-api-2001-01-19.jar
- JXTA-C
  - Apr
  - Aprutil
  - Sqlite
  - Libxml2 2.6.19
- Expat XML Parser
- Apache HTTP Server
- NetBDS mtree
- Arabica

OPEN SOURCE SOFTWARE SUBJECT TO U.S. GOVERNMENT AUTHORIZATION AND CONSENT (28 USC 1498(B)) FOR THE PROGRAM*:

- None

*Note – The list of COTS and OPEN SOURCE SOFTWARE may change with later versions of the LICENSED SOFTWARE.

DISTRIBUTION AGREEMENT
System of Systems Common Operating Environment (SOSCOE)
For United States Government Organizations
GPR PORTION

This Distribution Agreement is between the TACOM Life Cycle Management Command (TACOM) and _DHS/CBP/SBInet (the Receiving Party), concerning the distribution of SOSCOE.

SOSCOE is an information management backbone and application interface structure for implementation of a distributed network, which includes software in which TACOM has obtained Government Purpose Rights under Contract W56HZV-05-C-0724 (The GPR Portion). SOSCOE also includes commercial-of-the-shelf (COTS) software and Open Source software. This Distribution Agreement covers only the GPR Portion of the current version of SOSCOE (Build 2) and any subsequent versions of the GPR Portion of SOSCOE distributed to the Receiving Party.

The Receiving Party may obtain a license from The Boeing Company, the Lead System Integrator under Contract W56HZV-05-C-0724, for the COTS and Open Source portions of SOSCOE. Alternatively, the Receiving Party may obtain licenses from the individual owners of the COTS and Open Source software.

The GPR Portion may be used only for the purpose described below. GPR Portion material (including software, software documentation and data) will not be modified, adapted, or otherwise altered except as required for this purpose. The use the GPR Portion is also subject to the following conditions.

1. GPR Portion material shall not be sold or used for commercial purposes. Such material shall not be re-distributed by the Receiving Party, in whole or in part, without the express permission of the Program Manager for the Future Combat Systems (BCT), hereinafter, PM FCS (BCT). The Receiving party may make copies of this material for use within the Receiving Party's organization, or for use by its support contractors within the facilities of the Receiving Party, for the purpose stated below. Support contractors will be subject to a written agreement consistent with the terms of this Distribution Agreement. A copy of this Distribution Agreement shall be provided and maintained with each copy of the GPR Portion material and appropriate personnel shall be briefed regarding the Distribution Agreement requirements. In addition, the PM FCS (BCT) is to be notified in writing of the name, address and designated POC of all support contractors to which GPR Portion material is provided. The individual who is the original recipient of this material shall be tasked with compliance with the terms of this Distribution Agreement

2. Changes to the GPR Portion may not be distributed without approval of the PM FCS (BCT). Such changes will be given to the PM FCS (BCT) with at least Government Purpose Rights. The PM FCS (BCT) will determine whether such changes will be incorporated into future releases of SOSCOE.

3 GPR Portion material is developmental in nature. Neither the PM FCS (BCT) nor any other part of the U.S. Government shall be liable for any harm, damage, or injury that may result from the use or untimely receipt of this material.

4 The PM FCS (BCT) may revoke permission or hereinafter make permission subject to additional conditions as dictated by Government interests.

5. The individual who will act as recipient of the GPR Portion is a U.S. citizen or a person admitted lawfully into the United States for permanent residence and is located in the U.S.

6. The Receiving Party acknowledges its responsibilities under the U.S. export control laws and regulations and agrees that it will not disseminate any export-controlled material subject to this agreement in a manner that would violate applicable export control laws and regulations.

7. The Receiving Party agrees that it will not provide access to this material to persons other than its employees or support contractor personnel acting on its behalf, without permission of the PM FCS (BCT).

8. As consideration for the distribution the GPR Portion, the Receiving Party agrees to disclose to the PM FCS (BCT) office any and all changes, enhancements, improvements or modifications which may be made to the GPR Portion while in the Receiving Party's possession or its support contactor's possession. Reports of the above changes will be made annually on _December 7th and as additionally requested by the PM FCS (BCT). The Receiving Party agrees to provide source code and documentation for the changes. If the reports, source code or documentation are not received by the PM FCS (BCT), PM FCS (BCT) retains the right to demand the return or destruction of SOSCOE and any related materials.

REQUESTING ORGANIZATION NAME:

Department of Homeland Security – Customs and Border Protection – SBI Program Office – SBInet Program

PURPOSE:
SOSCOE will be used as the middleware architecture and where applicable, the applications that are required to interface with the SBInet Command and Control software.

ESTIMATED COMPLETION DATE: December 7th, 2010

REQUESTING ORGANIZATION AUTHORIZED POINT OF CONTACT (POC):

NAME (Print):

Judith Simpson, Contracting Officer, SBInet

TELEPHONE:

571-468-7154
E-MAIL:

(b) (6) [redacted]@cbp.dhs.gov

ORGANIZATION:

Customs and Border Protection

SBInet Program Office

ADDRESS:

1901 South Bell Street

Arlington, Virginia 22202

I HEREBY AGREE TO CONDITIONS 1-8 IDENTIFIED ON PAGES 1 AND 2 OF THIS DOCUMENT AND WILL UTILIZE THE SOSCOE MATERIAL ONLY FOR THE PURPOSE/USE DESCRIBED ABOVE. I UNDERSTAND THAT PROCESSING OR TRANSMITTING EXPORT CONTROLLED MATERIAL VIA ANY PUBLIC ELECTRONIC MEDIUM IS STRICTLY PROHIBITED.

SIGNATURE (b) (6) [redacted] ZATION (RECEIVING PARTY)

Submit Form