



# GSA Federal Supply Schedule Contract Teaming Agreement



WHEREAS, the U.S. Federal Government ("Government") is increasingly interested in seeking to promote teaming arrangements between GSA Federal Supply Schedule ("FSS") contract holders; and

WHEREAS, \_\_\_\_\_ ("Prime Contractor" or "Team Leader") holds a GSA FSS Contract No. \_\_\_\_\_ which is valid through \_\_\_\_\_ and \_\_\_\_\_ INFOCUS ("Team Member" or "TM") currently holds a GSA FSS Contract No. GS-35F-4138D which is valid through April 2007; and

WHEREAS, Team Leader is awarded a contract for \_\_\_\_\_ ("Government") Blanket Purchase Agreement ("BPA") for \_\_\_\_\_; and

WHEREAS, throughout the term of the BPA it may be necessary to provide products or services which are not currently on Team Leader's GSA Information Technology Schedule, or are pending approval by GSA for incorporation within Team Leader's Schedule, and/or are on the Team Member's GSA Schedule, and such products or services will be offered to the Government with terms and conditions equivalent to those contained within Team Leader's or TM's GSA Schedule; and

WHEREAS, Team Leader and Team Member desire to enter into a teaming arrangement solely in order to respond to a Team Leader GSA Schedule opportunity or BPA requirements and in so doing will offer the Government a more comprehensive product offering than could otherwise be accomplished; and

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

**1. Teaming Obligations**

1.1 In furtherance of a team proposal to the Government, Team Leader and TM shall seek to obtain a Delivery Order(s) from the Government under the Team Leaders GSA Schedule or BPA that shall be issued to Team Leader and shall include, but may not necessarily be limited to:

- A reference to Team Leader's GSA Schedule contract that contains the products and/or services on said contract that the procuring agency desires to obtain, and
- A reference to Team Member's GSA Schedule contract with a list of those products and/or services on TM's GSA Schedule.

1.2 Team Leader shall act as the Prime Contractor to the procuring agency. It is understood and agreed that as the Prime Contractor, Team Leader shall be solely responsible for directly interfacing with the procuring agency and, unless otherwise provided herein, as in 1.6, will be responsible to assure that the ordered products and/or services are delivered and accepted by the procuring agency and that all relevant contractual obligations are fulfilled.

1.3 Team Leader shall be solely responsible for invoicing and collecting payment from the Government. Team Leader shall promptly remit payment to the Team Member or authorized distributor under their existing purchasing arrangements.

1.4 Team Leader and Team Member shall jointly prepare and coordinate all cost and technical proposals prior to submittal to the Government. Team Leader shall have the authority to negotiate directly with the Government (with support by TM as requested) relative to the pricing of products covered by the team proposal. Pricing of TM products will be based upon their current GSA Schedule pricing. The Team Leader will conduct changes to standard BPA pricing.

1.5 Team Leader's obligations to Team Member upon receipt of each relevant Delivery Order shall be limited to assuring that a purchase order is issued and payment is promptly made to TM or authorized distributor in accordance with existing payment terms.

1.6 The Team Member will be solely responsible for their respective GSA Schedule performance obligations, including, but not limited to, drop shipment, warranty commitments, post delivery support and resolution of problems that may occur in the order fulfillment process.

1.7 Neither Party shall have authority to bind the other, except to the extent authorized herein.

1.8 This agreement is not intended to be an exclusive relationship in derogation of the applicable anti-trust laws, nor to prejudice the Government in any way in respect to any action it may take in procuring products or services on the basis of competitive proposals or the awarding of contracts on a split or other type basis.

2.0. **Revenue Reporting and Industrial Funding Fee: Team Leader shall be responsible for BPA reporting, submittal of Revenue Reports and POS reporting to the respective team members for all products and/or services on each Delivery Order.** The Team members shall be solely responsible for payment of the Industrial Funding Fee for all products and/or services provided from TM's GSA Schedule under each BPA Delivery Order. Since InFocus allows its partners to purchase from any of its distributors its imperative that the TL provide POS reports promptly recognizing InFocus's obligations to report and accurately pay the IFF fee. InFocus will make every effort to request and re-mind TL of their need to provide timely (monthly) and accurate POS reports. InFocus will void this agreement if the TL is negligent in reporting POS after two consecutive months without communication.

3.0 **Cost and Expenses:** Each party shall bear all costs, risks and liabilities incurred by it as may arise out of its obligations and efforts under this Agreement during the pre-proposal and proposal periods, which periods are defined as the time up to the award of the Delivery Order(s). Neither party shall have the right to reimbursement, payment or compensation of any kind from the other during the period up to the award of the Delivery Order(s).

4.0 **Infringement:** Team Member shall defend, indemnify and hold harmless Team Leader from and against any claims, losses, including reasonable legal fees and expenses, based upon infringement of any patent, copyright, trademark, trade secret or other proprietary rights of any third party as a result of the sales, distribution, licensing or use of TM's products or services.

5.0 **Term of Agreement:** The initial term of this Teaming Agreement shall be coterminous with the BPA or through December 31, 2004 whichever occurs last, unless earlier terminated in accordance with the provision entitled "termination". Upon mutual agreement between the parties, the Agreement may be renewed for one (1) year increments after the initial term.

5.0 **Termination:** This Agreement shall terminate upon the first of the following events:

- The occasion of Team Member's inability to offer the products and/or services to the Government as specified on an FSS contract;
- The parties written agreement to mutually terminate the teaming arrangement;
- The Government provides official notice to Team Leader that the \_\_\_\_\_ BPA Request for Proposal has been cancelled;
- The Government or the procuring agency disapproves the inclusion of the Team Member in the team arrangement or any resultant Delivery Order.

7.0 **Encumbrances:** It is agreed that Team Leader is providing products and/or services pursuant to this agreement solely for the purpose of meeting its obligations to the Government under any resultant Delivery Order issued in support of the BPA. Accordingly, TM agrees that it will not create, assume or voluntarily suffer to exist any mortgage, pledge, encumbrance, security interest or lien of any kind upon the software and/or equipment being provided under this Agreement.

8.0 **Waiver of Rights:** Any failure of either party to exercise any of the remedies set forth herein shall not be deemed a waiver of those rights.

9.0 **Legal Relationship:** Each party will furnish the other such cooperation and assistance as may be reasonably required hereunder, however, nothing in this Agreement, including references to the parties acting as "team members" or collectively as a "team" shall create a joint venture, partnership or other formal business organization of any kind. The parties shall remain independent contractors throughout the performance of all obligations herein.

10 **Confidential Information:** All proprietary or confidential information exchanged will be in writing and clearly identified as proprietary or confidential, marked in accordance with Company Private legends or the legend found in FAR 52.215-12 or other appropriate procurement regulations. The receiving party in connection with the team proposal effort(s) may only use proprietary or confidential information exchanged under this Agreement.

11 **Publicity:** Any news releases, public announcements or publicity of any type with regard to this Agreement and the participation of the parties on the team shall not be released without the prior approval of the other party.

12 **Freedom to Market:** This Agreement shall not preclude either party, its affiliates or subsidiaries from its normal marketing efforts in connection with the sale of its products and/or services; provided, however, TM agrees to act with Team Leader in the development of each team proposal under the BPA until either the relevant Delivery Order is awarded, the requirement is cancelled, or until the Government has provided notification that the team proposal has been rejected.

13 **Applicable Law:** This Agreement shall be governed and enforced under the laws of the State of California exclusive of its choice of law provisions. The parties waive any right to jury trial. Any disputes arising out of or relating to this agreement shall first be submitted to ascending levels of management within the respective business units. If the parties are unable to resolve such dispute within sixty (60) calendar days, then the matter may be litigated. All litigation shall be in a court of competent jurisdiction in the County of Los Angeles, State of California.

14 **Assignment:** Neither this Agreement nor any interest herein, nor any obligation hereunder, may be assigned, in whole or in part, by either party without the written consent of the other party; provided that such consent shall not be necessary for assignment to (i) a successor to such party by way of merger or acquisition or substantially all of the business assets of such party, or (ii) a wholly owned subsidiary of such party.

15. **Entire Agreement:** This Agreement constitutes the complete and exclusive agreement between the parties and supersedes and replaces any prior oral or written communications relative to the subject matter hereof. There are no conditions, understandings, agreements, representations, or warranties, express or implied, which are not specified herein. This Agreement may only be modified by a written document executed by the parties hereto.

\_\_\_\_\_  
TEAM LEADER

\_\_\_\_\_  
TEAM MEMBER

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_