

END USER LICENSE AGREEMENT FOR XACTA® 360

This End User License Agreement is a binding agreement made between Telos® Corporation ("Telos") and you, the Licensee ("You", "Your" or "Licensee"), and governs Your use, under license, of certain Telos software according to the terms and conditions set forth below. All components, or terms and conditions, contained in this Agreement are integral to the Agreement and Licensee consents to all of these terms and conditions. All components of this Agreement collectively are referred to herein as the "Agreement". Licensee acknowledges it has had the opportunity both to review the Agreement and to consult with legal counsel prior to acceptance of this Agreement. By downloading, installing, obtaining a license key, or otherwise accessing or using the Software, you acknowledge that you have read and understand this Agreement, and that you accept all of the terms and conditions contained here in full and agree that the terms and conditions shall be fully and legally binding upon the parties, without the need for any further indication of acceptance on your part (such as by signature, click through or other means of electronic acceptance). If you are acting on behalf of a Licensee, you represent that you have full legal authority to bind the Licensee. Telos recommends Licensee print copies of the Agreement for Licensee's own records and future reference.

If you choose not to agree to these terms, do not access and/or use the Telos Software.

1 - DEFINITIONS

- 1.01 "Software" means, as provided by Telos under this Agreement: (i) the set of instructions in Object Code form that are executed by a machine, including (without limitation), subsequent updates, enhancements, modifications and releases of the same, as well as third-party software added to or used in connection with the foregoing; and (ii) all related components, templates, features, enhancements, modifications, data and related files.
- 1.02 "Documentation" means the user guides, manuals, and training materials for installation and use of the Software made available with the Software.
- 1.03 "Proprietary Information" shall mean proprietary and trade secret information embodied in the Software and other materials provided by Telos to Licensee under this Agreement and not generally known or available to the public, including (without limitation) Data Schema, Source Code and Object Code (all as defined below), and computer program listings, techniques, algorithms, processes, templates, manuals, and training materials.
- 1.04 "Source Code" shall mean a form of a computer program in which the program logic is easily deduced by a human being, such as a printed listing of the lines of program instructions, or in an encoded machine-readable form such as might be recorded on magnetic disk or tape, from which a printed listing can be made by processing it with a computer.

- 1.05 "Object Code" shall mean the form of a computer program resulting from the translation or processing of Source Code by a computer into machine language or intermediate code, which is not convenient to human understanding of the program logic, but which is appropriate for execution or interpretation by a computer.
- 1.06 "Data Schema" shall mean Telos' representation of relevant inventory information, vulnerability information, threat information, risk weighting factors, and all other data and its structure used by the Software.
- 1.07 "Project" shall mean the security assessment of the Licensee-defined system boundary. Each Project requires a valid license key, provided by Telos, that activates and enforces the functionality available within the Software. Each Project is designed to support up to a specified number of devices. Exceeding the specified number of devices is not authorized by this Agreement, constitutes a violation of the license granted by this Agreement, and could void support and maintenance. See Telos support site for details at https://www.telos.com/offerings/xacta-support/.
- 1.08 "Content Package" shall mean the template to be used for security assessment based on Licensee's required or specified standards.
- 1.09 "Application Server" shall mean the core component of the Telos Program that performs risk and compliance calculations.
- 1.10 "Telos Materials" means any software, programs, tools, systems, data or other materials made available by Telos to Licensee in the course of the performance under this Agreement including, but not limited to, the Software, Documentation, Proprietary Information, as well as any information, materials or feedback provided by Licensee to Telos relating to the Software, Documentation, Data Schema, and Content Package.
- 1.11 "Web Services Account" or "WSA" shall mean a cloud-based account Licensee maintains at one of the Telos authorized cloud computing platform web hosting service providers which hosts the Telos Software and which Licensee accesses and uses under this Agreement.
- 1.12 "WSA Provider" means the entity providing the WSA.
- 1.13 "On Premises" means the Software is physically installed on the Licensee's hardware or system.
- 1.14 "Order Form" means an ordering document or online order, specifying the Software to be provided hereunder, that is entered into between Telos and Licensee, including any addenda and supplements thereto.

2 - LICENSE GRANT

2.01 Subject to Licensee's compliance with the terms and the conditions of this Agreement and all terms and conditions of agreements with WSA Provider, if applicable, Telos hereby grants to Licensee (i) a limited, nonexclusive, nonrefundable, and nontransferable license to use the Software in accordance with the Documentation and only in Object Code form solely for its own internal business operations for the purpose of conducting the specified Project(s); and (ii) use the Documentation solely in connection with Licensee's authorized use of the Software. Licensee agrees to adhere to all laws, rules and regulations applicable to the use of the Software.

- 2.02 Telos shall provide the Software 1) via download from Telos' website or otherwise (for On Premises license) or 2) provide access to the Software through the specified WSA Provider (such access hereinafter referred to as the "Service"). Licensee is responsible for its connection to and use of the Service. Telos is not responsible for any aspect of the Service, including without limitation, its availability. Licensee shall indemnify, defend and hold harmless Telos and its licensors for any claim arising from Licensee's use of the Service, including use of the Service: (i) in breach of this Agreement or any agreement with WSA Provider, or (ii) in breach or infringement of third-party rights. This license does not permit Licensee to: (i) use the Telos Materials to provide services to any third parties (e.g., business process outsourcing, service bureau applications or third-party training); (ii) lease, loan, resell, sublicense or otherwise distribute the Telos Materials; (iii) distribute or publish keycode(s); (iv) make any use of or perform any acts with respect to the Telos Material other than as expressly permitted in accordance with the terms of this Agreement; (v) use Software components other than those specifically identified on an Order Form, even if it is also technically possible for Licensee to access other Software components; or (vi) obtain physical copies of the Software, Documentation or Telos Materials if licensed through the Service.
- 2.03 On Premises license: Licensee agrees to use and display the Software only in Object Code form. Application Server may be installed on a single computer, and all other Software components may be installed on one or more computers as specified in the Order Form solely for Licensee's own internal business operations for the purpose of conducting the Project(s) specified in the Order Form. If the Licensee purchases annual maintenance, Telos shall provide technical support and maintenance services in accordance with the policy published at https://www.telos.com/offerings/xacta-support/ which Telos reserves the right to modify at any time at its sole discretion.
- 2.04 Service license: Licensee agrees to access and/or use the Software only via the Service. Licensee must hold the required licenses to use the Software. Use may occur by way of an interface delivered with or as part of the Software, a Licensee or third-party interface, or another intermediary system.
- 2.05 Licensee shall pay to Telos or WSA Provider or to such entity designated by Telos or WSA Provider license fees for the Software on the terms specified in the Order Form.
- 2.06 Licensee acknowledges that Telos may change, discontinue, or deprecate the Software or change or remove features or functionality of the Software from time to time. Telos agrees to notify the Licensee of any material change to or discontinuation of the Software at the time of or reasonably promptly after such change or discontinuation.

3 – TERM AND TERMINATION

3.01 This Agreement and the license granted hereunder shall become effective as of the date of Licensee's acceptance of the terms and conditions of the Agreement, as described in the introductory paragraph of this Agreement. It shall continue in effect thereafter until the Agreement is terminated in accordance with the terms of this Agreement and any Order Form. Software Licensee shall cease use of the Software after any such termination. In caseof a breach of the terms of this Agreement by Licensee, Telos may terminate this Agreement with immediate effect. Either Licensee or Telos may terminate this Agreement for convenience upon notice to the other party. Termination of the Agreement shall strictly apply to all licenses under the Agreement,

its appendices, schedules, addenda and Order Forms and any partial termination of the Agreement by Licensee shall not be permitted in respect of any part of the Agreement, its appendices, schedules, addenda, and Order Forms. For an On-Premise license, Licensee shall immediately return all copies of the Telos Materials in its possession and delete such Telos Materials from its systems. For a Service license, Telos shall inform WSA Provider of such termination and that Licensee is no longer licensed or authorized to access and/or use the Software via the Service.

3.02 Termination of this Agreement shall not relieve Licensee's obligation to pay all fees due under this Agreement as detailed in any Order Form. The parties' rights and obligations under Sections 3.02, 4, 5, 6 will survive termination of this Agreement.

4 - PROPRIETARY RIGHTS AND CONFIDENTIALITY

- 4.01 Licensee acknowledges and agrees that the Telos Materials are and shall at all times be and remain the sole and exclusive property of Telos and Telos' third-party licensors, subject only to the ownership rights of such third parties in portions of the Software and the rights granted to Licensee in this Agreement. Telos retains all right, title and interest in and to the Software and Documentation. The Software and the Documentation are licensed, not sold, and Licensee does not and will not be deemed to acquire any right, title or interest therein, except as expressly granted in this Agreement. Further, Licensee does not and will not be deemed to acquire any right, title or interest in any patent(s), copyrighted material, or other intellectual property, or proprietary information or data, owned by Telos Corporation and /or any of its subsidiaries or affiliates.
- 4.02 Licensee warrants that it will not (i) modify, reverse engineer, reverse assemble, or reverse or decompile any Software or any part thereof; (ii) create derivative works based on any Software or any part thereof; (iii) remove or alter any trademark, copyright, or other proprietary notice contained on or in the Software; (iv) use any of the third-party software provided by Telos hereunder as stand-alone applications; or (v) sublicense the Software to any third parties.
- 4.03 Licensee agrees to protect the confidentiality of the Software, Proprietary Information, Telos Materials (including methods or concepts utilized and the result of any benchmark tests), and all other information identified by Telos as proprietary and confidential with the same standard of care which Licensee uses to protect its own valuable trade secrets and proprietary information, but in no event less than reasonable care. Proprietary Information shall not be disclosed to any third party without the express written consent of Telos.

5 – DISCLAIMERS, LIMITATION OF WARRANTIES, REMEDIES, AND LIMITATION OF LIABILITY

5.01 THE SOFTWARE IS PROVIDED "AS IS". TELOS, ITS AFFILIATES AND THIRD-PARTY LICENSORS MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE REGARDING THE SOFTWARE OR THE THIRD-PARTY CONTENT, INCLUDING ANY WARRANTY THAT THE SOFTWARE OR

THIRD PARTY CONTENT WILL BE UNINTERRUPTED, ERROR FREE, OR THAT ANY CONTENT, INCLUDING THE LICENSEE'S CONTENT OR THE THIRD-PARTY CONTENT, WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED. LICENSEE ACKNOWLEDGES ITS RESPONSIBILTY TO REGULARLY BACK UP DATA MAINTAINED ON ANY COMPUTER SYSTEM USING THE SOFTWARE AND ADEQUATELY TEST PRIOR TO DEPLOYING EACH PRODUCT VERSION OF THE SOFTWARE IN CONFIGURATION WHICH REASONABLY SIMULATES LICENSEE'S PLANNED PRODUCTION ENVIRONMENT.

- TELOS, AND ANY OTHER SOFTWARE ORGANIZATIONS FROM WHICH 5.02 TELOS HAS OBTAINED THE RIGHT TO GRANT, AND TO GRANT OTHERS THE RIGHT TO GRANT, SUBLICENSES: (1) MAKES NO WARRANTY OR REPRESENTATION WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, TITLE, NONINFRINGEMENT, QUIET ENJOYMENT, LEVEL OF SECURITY, ACCURACY OR SYSTEM INTEGRATION, AND HEREBY EXPRESSLY DISCLAIMS ANY AND ALL SUCH WARRANTIES; (2) ASSUMES NO LIABILITY WHATSOEVER WITH RESPECT TO ANY USE OF THE SOFTWARE OR ANY PORTION THEREOF OR WITH RESPECT TO ANY DAMAGES THAT MAY RESULT FROM SUCH USE, AND HEREBY EXPRESSLY DISCLAIMS ANY AND ALL SUCH LIABILITIES AND/OR DAMAGES; AND (3) EXPRESSLY DISCLAIMS ANY WARRANTY OR LIABILITY WITH RESPECT TO THE RELIABILITY AND PERFORMANCE OF THE SOFTWARE IF IT HAS BEEN REVISED OR MODIFIED WITHOUT TELOS' PERMISSION, OR IS USED WITH THIRD-PARTY SOFTWARE OR SCRIPTS THAT WERE NOT PROVIDED BY TELOS OR AUTHORIZED BY TELOS FOR USE WITH THE SOFTWARE.
- 5.03 IN NO EVENT SHALL TELOS, ITS SUPPLIERS, OR THE WSA PROVIDER BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, GOOD WILL, DATA OR USE, OR BUSINESS INTERRUPTION, INCURRED BY EITHER LICENSEE OR ANY THIRD PARTY, WHETHER IN AN ACTION SOUNDING IN CONTRACT, TORT, WARRANTY, FIDUCIARY DUTY, STATUTORY CLAIM UNDER ANY FEDERAL, STATE, LOCAL LAW OF THE UNITED STATES OF AMERICA OR ANY OTHER JURISDICTION, OR ANY OTHER TYPE OF LEGAL CLAIM, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

FURTHER, NEITHER TELOS NOR ANY OF ITS AFFILIATES OR LICENSORS WILL BE RESPONSIBLE FOR ANY COMPENSATION, REIMBURSEMENT, OR DAMAGES ARISING IN CONNECTION WITH: (A) LICENSEE'S INABILITY TO USE THE SERVICES, INCLUDING AS A RESULT OF ANY (I) TERMINATION OR SUSPENSION OF THIS AGREEMENT OR LICENSEE'S USE OF OR ACCESS TO THE SOFTWARE, (II) TELOS' DISCONTINUATION OF ANY OR ALL ACCESS TO THE

SOFTWARE, OR, (III) WITHOUT LIMITING ANY OBLIGATIONS UNDER THE SERVICE LEVEL AGREEMENTS, ANY UNANTICIPATED OR UNSCHEDULED DOWNTIME OF ALL OR A PORTION OF THE ACCESS TO THE SOFTWARE FOR ANY REASON, INCLUDING AS A RESULT OF POWER OUTAGES, SYSTEM FAILURES OR OTHER INTERRUPTIONS; (B) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; (C) ANY INVESTMENTS, EXPENDITURES, OR COMMITMENTS BY LICENSEE IN CONNECTION WITH THIS AGREEMENT OR LICENSEE'S USE OF OR ACCESS TO THE SOFTWARE; OR (D) ANY UNAUTHORIZED ACCESS TO, ALTERATION OF, OR THE DELETION, DESTRUCTION, DAMAGE, LOSS OR FAILURE TO STORE ANY OF YOUR CONTENT OR OTHER DATA.

THE AGGREGATE AND CUMULATIVE TOTAL LIABILITY OF TELOS, ITS SUPPLIERS, OR THE WSA PROVIDER FOR DAMAGES, INCLUDING FOR DIRECT DAMAGES, UNDER THIS AGREEMENT SHALL IN NO EVENT EXCEED THE AMOUNT OF FEES PAID BY LICENSEE UNDER THIS AGREEMENT THAT GAVE RISE TO THE CLAIM DURING THE 12 MONTHS PRECEDING THE CLAIM, AND IF SUCH DAMAGES RELATE TO PARTICULAR LICENSED SOFTWARE OR SERVICES, SUCH LIABILITY SHALL BE LIMITED TO FEES PAID FOR THE LICENSED SOFTWARE OR SERVICES GIVING RISE OR RELATED TO THE ALLEGED LIABILITY AND DAMAGES UNDER THIS AGREEMENT DURING THE 12 MONTHS PRECEDING THE CLAIM.

LICENSEE ACKNOWLEDGES THAT THE FEES APPLICABLE FOR THE SOFTWARE REFLECT THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT TELOS WOULD NOT HAVE ENTERED INTO THIS AGREEMENT WITHOUT THE DISCLAIMERS OF WARRANTY AND LIMITATIONS OF LIABILITY AND DAMAGES SET FORTH IN THIS AGREEMENT.

6 - MISCELLANEOUS

- 6.01 This Agreement and the license herein granted shall not be assignable by Licensee without the prior, written consent of Telos. Any assignment or transfer in violation of this Section will be void.
- 6.02 Telos and its affiliates will not be liable for any delay or failure to perform any obligation under this Agreement where the delay or failure results from any cause beyond its reasonable control, including acts of God, labor disputes or other industrial disturbances, systemic electrical, telecommunications, or other utility failures, earthquake, storms or other elements of nature, blockages, embargoes, riots, acts or orders of government, acts of terrorism, or war.
- 6.03 If any term or provision of this Agreement shall be determined by a court of competent jurisdiction to be invalid, the remaining terms and provisions shall remain in effect.
- 6.04 Telos may modify this Agreement at any time by posting a revised version on its website and/or the WSA Provider's website or by otherwise notifying the Licensee in accordance with Section 6.05. The modified terms will become effective upon posting or, if Telos

notifies the Licensee by email, as stated in the email message. By continuing to use the Software after the effective date of any modifications to this Agreement, Licensee agrees to be bound by the modified terms. It is the Licensee's responsibility to check the referenced websites regularly for modifications to this Agreement. The current Agreement shall prevail over any additional, conflicting, or inconsistent terms and conditions which may appear on any purchase order or other document furnished by Licensee to Telos.

- 6.05 Any notice, report or statement required to be given or made hereunder shall be considered properly given if sent by registered or certified mail, return receipt requested, postage-paid to the respective address of each party as either of the parties shall have last furnished in writing to the other.
- 6.06 Licensee will not, without Telos' express prior written permission, use any trade name, trademark or other identification (or any abbreviation, contraction or simulation thereof) owned or used by Telos in any advertising, publicity, or marketing.
- Administration Regulations, the International Traffic of Arms Regulations, country-specific economic sanctions programs implemented by the Office of Foreign Assets Control, and the applicable regulations thereunder (collectively, the "U.S. Export Laws"). Licensee acknowledges and understands that neither the Software, nor the technical data relating to the Software, is intended to be used for any purpose prohibited by the U.S. Export Laws, including but not limited to nuclear proliferation, chemical/biological weapons or missiles. Licensee will not export or re-export the Software or any technical data related to it to any destination subject to export restrictions under the U.S. Export Laws, unless prior written authorization is obtained from the appropriate U.S. agency. For clarity, Licensee shall be solely responsible for compliance related to the manner in which the Licensee chooses to use the Software, including the transfer and process of any content, the provision of the Licensee's content to the End User, and the WSA region in which any of the foregoing occurs.
- 6.08 The Software is provided to the U.S. Government as "commercial items," "commercial computer software," "commercial computer software documentation," and "technical data" with the same rights and restrictions generally applicable to the Software. These terms are defined in the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement. To the extent the Licensee is the U.S. Government or an agency thereof or is being used on behalf of the U.S Government, such Licensee is provided a license only with restricted rights and limited rights. Use, duplication, or disclosure by the Government is subject to restrictions as set forth in FAR Sections 52-227-14 and 52-227-19 and DFARS Sections 227.7202-3, as applicable. If these terms fail to meet the U.S. Government needs or are inconsistent in any respect with federal law, Licensee shall immediately discontinue use of the Software.
- 6.09 Any dispute, controversy, or claim arising out of or related to the Agreement, the Software, or Services is governed by the laws of the Commonwealth of Virginia, without regard to its conflict of law principles or the Uniform Computer Information Transactions Act. Furthermore, the application of the United Nations Convention on Contracts for the International Sale of Goods to this Agreement is expressly excluded. The parties agree that any dispute, controversy, or claim arising out of, or in

- connection with, or with respect to the validity, interpretation and/or enforcement of this Agreement will be brought exclusively in the state courts of Virginia or the United States District Court for the Eastern District of Virginia, Alexandria division.
- 6.10 This Agreement and any terms and conditions incorporated in an Order Form approved by Telos shall constitute the entire agreement between the parties hereto with respect to the subject matter hereof and supersede all previous agreements whether written or oral. Any purchase order Licensee places with Telos will be subject to an Order Form. Telos shall have the right to reject any purchase order in its sole discretion.

© 2010-2021 Telos Corporation. All rights reserved. U.S. patents Nos. 6,901,346; 6,980,927; 6,983,221; 6,993,448; and 7,380,270.