

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement” or “Settlement Agreement”) is entered into among the United States of America, acting through the United States Department of Justice (“DoJ”) and on behalf of the Department of Defense (“DoD”), the United States General Services Administration (“GSA”), and the Defense Information Systems Agency (“DISA”); Michael Bradle (“Relator”); and Tangible Software, Inc. (“Tangible”), through their authorized representatives (each individually a “Party” and collectively, the “Parties”).

RECITALS

A. Tangible is a Maryland corporation that primarily provides information technology services to government agencies through various government contracts. A number of these contracts have been and are with DISA through a GSA contract. On September 29, 2011, Tangible was acquired by Energy Management and Security Solutions, LLC (“EMSS”) and brought under new management. On May 21, 2012, Tangible submitted a voluntary disclosure to DoD, DISA, GSA, and DOJ disclosing that there were instances in which, under prior management, Tangible invoiced the government for the cost of materials in amounts higher than what Tangible paid to acquire those materials (including after proper application of any contractual mark-up permitted for such materials).

B. On October 15, 2012, Relator filed a *qui tam* action in the United States District Court for the District of Maryland captioned *United States ex rel. Bradle v. Tangible Software, Inc.*, Civil No. DKC 12-3047 (D. Md.), pursuant to the *qui tam*

provisions of the False Claims Act, 31 U.S.C. § 3730(b) (the “Civil Action”), alleging that Tangible had overbilled the government for costs on various government contracts.

C. The United States contends that Tangible submitted or caused to be submitted claims for payment to DISA on various contracts with the government to which Tangible was not entitled.

D. The United States contends that it has certain civil claims against Tangible for engaging in the following conduct during the period January 1, 2008 through September 29, 2011 (hereinafter referred to as the “Covered Conduct”):

(1) Billing in excess of costs incurred (including after proper application of any contractual mark-up permitted for such materials) under the following specific contract modifications or invoices:

(a) DISA HC1013-07-C-2003

- a. Modification 17, dated 1/27/2009
- b. Invoice number 2198, dated 9/23/2008
- c. Invoice number 2261, dated 12/16/2008

(b) DISA HC1028-09-F-2364

- a. Modification 7, dated 5/4/2010
- b. Modification 9, dated 9/23/2010
- c. Modification 16, dated 4/8/2011
- d. Modification 19, dated 7/28/2011

As a result of the foregoing conduct, the United States alleges that Tangible knowingly made false or fraudulent claims for payment to DISA.

E. This Settlement Agreement is made in compromise of disputed claims. This Settlement Agreement is neither an admission of liability by Tangible nor a

concession by the United States that its claims are not well founded. Tangible expressly denies the allegations of the United States and Relator set forth herein and in the Civil Action.

F. Relator claims entitlement under 31 U.S.C. § 3730(d) to a share of the proceeds of this Settlement Agreement and to Relator's reasonable expenses, attorneys' fees and costs.

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. Tangible shall pay to the United States the sum of \$500,000 (the "Settlement Amount"), plus interest accrued thereon on the outstanding principal at the rate of 2.375% per annum from December 19, 2014, and continuing until and including the day before the final payment is made under this Agreement. On the Effective Date of this Agreement (as defined herein), the Settlement Amount shall constitute a debt due and immediately owing to the United States. Not later than February 10, 2015, Tangible shall pay the United States the initial fixed payment in the amount of \$101,724 and thereafter make principal payments with interest according to the payment schedule attached hereto as Exhibit A.

2. In addition to the Settlement Amount, Tangible shall make two forms of contingent payments ("Contingent Amount"), which are not subject to interest, to the United States subject to the following conditions:

a. Contingent, Revenue-Based Payments.

- i. If, between January 1, 2016 to December 31, 2016, the gross revenue of Tangible, including all subsidiary entities, exceeds \$20 Million, Tangible's payment to the United States for Installment 4 (as set forth in Exhibit A) will be elevated by \$150,000.
- ii. If, between January 1, 2017 to December 31, 2017, the gross revenue of Tangible, including all subsidiary entities, exceeds \$20 Million, Tangible's payment to the United States for Installment 5 (as set forth in Exhibit A) will be elevated by \$150,000.

b. Contingent, Litigation-Based Payments. Should Tangible or

EMSS choose to re-file and proceed with the civil action they had filed in Virginia state court (Fairfax County Case No. 2013-14386) (the "Virginia Action"), 50% of any Net Proceeds by settlement or judgment in that case will be paid to the United States within 30 days of the actual receipt of such proceeds subject to the following limits:

- i. Net Proceeds are defined as gross proceeds received through settlement or judgment less up to 20% or \$150,000 of the proceeds, whichever is less, to pay attorneys' fees or costs incurred by Tangible or EMSS directly related to that litigation, unless the costs or fees are paid in full by a defendant (or defendants) in that action. This may not include attorneys' fees associated with the Civil Action or any Unallowable Costs as set forth in Paragraph 16 below. The United States' 50% will be based on what remains.
- ii. The maximum Tangible will pay to the United States under this Contingent, Litigation-Based Payment provision is limited to \$250,000.

3. All payments set forth in Paragraphs 1 and 2 shall be made to the United States by electronic funds transfer pursuant to written instructions to be provided by DOJ. The entire balance of the Settlement Amount, or any portion thereof, plus any interest accrued on the principal as of the date of any payment, may be prepaid without penalty.

4. In the event that Tangible fails to pay the Settlement Amount or the Contingent Amounts as provided in Paragraphs 1 through 2 and Exhibit A, within 7 calendar days of the date upon which each such payment is due, Tangible shall be in Default of its payment obligations (“Default”). The United States will provide a written Notice of Default, and Tangible shall have an opportunity to cure such Default within 7 calendar days from the date of receipt of the Notice of Default. Notice of Default will be delivered as set forth in Paragraph 33, or to such other representative as Tangible shall designate in advance in writing. If Tangible fails to cure the Default within 7 calendar days of receiving the Notice of Default, the remaining unpaid balance of the fixed Settlement Amount (Paragraph 1) shall become immediately due and payable, and interest on Tangible’s share shall thereafter accrue at the rate of 12% per annum, compounded daily from the date of Default, on the remaining unpaid total (principal and interest balance). Tangible agrees that, in the event that it fails to cure any Default within 7 calendar days of receiving the Notice of Default, the United States may file a Consent Judgment in the form attached hereto as Exhibit C. The United States, at its sole discretion, may (a) offset the remaining unpaid balance from any amounts due and owing to Tangible, or any subsidiaries thereof, by any department, agency, or agent of the United States at the time of the Default; or (b) exercise any other rights granted by law or in equity, including the option of referring such matters for private collection. Tangible agrees not to contest any offset imposed and not to contest any collection action undertaken by the United States pursuant to this Paragraph, either administratively or in any state or federal court, except on the grounds of actual payment to or miscalculation by the United States. At its sole option, the United States alternatively may rescind this

Agreement, return monies paid by Tangible, and pursue the Civil Action or bring any civil and/or administrative claim, action, or proceeding against Tangible for the claims that would otherwise be covered by the releases provided in Paragraphs 6 and 7. In the event that the United States opts to rescind this Agreement pursuant to this Paragraph, Tangible agrees not to plead, argue, or otherwise raise any defenses of statute of limitations, laches, estoppel or similar theories, to any civil or administrative claims that are (a) filed by the United States against Tangible within 120 days of written notification that this Agreement has been rescinded, and (b) relate to the Covered Conduct, except to the extent these defenses were available on or before October 15, 2012.

5. Conditioned upon the United States receiving Installment 1 in the amount of \$101,724 from Tangible, as set forth in Paragraph 1 above and Exhibit A, and as soon as feasible after receipt, the United States shall pay \$16,275 to Relator by electronic funds transfer. Contingent upon the United States receiving each additional payment from Tangible identified in the schedule in Exhibit A, and as soon as feasible after receipt of each payment, the United States agrees to make the corresponding additional payment to Relator according to the schedule in Exhibit B.

6. Subject to the exceptions in Paragraph 8 below (concerning excluded claims), and conditioned upon Tangible's full payment of the Settlement Amount, and subject to Paragraph 21 below (concerning bankruptcy proceedings commenced within 91 days of the Effective Date of this Agreement or any payment made under this Agreement), the United States releases Tangible, together with its current or former direct or indirect parent and member entities; direct and indirect subsidiaries; direct or indirect affiliates; divisions; current or former owners (with the exception of Lan Tran, Thuan

Nguyen, and James Brundage in their personal capacity), officers, directors, employees, attorneys, and agents; and the successors and assignees of any of them, from any civil claim the United States has for the Covered Conduct, including, but not limited to, claims under the False Claims Act, 31 U.S.C. §§ 3729–3733; the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801–3812; any statutory provision creating a cause of action for civil damages or civil penalties for which the Civil Division of DOJ has actual and present authority to assert and compromise pursuant to 28 C.F.R. Part 0, Subpart I, 0.45(d); and the common law theories of payment by mistake, disgorgement, unjust enrichment, and fraud, as well as any claims for attorneys’ fees, costs, and expenses of every kind and however denominated.

7. Subject to the exceptions in Paragraphs 8, 9 and 10 below, and conditioned upon Tangible’s full payment of the Settlement Amount, and subject to Paragraph 21 below (concerning bankruptcy proceedings commenced within 91 days of the Effective Date of this Agreement or any payment made under this Agreement), Relator, for himself and for his heirs, successors, attorneys, agents, and assigns, releases Tangible, together with its current or former direct or indirect parent and member entities; direct and indirect subsidiaries; direct or indirect affiliates; divisions; current or former owners, officers, directors, employees, attorneys, and agents; and the successors and assignees of any of them, with the exception of Thuan Nguyen, James Brundage, or Lan Tran in their individual capacity, from any civil monetary claim Relator has on behalf of the United States for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729–3733.

8. Notwithstanding the releases given in Paragraphs 6 and 7 of this Agreement, or any other term of this Agreement, the following claims of the United States are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- c. Any liability based upon obligations created by this Agreement;
- d. Any criminal liability;
- e. Except as explicitly stated in this Agreement, any administrative liability, including the suspension and debarment rights of any federal agency; and/or
- e. Any individual liability of Thuan Nguyen, James Brundage, or Lan Tran.

9. Relator and his heirs, successors, attorneys, agents, and assigns shall not object to this Agreement but agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B). Relator expressly waives the opportunity for a hearing on any objections to the Settlement Agreement pursuant to 31 U.S.C. § 3730(c)(2)(B). Conditioned upon Relator's receipt of the payments described in Paragraph 5, Relator and his heirs, successors, attorneys, agents, and assigns fully and finally release, waive, and forever discharge the United States, its agencies, officers, agents, employees, and servants, from any claims arising from the filing of the Civil Action or under 31 U.S.C. § 3730, and from any claims to a

share of the proceeds of this Agreement and/or the Civil Action. Nothing in this Paragraph, however, shall be deemed a release of any attorneys' fees and/or costs incurred in connection with the Civil Action to which Relator and/or his heirs, successors, attorneys, agents assigns are or may be entitled pursuant to 31 U.S.C. § 3730(d).

10. Relator, for himself and for his heirs, successors, attorneys, agents, and assigns, releases Tangible, together with its current or former direct or indirect parent and member entities; direct and indirect subsidiaries; direct or indirect affiliates; divisions; current or former owners, officers, directors, employees, attorneys, and agents; and the successors and assignees of any of them, with the exception of Thuan Nguyen, James Brundage, or Lan Tran in their individual capacity, from any liability to Relator arising from the filing of the Civil Action. With the limited exception of the Relator's status as a proper relator, as set forth below, specifically excluded and reserved from those claims released in this Agreement is any dispute, claim or defense which may arise between Relator and Tangible regarding attorneys' fees and costs claimed by the Relator under 31 U.S.C. § 3730 or any other applicable provision of the False Claims Act, 31 U.S.C. § 3729 *et seq.* After this Agreement is executed, Relator and Tangible will separately negotiate and attempt to resolve claims under 31 U.S.C. § 3730(d) for those attorneys' fees and costs. If Relator and Tangible are not able to resolve claims under 31 U.S.C. § 3730(d) for attorneys' fees and costs, such claims shall be resolved by the United States District Court for the District Court of Maryland upon the filing by Relator of a fee application in either the Civil Action or in a separate action, whichever is appropriate. In the event such a fee application is filed, the only determination to be made by the Court

shall be the precise amount of attorneys' fees and costs to which Relator shall be entitled to recover. By its execution of its this Agreement, Tangible expressly acknowledges that Relator was a proper relator under the False Claims Act and that Relator therefore is legally entitled to recover attorneys' fees and costs pursuant to 31 U.S.C. § 3730(d). As such, Tangible reserves only those arguments pertaining to the amount of such attorneys' fees and costs that are properly compensable.

11. In consideration of the obligations of Relator set forth in this Agreement, Tangible for itself and for its current or former direct or indirect parent and member entities; direct and indirect subsidiaries; direct or indirect affiliates; divisions; current or former owners, officers, directors, employees, attorneys, and agents; and the successors and assignees of any of them, releases Relator and his heirs, successors, attorneys, agents, and assigns from any and all liability, claims, demands, actions or causes of action whatsoever, known or unknown, fixed or contingent, in law or in equity, in contract or in tort, under any federal or state statute or regulation or at common law or that it otherwise would have standing to bring against Relator. For the avoidance of doubt, this Paragraph does not prevent Tangible from defending against any claim brought by Relator and/or his heirs, successors, attorneys, agents, and assigns under 31 U.S.C. § 3730(d) for attorneys' fees and costs incurred in connection with the Civil Action.

12. Tangible waives and shall not assert any defenses Tangible may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such

criminal prosecution or administrative action. Nothing in this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue laws, Title 26 of the United States Code.

13. Tangible fully and finally releases the United States, its agencies, officers, agents, employees, and servants, from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that Tangible has asserted, could have asserted, or may assert in the future against the United States, its agencies, officers, agents, employees, and servants, related to the Covered Conduct and the United States' investigation and prosecution thereof.

14. Tangible has provided sworn financial disclosure statements on July 15, 2014, titled Financial Statement of Corporate Debtor ("Financial Statements") to the United States and the United States has relied on the accuracy and completeness of those Financial Statements in reaching this Agreement. Tangible warrants that the Financial Statements were complete, accurate, and current on the date on which they were provided to the United States. If the United States learns of any misrepresentation by Tangible on, or in connection with, the Financial Statements, and if such nondisclosure or misrepresentation changes Tangible's estimated net profit after taxes set forth in the Financial Statements by \$500,000 or more, the United States may at its option: (a) rescind this Agreement and file suit based on the Covered Conduct, or (b) let the Agreement stand and pursue an action to collect the full Settlement Amount plus one hundred percent (100%) of the value of the net worth of Tangible previously undisclosed up to \$2,000,000. If the United States prevails in such an action pursuant to this

provision, Tangible will immediately pay the United States all reasonable costs incurred in such an action, including attorneys' fees and expenses.

15. In the event that the United States, pursuant to Paragraph 14 above (concerning disclosure of assets) opts to rescind this Agreement, Tangible agrees not to plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any civil or administrative claims that (a) are filed by the United States within 90 calendar days of written notification to Tangible that this Agreement has been rescinded; and (b) relate to the Covered Conduct, except to the extent these defenses were available on October 15, 2012.

16. Tangible agrees to the following:

a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47; and in Titles XVIII and XIX of the Social Security Act, 42 U.S.C. §§ 1395–1395kkk-1 and 1396–1396w-5; and the regulations and official program directives promulgated thereunder) incurred by or on behalf of Tangible, its present or former officers, directors, employees, shareholders, and agents in connection with:

- i. the matters covered by this Agreement;
- ii. the United States' audit(s) and civil and criminal investigations of the matters covered by this Agreement;
- iii. Tangible' investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil and criminal investigations in connection with the matters covered by this Agreement (including attorneys' fees), but not including the Virginia Action or any related subsequent proceedings;
- iv. the negotiation and performance of this Agreement; and/or

- v. the payment(s) Tangible makes to the United States pursuant to this Agreement and any payment(s) that Tangible may make to Relator, including costs and attorneys' fees.

b. Treatment of Unallowable Costs Previously Submitted for

Payment: Within 90 days of the Effective Date of this Agreement, Tangible shall identify and repay by adjustment to future claims for payment or otherwise any Unallowable Costs included in payments previously sought (if any) by Tangible or any of its subsidiaries or affiliates from the United States. Tangible agrees that the United States, at a minimum, shall be entitled to recoup from Tangible any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously-submitted requests for payment (if any). The United States, including the DOJ and/or the affected agencies, reserves its rights to audit, examine, or re-examine Tangible's books and records and to disagree with any calculations submitted by Tangible or any of its subsidiaries or affiliates regarding any Unallowable Costs included in payments previously sought by Tangible (if any), or the effect of any such Unallowable Costs on the amount of such payments. Neither Tangible nor the United States has any present belief that Unallowable Costs have been sought from the United States through the Effective Date.

17. In the event, after the Effective Date, Tangible or any of its affiliated parents or subsidiaries are sold to or merged into a non-affiliated entity or in the event that more than 75% of the assets of Tangible or any of its affiliated parents or subsidiaries is sold, merged, or transferred into another non-affiliated entity, then Tangible shall promptly notify the United States, and all remaining payments owed pursuant to the Settlement Agreement shall be accelerated and become immediately due and payable.

For the avoidance of doubt, this Paragraph does not apply to equity infusions, sales, mergers, or transfers in the event that, prior to the Effective Date, Tangible has informed the United States of the possibility of such equity infusion, sale, merger, or transfer.

18. This Agreement is intended to be for the benefit of the Parties only. The Parties do not release any claims against any other person or entity, except to the extent provided for in Paragraphs 6 through 10 above.

19. Tangible agrees that it waives and shall not seek payment for any billings in excess of the contractually permitted costs (including after factoring in any appropriate contractual markup) in the invoices or modifications identified in Paragraph D above from any United States government agency.

20. Tangible warrants that it has reviewed its financial situation and that it currently is solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I), and has no present basis to believe that it will be rendered insolvent by payment to the United States of the Settlement Amount. Further, the Parties warrant that, in evaluating whether to execute this Agreement, they (a) have intended that the mutual promises, covenants, and obligations set forth constitute a contemporaneous exchange for new value given to Tangible, within the meaning of 11 U.S.C. § 547(c)(1); and (b) conclude that these mutual promises, covenants, and obligations do, in fact, constitute such a contemporaneous exchange. Further, the Parties warrant that the mutual promises, covenants, and obligations set forth herein are intended to and do, in fact, represent a reasonably equivalent exchange of value that is not intended to hinder, delay, or defraud any entity to which Tangible was or became indebted to on or after the date of this transfer, within the meaning of 11 U.S.C. § 548(a)(1).

21. If, within 91 days of the Effective Date of this Agreement or of any payment made under this Agreement, Tangible commences, or a third party commences, any case, proceeding, or other action under any law relating to bankruptcy, insolvency, reorganization, or relief of debtors (a) seeking to have any order for relief of Tangible's debts, or seeking to adjudicate Tangible as bankrupt or insolvent; or (b) seeking appointment of a receiver, trustee, custodian, or other similar official for Tangible or for all or any substantial part of Tangible's assets, Tangible agrees as follows:

a. Tangible's obligations under this Agreement may not be avoided pursuant to 11 U.S.C. § 547, and Tangible shall not argue or otherwise take the position in any such case, proceeding, or action that: (i) Tangible's obligations under this Agreement may be avoided under 11 U.S.C. § 547; (ii) Tangible was insolvent at the time this Agreement was entered into, or became insolvent as a result of the payment made to the United States; or (iii) the mutual promises, covenants, and obligations set forth in this Agreement do not constitute a contemporaneous exchange for new value given to Tangible.

b. If Tangible's obligations under this Agreement are avoided for any reason, including, but not limited to, through the exercise of a trustee's avoidance powers under the Bankruptcy Code, the United States, at its sole option, may rescind the releases in this Agreement and bring any civil and/or administrative claim, action, or proceeding against Tangible for the claims that would otherwise be covered by the releases provided in Paragraph 6 above. Tangible agrees that (i) any such claims, actions, or proceedings brought by the United States are not subject to an "automatic stay" pursuant to 11 U.S.C. § 362(a) as a result of the action, case, or proceedings described in the first clause of this

Paragraph, and Tangible shall not argue or otherwise contend that the United States' claims, actions, or proceedings are subject to an automatic stay; (ii) Tangible shall not plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any such civil or administrative claims, actions, or proceeding that are brought by the United States within 120 calendar days of written notification to Tangible that the releases have been rescinded pursuant to this Paragraph, except to the extent such defenses were available on October 15, 2012; and (iii) the United States has a claim against Tangible in the amount of approximately \$3,300,000 (representing approximately \$1,100,000 plus treble damages) and civil penalties, and the United States may pursue its claim in the case, action, or proceeding referenced in the first clause of this Paragraph, as well as in any other case, action, or proceeding, though Tangible reserves all rights to contest the amount of the claim, subject to limitations otherwise imposed by this Paragraph.

c. Tangible acknowledges that its agreements in this Paragraph are provided in exchange for valuable consideration provided in this Agreement.

d. For the purposes of this provision, the amount of any attorneys' fees and costs payable by Tangible to Relator pursuant to 31 U.S.C. §3730(d), which shall be hereafter determined as set forth in Paragraph 10 above, shall be considered an obligation under this Agreement.

22. On the effective date of this Agreement or any date thereafter the United States shall file in the Civil Action a Notice of Intervention as to the Covered Conduct. No more than 10 business days after receipt of Installment 1 in the amount of \$101,724 from Tangible, as described in Paragraph 1 above and Exhibit A, the United States and

the Relator shall sign and file in the Civil Action a Joint Stipulation of Dismissal. The stipulation of dismissal shall be subject to the terms and conditions of this Agreement. The dismissal shall be with prejudice as to the United States' and Relator's claims as to the Covered Conduct, but the stipulation of dismissal otherwise shall be without prejudice as to the United States. The stipulation of dismissal shall generally be with prejudice as to Relator as to all other allegations set forth in the Civil Action except with respect to any claims of Relator pursuant to 31 U.S.C. § 3730(d) for attorneys' fees and costs incurred in connection with the Civil Action, which may thereafter be litigated as set forth in Paragraph 10 above upon the filing of a fee application by Relator in the Civil Action or in a separate new action, whichever is appropriate.

23. With the exceptions enumerated herein, each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement (but not, for the avoidance of doubt, for legal and other costs incurred in connection with the Virginia Action or any subsequent proceeding). This provision shall not be interpreted as to modify or affect any obligation of Tangible pursuant to 31 U.S.C. § 3730(d), or any other applicable provision of the False Claims Act, 31 U.S.C. § 3729 *et seq.*, with respect to Tangible's payment of Relator's properly compensable attorneys' fees and costs incurred in connection with the Civil Action. The amount of such attorneys' fees and costs payable by Tangible to Relator incurred in connection with the Civil Action shall be either (1) agreed upon by Relator and Tangible after the execution of this Agreement; or (2) determined by the Court, as set forth in Paragraph 10 above.

24. Each Party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

25. This Agreement is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the District of Maryland. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

26. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

27. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

28. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

29. This Agreement is binding on Tangible's parent and member entities; subsidiaries; affiliates; divisions; owners, officers, directors, employees, and agents; and the successors and assignees of any of them.

30. This Agreement is binding on Relator's successors, transferees, heirs, and assigns.

31. All parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

32. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Execution and delivery of this Agreement by facsimile or other electronic means (including via e-mail or .pdf) shall be sufficient for all purposes and shall be binding on any person or party who so executes.

33. All demands, notices, or requests relating to this Agreement shall be in writing and shall be delivered by First Class mail or e-mail to the undersigned persons at their respective addresses as set forth herein:

If to the United States:

Thomas H. Barnard, Esq.
Assistant United States Attorney
United States Attorneys' Office
for the District of Maryland
36 S. Charles Street 4th Fl.
Baltimore, M.D. 21201
Thomas.Barnard@usdoj.gov

If to Tangible:


Ryan T. Scarborough
Jessica L. Pahl
Williams & Connolly LLP
725 12th Street, N.W.
Washington, D.C. 20005
rscarborough@wc.com
jlpahl@wc.com

If to Relator:

Jason E. Rheinstein
JER Consulting, LLC
550M Gov Ritchie Hwy, #300
Severna Park, MD 21146
jason@jer-consulting.com

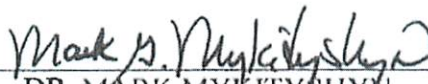
THE UNITED STATES OF AMERICA

DATED: 2-10-15

BY: 
THOMAS H. BARNARD
Assistant United States Attorneys
Office of the United States Attorney
for the District of Maryland


TANGIBLE SOFTWARE, INC.

DATED: 02-10-15

BY: 
DR. MARK MYKITYSIYN
Executive Chairman

On Behalf of Tangible Software, Inc.

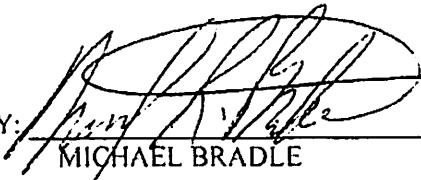
DATED: 2/10/15

BY: 
RYAN SCARBOROUGH, ESQ.
JESSICA PAHL, ESQ.
Williams & Connolly LLP


Counsel to Tangible Software, Inc.

RELATOR

DATED: 2-10-2015

BY: 
MICHAEL BRADLE
Relator

DATED: 2/10/2015

BY: 
JASON RHEINSTEIN, ESQ.
JER Consulting
Counsel to Relator Michael Bradle

Tangible Software Payment Schedule

EXHIBIT A

	Due Date	Payment Amount	Principal	Interest @2.375%	Balance	Contingent Additional Pymt Amt	Contingent Total (Pymt + Add'l Contingent)
Interest Start Date	12/19/2014				\$500,000		
Installment 1	2/10/2015	\$101,724	\$100,000	\$1,724	\$400,000		
Installment 2	12/31/2015	\$108,433	\$100,000	\$8,433	\$300,000		
Installment 3	12/31/2016	\$107,125	\$100,000	\$7,125	\$200,000		
Installment 4	12/31/2017	\$104,750	\$100,000	\$4,750	\$100,000	\$150,000	\$254,750
Installment 5	12/31/2018	\$102,375	\$100,000	\$2,375	\$0	\$150,000	\$252,375
		\$524,407	\$500,000	\$24,407		\$300,000	\$824,407

Tangible Software Payment Schedule - Relator's Share

EXHIBIT B

	Due Date	Relator's Share of Payment Amount	Relator's Share	
			Contingent Additional Pymt Amt	Contingent Total (Pymt + Add'l Contingent)
Interest Start Date	12/19/2014			
Installment 1	2/10/2015	\$16,275		
Installment 2	12/31/2015	\$17,349		
Installment 3	12/31/2016	\$17,140		
Installment 4	12/31/2017	\$16,760	\$24,000	\$40,760
Installment 5	12/31/2018	\$16,380	\$24,000	\$40,380
		\$83,904	\$48,000	\$131,904

EXHIBIT C

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA,
ex rel. MICHAEL L. BRADLE

Plaintiff,

v.

TANGIBLE SOFTWARE, INC.

Defendants.

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FILED UNDER SEAL
CIVIL NO. DKC-12-3047

Consent Judgment

...oOo...

Plaintiff United States of America and Tangible Software, Inc. (“Tangible”), by and through the undersigned counsel, consent to the entry of this judgment based upon the following uncontested allegations:

1. This Court has jurisdiction over this case under 31 U.S.C. §§ 3732(a), 3237(b), and 28 U.S.C. §§ 1331, 1345, 1367(a). Tangible consents to the jurisdiction of the United States District Court for the District of Maryland for the resolution of this dispute.

2. On February ____, 2015, Tangible entered into a settlement agreement with Plaintiff United States of America and Relator Michael Bradle for the purpose of resolving a dispute under the False Claims Act, 31 U.S.C. § 3729 *et seq.* and common law causes of action (the “Settlement Agreement”). A copy of the Settlement Agreement is attached hereto as Exhibit 1 and incorporated by reference herein.

3. Under the terms of the Settlement Agreement, Tangible agreed to pay the aggregate sum of Five Hundred Thousand Dollars (\$500,000), plus simple interest at the annual rate of 2.375% from December 19, 2014 (the “Settlement Amount”), payable by Tangible in five (5) installments (“Fixed Payments”). Additionally, Tangible agreed to increase payments 4 and 5 by One Hundred and Fifty Thousand Dollars (\$150,000) if the gross revenue for Tangible in the prior year exceeded Twenty Million Dollars (\$20,000,000) (“Contingent Payments”). The overall payment schedule is as follows:

	Due Date	Payment Amount	Principal	Interest @2.375%	Balance	Contingent Additional Pymt Amt	Contingent Total (Pymt + Add'l Contingent)
Interest Start Date	12/19/2014				\$500,000		
Installment 1	2/10/2015	\$101,724	\$100,000	\$1,724	\$400,000		
Installment 2	12/31/2015	\$108,433	\$100,000	\$8,433	\$300,000		
Installment 3	12/31/2016	\$107,125	\$100,000	\$7,125	\$200,000		
Installment 4	12/31/2017	\$104,750	\$100,000	\$4,750	\$100,000	\$150,000	\$254,750
Installment 5	12/31/2018	\$102,375	\$100,000	\$2,375	\$0	\$150,000	\$252,375
		<u>\$524,407</u>	<u>\$500,000</u>	<u>\$24,407</u>		<u>\$300,000</u>	<u>\$824,407</u>

4. In addition, for the shareholder action that had been pending in Virginia state court (Fairfax County Case No. 2013-14386), if Tangible chose to re-file and proceed with that action, fifty (50) percent of any Net Proceeds by settlement or judgment in that case were to be paid to the United States within thirty (30) days of the actual receipt of such proceeds subject to the following limits:

- a. Net Proceeds are defined as gross proceeds received through settlement or judgment less up to twenty (20) percent or One Hundred and Fifty Thousand Dollars (\$150,000) of the proceeds, whichever is less, to pay attorneys’ fees or costs incurred

by Tangible or its parent company directly related to that litigation, unless the costs or fees are paid in full by a defendant (or defendants) in that action. Net Proceeds do not include attorneys' fees associated with this current action. The United States' fifty (50) percent was to be based on what remains.

b. The maximum Tangible would pay to the United States under this second contingency provision is limited to Two Hundred and Fifty Thousand Dollars (\$250,000).

5. Also under the terms of the Settlement Agreement, the United States and Relator agreed, upon payment of the Settlement Amount, to file a Stipulation of Dismissal pursuant to Fed. R. Civ. P. 41(a).

6. Also under the terms of the Settlement Agreement, Tangible agreed that, in the event that it defaulted and failed to pay any of the scheduled settlement payments described above in Paragraph 3 and 4, within seven (7) calendar days of its failure to cure the default, the United States could, at its option, rescind the Settlement Agreement and pursue the Civil Action (as defined in the Settlement Agreement) or bring any civil and/or administrative claim, action, or proceeding against Tangible for the claims that would otherwise be covered by the releases provided in the Settlement Agreement.

7. Alternatively, under the terms of the Settlement Agreement, Tangible agreed that in the event that it defaulted and failed to pay any of the scheduled settlement payments described in Paragraph 3, above, within seven (7) calendar days of its failure to cure the default, the remaining unpaid balance of its respective share of the Settlement Amount would become immediately due and payable, and interest would accrue at the rate of twelve (12) percent per

annum, compounded daily from the date of default, on the remaining unpaid total (principal and interest balance).

8. Also under the terms of the Settlement Agreement, Tangible agreed that, in the event that it defaulted and failed to pay any of the scheduled settlement payments described above in Paragraphs 3 and 4 and failed to cure such default within seven (7) calendar days, the United States could file this Consent Judgment against Tangible in the amount of the remaining unpaid balance owed by Tangible.

9. Tangible has failed to make payments in accordance with the Settlement Agreement, and therefore is in default under the terms of the Settlement Agreement.

10. Within a reasonable time after the filing of this Consent Judgment, the United States will file a statement of debt showing the amount due and owing under the Settlement Agreement as of the date of default.

11. The United States has given Tangible written notice of default under the terms of the Settlement Agreement, and demanded that Tangible cure that default by tendering payment in full on the cure amount under the terms of the Settlement Agreement. The United States has given Tangible seven (7) calendar days to cure the default, as provided in the Settlement Agreement, but Tangible has failed to do so.

Accordingly, this Court enters judgment for the United States against Tangible, in the amount of \$_____, plus interest at the post-judgment rate of interest from the date this Consent Judgment is entered until it is satisfied.

DONE AND ORDERED in Baltimore, Maryland this ____ day of _____, 20__.

UNITED STATES DISTRICT JUDGE

Conformed copies to:

Counsel of Record

The parties hereby stipulate and agree to the entry of this Consent Judgment.

THE UNITED STATES OF AMERICA

DATED: _____

BY: _____

THOMAS H. BARNARD
Assistant United States Attorneys
Office of the United States Attorney
for the District of Maryland

TANGIBLE SOFTWARE, INC.

DATED: _____

BY: _____

RYAN SCARBOROUGH, ESQ.
Williams & Connolly LLP

Counsel to Tangible Software, Inc.