

COMPANY NAME

TEAMING AGREEMENT

PREAMBLE

This Teaming Agreement (hereinafter "Agreement") is entered into by and between [Company Name], hereinafter called "[Company abbreviation]", a [state of incorporation] [corporation or limited liability corporation], with the primary office located at [address, suite, city, state, and zip code], and [Company Name], hereinafter called "Subcontractor", a [state] corporation, with headquarters located at [address, suite, city, state, and zip code]. [Prime contractor name] and [subcontractor name] are hereinafter referred to as "the Parties."

I. RECITALS

1.01 The Department of [name of agency], [office if you know it] (the "Government") will issue a Request for Proposal RFP No.: TBD to procure [name of program or the services to be procured] referred to as the "Project".

1.02 The Parties have complementary skills and capabilities which, taken together, would allow the Parties to perform the Project.

1.03 The Parties wish to form a teaming arrangement and to define their respective rights, duties, and obligations thereunder.

II. OBJECTIVE AND DURATION

2.01 The objective of the teaming hereunder shall be to cooperate in preparing and submitting a proposal in an attempt to obtain the award of a contract for the Project resulting from the RFP.

2.02 The Parties agree that [Company Name] will prepare data required for any proposals, integrate the data furnished by Subcontractor, and submit the proposal as prime contractor with [name of subcontractor] identified in the proposal as the subcontractor to provide the following services: (See Attachment B)

2.03 The duration of this Agreement shall be from the effective date hereof until the occurrence of the earliest of the following events (subject, however, to the provisions of Paragraph A.3, Attachment A hereto):

- a) Cancellation of the RFP by the Government.
- b) A decision by [Company Name] not to submit a proposal in response to the RFP after a review of the released RFP by [Company Name]. However, [Company Name] shall notify [name of subcontractor] of its decision not to submit a bid not later than three (3) days after release of the RFP by the Government.
- c) The RFP is amended such that the services described in Paragraph 2.02, above, are no longer required by the final RFP.
- d) Award to another contractor or contractor team of a contract resulting from the RFP, provided that award is not otherwise overturned by a protest.

- e) The award to [Company Name] of a contract resulting from the RFP, and the execution by the Parties of a mutually acceptable subcontract with Subcontractor for its performance responsibilities in the Project.
- f) The failure or inability of Subcontractor to provide the services outlined in Attachment B at the competitive prices anticipated by this agreement. Prices shall be established by the most recent price proposal submitted by Subcontractor to [Company Name].
- g) The failure or inability of Subcontractor to provide the support as outlined in Section III. PROPOSAL PREPARATION of this agreement.
- h) Mutual consent of the Parties to terminate this Agreement.
- i) Bankruptcy or insolvency of either party.
- j) Lapse of 24 months from the effective date of this agreement, unless the procurement is still open.
- k) The indictment, suspension, or debarment by the Government of either party.
- l) A Receiver, Trustee in Bankruptcy, or other Custodian of the property or assets of a party hereto is appointed, or if either party hereto commits an act of bankruptcy or is adjudicated bankrupt or insolvent.
- m) During the term hereof it is determined that either party may be ineligible for award due to an Organizational Conflict of Interest.
- n) Refusal by the Government to consent to the selection of Subcontractor or the issuance of a subcontract for the identified effort to Subcontractor or direction by the Government to select someone other than Subcontractor for performance of effort identified as Subcontractor's responsibility in the proposal, provided that there has been a good faith effort by [Company Name] to gain approval of Subcontractor; Subcontractor shall be afforded a reasonable opportunity to appeal the Government's decision directly to the Government.

III. PROPOSAL PREPARATION

3.01 [Company Name] shall have primary responsibility for the preparation of all technical and non-technical aspects of the proposal including, but not limited to:

- a) Marketing and promotional effort;
- b) Proposal content, assembly and production;
- c) Liaison with Government customer personnel;
- d) Oral discussions and negotiations, if held.

3.02 Subcontractor shall contribute to the preparation of the proposal to the extent necessary to assure the inclusion of a thorough and accurate description of its responsibilities in the Project. Subcontractor will cooperate with [Company Name] (i) to provide such assistance as may be required during the pre-proposal, proposal and post-proposal stages, (ii) to furnish proposal material including manuscripts, graphic material and cost and pricing data backup as required by the RFP or as appropriate, (iii) to assure availability of management and technical personnel, and (iv) to submit management, technical and cost proposal materials and proposal clarifications within the time frames requested by [Company Name].

Notwithstanding the provisions of Paragraph 3.01 preceding, Subcontractor shall be entitled to participate in oral discussions concerning its contributions to the proposal and shall at all times be entitled to receive, upon reasonable request, documentation and information concerning oral discussions and negotiations between [Company Name] and the Government. Further, [Company Name] will in no way modify the proposal during discussions or negotiations so as to either increase the risk of performance to, or decrease potential cost or fee recovery by Subcontractor; unless Subcontractor specifically approves.

3.03 Subcontractor shall contribute to the proposal effort as defined in Attachment B. [Company Name]'s contractual point of contact is NNNNN and the technical point of contact is NNNNN. Subcontractor's contractual point of contact is NNNN and the technical point of contact is NNNN.

3.04 The Parties shall carry out the preparation of the proposal and the conduct of all negotiations and pricing, in accordance with all applicable laws and regulations governing the RFP and the award of contracts thereunder.

3.05 Except as may otherwise be agreed in writing by the Parties, each of the Parties shall bear its own expenses for its own performance of proposal and related work.

3.06 Contractor past performance may be a significant evaluation factor of the solicitation. Subcontractor understands and agrees that it will be required to timely submit all past performance information reasonably requested by [Company Name]. [Company Name] reserves the right to independently contact the points of contact provided in Subcontractor's past performance citations to determine the adequacy/appropriateness of those citations. [Company Name], at its sole discretion, may utilize in its proposal any or all citations provided by Subcontractor.

IV. FORMATION OF A SUBCONTRACT

4.01 Should [Company Name] be awarded the prime contract as a result of this Agreement, the Parties agree to enter into good faith negotiations intending to culminate in a subcontract to be awarded to Subcontractor for its area of interest identified in Paragraphs 2.02 and 3.03, subject to necessary Government approvals, required flow down clauses, and negotiation of mutually acceptable price, delivery, terms, and conditions.

4.02 The parties shall, in good faith, negotiate a Subcontract under a Prime Contract awarded as a result of a proposal submitted in pursuit of this Project. The subcontract shall be consistent with Subcontractor's most recent acceptable proposal submitted to [Company Name]. Additionally, the parties agree that the terms and conditions contained in Attachment C hereto shall be included in any resultant subcontract agreement. [Company Name] and Subcontractor agree to expend their best efforts, with the intent of reaching agreement on a subcontract containing mutually satisfactory prices and terms, by approximately sixty (60) days after prime contract award, in accordance with this Agreement.

V. GENERAL PROVISIONS

5.01 No announcement, release, or other disclosure of information relating to this Agreement shall be made except by specific written agreement of the Parties.

5.02 This Agreement shall not constitute, create, or in any way be interpreted as a joint venture, partnership, or formal business organization of any kind. Neither party may assign or transfer its interests under this Agreement without the written consent of the other party hereto which shall not be unreasonably Teaming Agreement with [Name of Prime Contractor] and [Subcontractor Name]

withheld except that either party shall have the right to assign its responsibilities under this Agreement to any division, subsidiary, or affiliate thereof. Either party shall have the right without securing such prior consent, to assign this Agreement to any successor in interest to such Party by reason of merger, consolidation, or acquisition of substantially all of the assets of such Party, provided that the assigning Party shall remain liable for the performance and observance of all obligations hereunder.

5.03 The efforts of [Company Name] and Subcontractor relating to the RFP shall be exclusive to this Agreement, and the subcontractor shall not pursue the RFP either independently or in concert with any additional party. In the event that the Government directs any change affecting this Agreement in any material respect, this Agreement shall be modified in accordance with such direction, and the exclusivity of effort described above shall continue to exist, except as the Government may specifically prescribe, provided, however, that in no event shall this provision be construed as a contract for the benefit of third parties.

5.04 The Parties agree that they shall not, during the term of this Agreement, or during the term of any resulting contract or subcontract, or extension or modification thereof, or for a period of 90 days after, recruit the personnel of any other party to this Agreement without the express written consent of that party.

5.05 Attachment A hereto, entitled "Proprietary Data Provisions", is incorporated by reference.

5.06 This Agreement is the entire agreement among the Parties and supersedes any prior oral or written agreement or understanding pertaining to this Project. Changes to this Agreement, to be effective, must be in writing and executed by the Parties.

5.07 Notices shall be deemed given hereunder when received or, if mailed by prepaid certified or registered mail return receipt requested, five (5) days after mailing. Notices shall be addressed to the contractual point of contact specified in Paragraph 3.03 of this Agreement at the addresses specified in the PREAMBLE above. Either Party may change its cognizant point of contact by written notice to the other.

5.08 Neither party shall be liable to the other for any indirect, incidental, special, or consequential damages, however caused, whether as a consequence of the negligence of the one party or otherwise.

5.09 If any provision of this Agreement or part of such provision is or becomes invalid or unenforceable, then the remaining provisions hereof shall continue to be effective.

5.10 No waiver by a party of any of its rights or remedies shall be construed as a waiver by such party of any other rights or remedies that such party may have under this Agreement.

5.11 Any controversy or claim arising between the Parties out of or in connection with the provisions of the Agreement shall be resolved by amicable discussions between appropriate executives of the respective companies who are a party to this Agreement. If such discussions do not result in a resolution of the controversy or claim, either party may file suit in any court of competent jurisdiction.

5.12 Inventions conceived solely by employees of Subcontractor shall belong exclusively to Subcontractor. Inventions conceived solely by employees of [Company Name] shall belong exclusively to [Company Name]. Inventions conceived jointly by the Parties hereto in the course of work called for by this Agreement shall be subject to further agreement of the Parties. This understanding is subject to modification as may be required by applicable Government regulations, or the terms of the prime contract or resultant subcontract between the Parties. Except as stated in the preceding paragraph, nothing contained in this Agreement shall be deemed, by implications, estoppel, or otherwise, to grant any right or license in respect of any patents, inventions, or technical information at any time owned by the other party.

5.13 Irrespective of the place of performance, this Agreement will be construed and interpreted according to the Federal common law of Government contracts as enunciated and applied by Federal judicial bodies, Boards of Contract Appeals, and quasi-judicial agencies of the Federal Government. To the extent that the Federal common law of Government contracts is not dispositive, the laws of [state] shall apply.

5.14 The Subcontract Agreement to be negotiated by the parties shall provide for the subcontractor to submit invoices, and such progress reports as may be required, in accordance with the payments, invoicing and acceptance provisions of the Prime Contract.

5.15 During the period of this Agreement and for one year following the termination or expiration of this agreement and any resulting Subcontract, neither party shall knowingly solicit for hire any officer or employee of the other, who directly supports the particular effort covered by this Agreement and any resulting Subcontract, without the other's prior written approval. This shall in no way, however, be construed to restrict, limit, or encumber any right of any employee which may be granted by law.

VI. EXECUTION AND EFFECTIVITY

6.01 The Parties have executed this Agreement on the dates entered below. The Agreement may be executed in two or more counterparts.

6.02 RESERVED

6.03 Each of the parties hereto certifies that it is not currently ineligible to receive the award of a Government contract, or to participate as a Contractor or Subcontractor under a Prime Contract, by virtue of its listing on the Consolidated List of Debarred, Suspended and Ineligible Contractors as published by the General Services Administration. The parties further certify that any pending action against either which could result in disbarment or suspension has been disclosed to the other party.

6.04 This Agreement is effective as of the last date entered below.

[Company Name]

[SubContractor Company Name]

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

ATTACHMENT A

PROPRIETARY DATA PROVISIONS

A.1 No party to this Agreement shall use, for any purpose not connected with the RFP, the Project, or this Agreement, any data, as hereafter defined (“Data”) or divulge such Data to any person or entity other than appropriate Government agencies to which proposals or reports must be submitted in connection with either party’s performance. The foregoing limitations shall not apply to the disclosure or use of any portion of such Data which:

- a) The receiving party can demonstrate by written evidence was already known to it, prior to receiving it from the other party; or
- b) Prior to the time of its disclosure hereunder to any party, has been published or otherwise made freely available to the general public; or
- c) Subsequent to its disclosure hereunder to any other party is independently thereafter rightfully made available on an unrestricted basis to the public or the receiving party by the disclosing party or by another authorized party; or
- d) Is independently developed by the receiving party.

For purposes of this Agreement, the term Data is defined to mean any technical information, program or systems concept, financial information, or any other information disclosed to it by the other party in connection with the performance of this Agreement. Nothing herein shall restrict a party from disclosing any portion of such Data on a restricted basis pursuant to a judicial or other lawful Government order, but only to the extent of such order.

A.2 No license to the other party, under any trademark, patent, or copyright, domestic or foreign, is either granted or implied by the conveying of Data to a party. None of the information which may be submitted or exchanged by the Parties shall constitute any representation, warranty, assurance, guarantee, or inducement by a party to the other with respect to the infringement of trademarks, patents, copyrights, or other rights of third persons.

A.3 Notwithstanding any other portions of this Agreement, the obligations of this Attachment A shall continue for a period of five (5) years from the effective date of this Agreement.

ATTACHMENT B

STATEMENT OF WORK

B.1 Purpose

This attachment to the teaming agreement between [Company Name] and [Subcontractor Name] is provided to delineate anticipated work responsibilities under any contract awarded as a result of the Government's RFP No.: XXXXXX to [Company Name]. This attachment also discusses proposal responsibilities.

B.1.1 Work Responsibilities

[Subcontractor Name] shall be responsible for Forty-nine percent (49%) of the total cost of the project.

B.1.2 Proposal Responsibilities

Subcontractor will provide direct proposal support to [Company Name] in the development of the [Company Name] proposal in the section(s) relevant to Subcontractor's experience. Subcontractor will provide existing material as required to support the proposal in a timely manner. Detailed proposal writing assignments will be determined at a separate meeting or via separate communication between [Company Name] and Subcontractor. All bid and proposal costs for these responsibilities are Subcontractor's responsibility and will not be paid by [Company Name].

ATTACHMENT C

SUBCONTRACT CLAUSES

If the Prime is awarded the prime contract for the Project, the Prime will award the Subcontractor a subcontract that will be consistent with the terms and conditions of the prime contract and any and all task orders issued under the prime contract. In addition, the Parties agree that the Subcontract will include the following terms and conditions:

1. Subcontractor understands that the Prime can perform no less than 51% of all work, defined as the total cost of the project incurred over the life of the Prime Contract. It is agreed that it is the intention of the Prime to have the Subcontractor perform 49% of the contract duties and responsibilities, but that due to fluctuating workloads and the inability to perfectly divide all tasks, the percentage of work actually performed by the Subcontractor may vary, but in no case will vary by more than 4%. The Subcontractor will be awarded approximately 49% of all work in all tasks issued under the prime contract throughout the life of the contract. The Prime will make every effort to maintain the Subcontractor's portion of the work at 49% of the total prime contract value for the life of the contract. The Prime agrees that for any contract year that the Subcontractor's work falls below 46% of the total value of the Prime Contract, then the Prime will pay the Subcontractor a payment equal to the amount required for the Subcontractor to receive 46% of the total value of the Prime Contract, including any and all tasks, for the contract year. Prime agrees that its total mark-up on Subcontractor's costs will not exceed 2.5%.
1. The parties agree that during the life of the contract, all Key Personnel positions will be shared across all tasks issued under the Prime Contract such that both parties will fill approximately 50% of the Key Personnel positions for all task orders and approximately 50% of the most senior position on all task orders, whether or not identified as Key Personnel. It is further agreed, if Subcontractor is unable to fill a Key Position within a reasonable period of time, then the Prime shall fill the position.
2. The period of performance for the Subcontractor shall begin on the date of the Prime Contract and continue through the term of the Prime Contract, including extensions thereof and/or follow-on sole source awards unless superseded by paragraph 4 of Schedule C. Prime shall exercise each Subcontract option year or periods, set forth in the Prime Contract, or include like extensions to the term hereof and/or follow-on sole source awards, promptly following the exercise of any Prime Contract option year exercised or extension made by the Government under the Prime Contract , provided the Government has no objections.
3. The subcontract may not be terminated for convenience unless the U.S. Government terminates the prime contract for convenience or the U.S. Government directs the Prime to terminate the subcontract for convenience. Evidence of such Government direction shall be provided in writing to the Subcontractor.
4. Termination for default, if required, will be conducted according to applicable federal regulations cited in the prime contract. Reference in the federal regulations to the term "Government" shall mean "Prime"; the term "Contracting Officer" shall mean "Prime's Contract Representative"; the term "Contractor" shall mean "Subcontractor"; and the term "Contract" shall mean "Subcontract", whenever a reasonable interpretation of the context of the provisions so requires in order to properly express the subcontract relationship thereto between the Prime and Subcontractor. In the event of termination for default of the Subcontract, both Parties agree that

the Prime will notify the Government Contracting Officer in writing concurrent with the termination notice sent to the Subcontractor.

5. The Prime agrees that no additional subcontractors will be added under the Prime Contract unless mutually agreed to by the Parties or as directed in writing by the U.S. Government.
6. Unless mutually agreed to in writing, it is expressly agreed and understood that neither Party will directly or knowingly solicit personnel of the other Party who are involved in the activities covered by the Prime, or are current Officers or key managers, during the term of the Prime Contract for one year thereafter.
7. Payment shall be made to the Subcontractor within five (5) business days of receipt of payment from the Government. Prime will not take any actions that will adversely affect the payment of invoices without first conferring with Subcontractor.
8. Neither Party shall assign or in any manner transfer its interest or any part thereof of this subcontract. The foregoing shall not apply to assignment to a successor corporation in the event that either Party shall merge with or into another corporation. Both Parties agree to the assignment by the other Party of any resulting contract to support ongoing financial and banking arrangements as long as the assignment does not negatively impact the rights of the other Party.
9. It is agreed that both Parties will maintain direct contact with the Client to discuss the Program and to market new tasks for award under the Prime Contract. The Parties will work together cooperatively to achieve the best overall performance for the Program and will make every effort to keep the other informed about Program activities.
10. Disputes between Prime and Subcontractor. The Parties agree that any dispute arising under or in any way related to the Subcontract Agreement or the performance thereof will be escalated to the [Company Name] and [Subcontractor Name] President/CEO's, or other senior executives appointed by each Party, for resolution. In the event the senior executives of the Parties are unable to resolve the dispute, the Parties agree to use reasonable efforts to cooperate in selecting and submitting the dispute to mediation, arbitration, or other dispute resolution process.
11. Disputes Related to the Prime Contract. Notwithstanding any provisions herein to the contrary:
 - a. If a decision relating to the Prime Contract is made by the Contracting Officer and such decision is also related to this Subcontract, said decision, if binding upon the Prime under the Prime Contract, shall in turn be binding upon Prime and Subcontractor with respect to such matter; provided, however, that if Subcontractor disagrees with any such decision made by the Contracting Officer and Prime elects not to appeal such decision, Subcontractor shall have the right reserved to Prime under the Prime Contract with the Government to prosecute a timely appeal in the name of the Prime as permitted by the contract or by law, Subcontractor to bear its own legal and other costs. If Prime elects not to appeal any such decision, Prime agrees to notify Subcontractor in a timely fashion after receipt of such decision and to assist Subcontractor in its prosecution of any such appeal in every reasonable manner. If Prime elects to appeal any such decision of the Contracting Officer, Prime agrees promptly to furnish Subcontractor with a copy of such appeal. Any decision upon appeal, if binding upon Prime, shall in turn be binding upon Subcontractor. Pending the making of any decision, either by the Contracting Officer or on appeal, Subcontractor shall proceed diligently with performance of the Subcontract.

- b. If, as a result of any decision or judgment which is binding upon Subcontractor and Prime, as above, Prime is unable to obtain payment or reimbursement from the Government under the Prime Contract for, or is required to refund or credit to the government, any amount with respect to any item or matter for which Prime has reimbursed or paid Subcontractor, Subcontractor shall, on demand, promptly repay such amount to Prime. Additionally, pending the final conclusion of any appeal hereunder, Subcontractor shall, on demand, promptly repay any such amount to the Prime. Prime's maximum liability for any matter connected with or related to this Subcontract which was properly the subject of a claim against the Government under the Prime Contract, shall not exceed the amount of Prime's recovery from the Government.
- c. Subcontractor agrees to provide certification that data supporting any claim made by Subcontractor hereunder is made in good faith and that the supporting data is accurate and complete to the best of Subcontractor's knowledge or belief, all in accordance with the requirements of the Contracts Disputes Act of 1978 (41 USC 601-613) and implementing regulations. If any claim of Subcontractor is determined to be based upon fraud or misrepresentation, Subcontractor agrees to defend, indemnify and hold Prime harmless for any and all liability; loss, cost, or expense resulting therefrom.
- d. Any dispute not disposed of in accordance with this provision shall be determined in other appropriate legal proceedings. Pending any decision, appeal, or judgment referred to in this provision or the settlement of any dispute arising under this Subcontract, Subcontractor shall proceed diligently with the performance of this Subcontract.