

TEAMING AGREEMENT

BY AND BETWEEN

“XX”

AND

“XX”

THIS AGREEMENT is made and entered into this ____ day of 2010, by and between **XXXXXXXXXXXXXXXX (XXX)**, hereinafter referred to as the "**Prime Contractor**" and **XXXXXXXXXXXXXXXX (YYY)**, hereinafter referred to as the "**Subcontractor**."

WHEREAS, the Prime Contractor intends to submit a proposal to the _____ (Insert Government Customer Name), hereinafter referred to as the "Government," in response to a competitive Request for Proposal (RFP) Number _____ entitled " _____", (a copy of which is attached) for the establishment of a _____ (hereinafter referred to as the "Program"); and

WHEREAS, the Prime Contractor and the Subcontractor desire to define their mutual rights and obligations during the submittal of said proposal and any subsequent contract resulting therefrom, consistent with Federal/State laws governing restraint of trade of competition as applicable.

NOW THEREFORE, to effectuate the foregoing, the Prime Contractor and the Subcontractor in consideration of the mutual covenants hereinafter contained, agree as follows:

1. The Proposal will be based on XXX being the Prime Contractor to the Government of any resultant contract, and YYY being a Subcontractor to XXX for the furnishing of support to be utilized in the above Program. XXX will provide the Proposal Manager and, in the event of contract award, the Program Manager.
2. The Prime Contractor and the Subcontractor will jointly prepare and submit the proposal to the Army. The Subcontractor will provide the technical support required for the preparation of the technical and management portion of the proposal.
3. The Prime Contractor will recognize and identify the Subcontractor in its proposal and use its best efforts to secure Government approval of the use of the proposed Subcontractor for this Program. The Prime Contractor will keep the Subcontractor fully advised of any change which may affect the Subcontractor's area of responsibility. The Prime Contractor, however, shall have the right to determine the final contents of the proposal.
4. During the effective term of this Agreement, the Subcontractor agrees not to participate without written notice to XXX in any manner in other teaming efforts that are competitive to this Agreement, and he will not compete independently (including the independent submission of a proposal to the Government or any other party for the work specified in the Program previously identified in this Agreement). The term "participate" as used herein includes (but is not limited to) the interchange of technical data with competitors.
5. In the event the Prime Contractor is awarded the Contract for this Program, the Prime Contractor and the Subcontractor agree to negotiate in good faith and proceed in a timely manner to conclude a mutually acceptable subcontract for the work to be performed by the Subcontractor, as described in the Subcontractor's technical/cost proposal for this effort. Actual work performed under this Program will be negotiated by the Prime Contractor and the Government.

6. Without restricting the terms and conditions of the subcontract, any subcontract will contain provisions passing down all contract provisions that are required by the Federal Acquisition Regulation (FAR) to be included in a subcontract. It is understood between the Prime Contractor and the Subcontractor that any such subcontract will be subject to the approval of the Contracting Officer of the procuring authority of the United States Government, regardless of the provisions hereof.

7. Limitations of Use of Data and Information

- A. The parties anticipate that under this Agreement it may be necessary for either to transfer to the other information of a proprietary nature. Proprietary information shall be clearly identified by the disclosing party at the time of disclosure.
- B. Each of the parties agrees that it will use the same reasonable efforts to protect such information as are used to protect its own proprietary information. Disclosures of such information shall be restricted to those individuals who are directly participating in the proposal and subcontract efforts identified herein.
- C. Neither party shall make any reproduction, disclosure, or use of such proprietary information except as follows:
 - 1. Such data furnished by the Subcontractor may be used by the Prime Contractor in performing its obligations under this Agreement.
 - 2. Such data furnished by the Prime Contractor may be used by the Subcontractor in performing its obligations under this Agreement.
 - 3. Such data may be used in accordance with any written authorization received from the disclosing party.
- D. The limitations on reproduction, disclosure, or use of proprietary information shall not apply to, and neither party shall be liable for reproduction, disclosure, or use of proprietary information with respect to which any of the following conditions exist:
 - 1. If, prior to the receipt thereof under this Agreement, it has been developed independently by the party receiving it, or has been lawfully received from other sources, including the Government provided such other source did not receive it due to a breach of this Agreement or any other agreement.
 - 2. If, subsequent to the receipt thereof under this Agreement, (i) it is published by the party furnishing it or is disclosed by the party furnishing it to others, including the Government, without restriction, or (ii) it has been lawfully obtained by the party receiving it from other sources, including the Government, provided such other source did not receive it due to breach of this or any other agreement, or (iii) if such information otherwise comes within the public knowledge or becomes generally known to the public.
 - 3. If any part of the proprietary information has been or hereafter shall be disclosed in a United States patent issued to the party furnishing the proprietary information hereunder, after the issuance of said patent, the limitations on such proprietary information as is disclosed in the patent shall be only that afforded by the United States Patent Laws.

- E. Neither the execution and delivery of this Agreement, nor the furnishing of any proprietary information by either party shall be construed as granting to the other party either expressly, by implication, estoppel, or otherwise, any license under any invention of patent, hereafter owned or controlled by the party furnishing same.
- F. Notwithstanding the expiration of the other portions of this Agreement, the obligations and provisions of this Article 7 shall continue for a period of eighteen (18) months from the date of this Agreement.
- G. Each party will designate in writing one or more individuals within its organization as the only point(s) for receiving proprietary or confidential information exchanged between the parties pursuant to this Agreement.

8. Rights in Inventions

Inventions shall remain the property of the originating party. In the event of joint inventions, the parties shall establish their respective rights by negotiations between them. In this regard, it is recognized and agreed that the parties may be required to and shall grant licenses or other rights to the Government to inventions, data, and information under such standard provisions which may be contained in the Government Prime Contract contemplated by this Agreement, provided, however, such license or other rights shall not exceed those required by said Contract.

9. The Subcontractor shall not issue a news release, public announcement, advertisement, or any other type of publicity concerning efforts in connection with this Agreement without obtaining prior written approval from the Prime Contractor. In the event such approval is granted, any resulting form of publicity shall give full consideration to the role and contributions of the Prime Contractor.

10. All communications relating to this Agreement shall be directed to the specific person designated to represent the Prime Contractor and the Subcontractor on this Program. Each of the parties to this Agreement shall appoint one technical and one administrative representative. These appointments shall be kept current during the period of this Agreement. Communications which are not properly directed to the persons designated to represent the Prime Contractor and the Subcontractor shall not be binding upon the Prime Contractor or the Subcontractor.

All technical notices shall be addressed to:

PRIME CONTRACTOR (XXX)

Name
Title
Address
City, State, Zip Code

SUBCONTRACTOR (YYY)

Name
Title
Address
City, State Zip Code

All Contractual notices shall be addressed to:

PRIME CONTRACTOR (XXX)

Name
Title
Address
City, State, Zip Code

SUBCONTRACTOR (YYY)

Name
Title
Address
City, State Zip Code

11. This Agreement, which is effective upon the date of its execution thereof, shall automatically expire and be deemed terminated effective upon the date of the happening or occurrence of any one of the following events or conditions, whichever shall first occur; except for the conditions expressed in Article 7 hereof:

- A. Official Government announcement or notice of the cancellation of the Program.
- B. The receipt by the Prime Contractor of written notice from the Government that it will not award to it the Contract for this Program.
- C. The receipt of written notice from the Government that it has awarded the Contract for this Program to someone other than the Prime Contractor.
- D. The receipt of official Government notice that the Proposed Subcontractor will not be approved as a major subcontractor under a contract to the Prime Contractor on this Program, or that substantial areas of the Subcontractor's proposed responsibility have been eliminated from the requirements.
- E. Award of a subcontract by the Prime Contractor to the Subcontractor for its designated portion of the Program.
- F. Mutual agreement of the parties to terminate the Agreement.
- G. The expiration of a one (1) year period commencing on the date of this Agreement except as such period may be extended by mutual agreement of the parties.

12. This Agreement shall relate only to the proposals relating to this Program and to no other effort undertaken by the Prime Contractor or the Subcontractor jointly or separately. The parties hereto shall be deemed to be independent contractors, and the employees of one shall not be deemed to be employees of the other.

13. This Agreement may not be assigned or otherwise transferred by either party, in whole or in part, without the express prior written consent of the other party.

14. This Agreement shall not preclude either party from bidding or contracting independently from the other on any Government or industry program which may develop or arise in the general area of business related to this Agreement.

15. Access to security information classified "Top Secret," "Secret," or "Confidential" shall be governed by the provisions of FAR 52.204-2 (AUG 1996).

16. This Agreement contains the entire agreement of the parties and cancels and supersedes any previous understanding or agreement related to this Program, whether written or oral. All changes or modifications to this Agreement must be agreed to in writing between the parties.

17. In the event of an award to the Prime Contractor or the contract contemplated by the Army identified on page one (1) of this Agreement it is agreed that, subject to Government approval, the Prime Contractor and the Subcontractor will, in good faith, negotiate an appropriate subcontract for the work identified in the attached Scope of Work embodying, among other provisions, those terms and conditions of the Prime Contract which must be passed onto the Subcontractor in order to comply with such Prime Contract requirements. The subcontract will be negotiated at a fair and reasonable price(s) to be established after cost or price analysis in accordance with the requirement of the applicable Government procurement regulations. Further, price consideration for the work to be performed will be based on the Subcontractor's proposal and negotiations with the Government.

18. Each party shall exert its best efforts toward the successful performance of the contract contemplated by the Army identified on page one (1) of this Agreement, assuming award of same, and shall provide appropriate and high quality managerial, advisory, technical, and other personnel to perform and support such contract.

19. Each party to this Agreement will bear its respective costs, risks, and liabilities incurred by it as a result of its obligations and efforts under this Agreement. Therefore, neither the Prime Contractor nor the Subcontractor shall have any right to any reimbursement, payment, or compensation of any kind from each during the period prior to the award and execution of any resulting subcontract between the Prime Contractor and the Subcontractor for the Program and work described in the Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate, each of which shall be considered an original, by their respective signatory officials thereunto duly authorized as of the day and year first above written.

INSERT PRIME CONTRACTOR NAME:

INSERT SUBCONTRACTOR NAME:

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

