

GSA SCHEDULE TEAMING AGREEMENT

This Agreement is made effective _____ by and between, [your Company], having offices at [address] (“_____”) and _____, having offices at _____ (“Vendor”), individually each being a “Party” and collectively “Parties.”

WHEREAS, [your company] has been/may be awarded GSA delivery orders (“Delivery Orders”) for supplying information technology products and services (“Products and Services”) U.S. Government Agencies and other organizations eligible to use GSA sources of supply as set forth in GSA Order ADM 4800.2 (“Government”); and

WHEREAS [your company] does not have the Vendor Products and Services desired by the Government on its GSA FSS contract; and

WHEREAS, as authorized by FAR Part 9.6, [your company] and Vendor desire to team their GSA FSS contracts, numbers [your Company’s GSA Contract No.] (“[your company] GSA Contract”) and GS-35F-_____ (“Vendor GSA Contract”) respectively, to sell [your company] Products and Services and Vendor Products and Services to the Government under the aforementioned Delivery Order(s);

NOW THEREFORE, in consideration of the mutual covenants and promises stated herein, the Parties agree as follows:

1.0 Term and Termination

1.1 This Agreement expires on _____, or upon termination of either of the aforementioned GSA FSS contracts, whichever is earlier.

1.2 Either Party may terminate this agreement upon 30 days prior written notice to the other.

1.3 Termination of this Agreement shall not affect the rights and obligations of the Parties with respect to [your company] purchase orders accepted by Vendor prior to termination of this Agreement.

2.0 Products/Services/Pricing

2.1 The pricing set forth in Vendor’s GSA Schedule must be used to prepare end-user quotations. If it becomes necessary to deviate from the set GSA price, [your company] must contact Vendor for approval to reduce the GSA price prior to sending out a quote or accepting an order from the government for any product.

2.2 [your company]’s pricing/discount shall be ____%, or as may be agreed to from time to time by the teaming partners.

NOTE: Vendor may insist that a specific Schedule of Vendor Products available under this teaming arrangement be incorporated. In that case, you can amend 2.1 to incorporate an attachment listing the products.

3.0 Responsibilities

3.1 [your company] is the Team Leader and will have Vendor added to the Delivery Orders as a teaming partner.

3.2 Any [your company] solicitations to Vendor for purchases under this Agreement must be annotated with Vendor’s GSA Schedule contract number and reference this Agreement.

3.3 Vendor will annotate quotations under this Agreement with the Vendor GSA Contract number. Vendor represents and warrants that the pricing set forth in such quotes will be at the pricing that the Government is entitled to under the Vendor GSA Contract. If it becomes necessary to deviate from the set GSA price, [your company] and Vendor shall negotiate additional discounts. All Vendor technical responses required pursuant to a Government request for clarification or discussion and all price proposals, must be submitted to [your company] in a mutually agreed upon timeframe prior to the Government’s deadline for response.

3.4 [your company] will prepare the Team’s responses to Government solicitations if any, with the assistance of Vendor as necessary, and forward them to the Government.

3.5 [your company] may accept and process all Government Orders, issue purchase orders to Vendor, invoice the Government and effect all order administration. [your company] may place orders online (preferred method), by telephone, in writing, by facsimile or electronically. Telephone orders must be confirmed in writing; written orders and written confirmations for telephone orders may be sent by facsimile. [your company] purchase orders to Vendor must be annotated with Vendor's GSA Schedule contract number; orders without this number will be rejected. All GSA orders awarded under this teaming agreement must be copied to Vendor along with the valid purchase order from [your company] for the Products/Services on the GSA awarded order.

3.6 Vendor will accept purchase orders from [your company] under this Agreement as Orders under the Vendor GSA Contract.

4.0 Industrial Funding Fee

Vendor shall report to GSA revenue under this Agreement based on the price paid by the Government (not to exceed the pricing for such Vendor Products/Services available to the Government under the Vendor GSA Contract). Vendor shall be responsible for payment of the full Industrial Funding Fees applicable to the aforementioned revenue.

5.0 Invoicing and Payment

5.1 Vendor shall invoice [your company] upon shipment. Each invoice shall identify the purchase order number and contain the quantity shipped, unit price, extended price and total amount billed for that shipment. Invoices shall be directed to the address listed on the purchase order.

5.2 Invoices issued are due and payable in full as presented within forty five (45) days of the invoice date. [your company] will treat each invoice as a separate transaction, and pay it accordingly. As authorized by Vendor GSA Contract, shipping charges billed in accordance with it require no substantiating documentation.

6.0 Delivery; Title, Risk of Loss, and Warranty

6.1 Unless otherwise specified in the applicable Vendor quotation/order, delivery shall be FOB Destination (CONUS only). OCONUS delivery shall be in accordance with the Vendor GSA Contract. Title and risk of loss pass to the Government upon acceptance, which occurs one day after delivery to the Government unless otherwise provided in the Vendor GSA Contract. The Vendor Products/Services shall be warranted by Vendor to the Government in accordance with the terms of the Vendor GSA Contract.

6.2 For both CONUS and OCONUS shipments, delivery times are estimated to be 30 days after receipt of a valid purchase/delivery order unless extenuating circumstances exist, or as otherwise agreed to by the parties on individual purchase orders.

7.0 Warranties

EXCEPT AS OTHERWISE PROVIDED BY THE GSA SCHEDULE CONTRACTS REFERENCE ABOVE, NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE APPLY TO THIS AGREEMENT OR ANYTHING FURNISHED HEREUNDER. EXCEPT AS PROVIDED HEREIN, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES IN CONNECTION WITH OR ARISING OUT OF THE PERFORMANCE OF THIS AGREEMENT OR THE USE OF ANY ITEM OF CONFIDENTIAL AND PROPRIETARY INFORMATION.

8.0 Infringement of Third Party Rights

8.1 Vendor will indemnify, defend and hold [your company] harmless from and against any liability to third parties to the extent arising from a claim that a Vendor Product or the use thereof infringes upon any third party's patent, copyright, trade secret or other intellectual property rights, provided that, [your company]:

(i) promptly gives Vendor written notice of the claim or threatened claim; (ii) gives Vendor full authority, information and assistance to defend such claim; and (iii) gives Vendor sole control of the defense of such claim and all negotiations for the compromise or settlement of the claim. Vendor's agreement to indemnify

[your company] under this Section 8 shall be limited to Vendor Products/Services in the form and as delivered by Vendor.

8.2 If a third party makes a claim covered by Section 8.1, Vendor shall either: (i) resolve the claim in a way that permits continued ownership and/or use of the Product; (ii) provide a non-infringing replacement, if possible, at no additional cost; or (iii) accept return of the Product, freight collect, and provide a full refund to [your company] if the remedies under (i) or (ii) are not available.

8.3 Except as otherwise provided in Sections 8.1 and 8.2, Vendor has no liability or responsibility of any kind with respect to infringement of any third party's patent, copyright, trade secret or other intellectual property rights by Vendor Products or the use thereof.

9.0 Indemnification

9.1 Each party (the "Indemnitor") will defend the other party (the "Indemnitee") against all demands, claims, or causes of action, regulatory, legislative or judicial proceedings commenced by third parties against the Indemnitee, and will pay all assessments, levies, losses, fines, penalties, damages, costs and expenses, including, without limitation, reasonable attorneys', accountants', investigators', and experts' fees and expenses, finally awarded against the Indemnitee resulting from or arising out of any breach of this Agreement by the Indemnitor provided that the Indemnitee: (i) promptly gives the Indemnitor prompt written notice of the claim or threatened claim; (ii) gives Indemnitor full authority, information and assistance to defend such claim; and (iii) gives Indemnitor sole control of the defense of such claim and all negotiations for the compromise or settlement of the claim.

10.0 Limitation of Liability.

Notwithstanding anything to the contrary in this Agreement or in either Party's Product warranty statement, neither Party shall have liability or obligation whatsoever to the other Party, Government or any other third party except as specifically set forth in this Agreement, the Vendor GSA Contract, or the [your company] GSA Contract. In particular, in no event shall either Party have any liability or obligation whatsoever to the other Party for damages, costs or expenses in the form of consequential, incidental, special, tort or exemplary damages, lost profits, lost savings or loss of goodwill, arising for any reason whatsoever, including without limitation, as a result of (i) breach of this Agreement or any Product warranty statement, (ii) the Government's or any other person's use or inability to use any Product, (iii) lost or corrupted data or software, or (iv) delays in delivery of Products/Services, or failures to deliver Products/Services, even if the liable Party has been advised or should otherwise have known of the possibility of such damages.

11.0 Notices

Requests for information on contractual matters related to this Agreement, such as explanations and contract interpretation, shall be submitted to the respective Authorized Representative as identified below:

Vendor:

Phone:

Fax:

Email:

[your company]

[address]

Attn: _____

Phone:

Fax:

Email:

12.0 Assignment.

Neither this Agreement nor any duty or right under it shall be delegated or assigned by either Party without the prior written consent of the other, except that claims of monies due or to become due under this Agreement may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency, by either party without such consent. Notwithstanding the preceding sentence, [your company] may delegate its performance under this Agreement to its affiliates, provided that [your company] remains responsible for such performance.

13.0 Miscellaneous

13.1 Except as is expressly set forth in this Agreement, each Party shall bear full and sole responsibility for its own expenses, liabilities, costs of operation and the like.

13.2 This Agreement shall inure to the benefit of and be binding upon the Parties and their successors and permitted assigns. Nothing in this Agreement, express or implied, is intended to confer on any person other than the Parties, and their respective successors and permitted assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement; provided, however, that Vendor acknowledges that the Government is a beneficiary of Vendor's obligation to warrant the Vendor Products/Services in accordance with the terms of the Vendor GSA Contract.

13.3 [your company] and Vendor are independent contractors. Neither party shall be deemed an agent, partner or joint venturer of the other party, nor neither party shall have any right, power or authority to act in any way in the name of the other party. No other relationship is intended to be created between the parties. Neither party will state, imply or knowingly permit any third party to infer that any other relationship exists between the parties without the other party's prior written consent. Neither party shall state, imply or knowingly permit any third party to infer that such party is authorized or entitled to execute or agree on behalf of the other party or bind the other party to any agreement (whether oral or written), instrument or document of any kind.

13.4 This Agreement is the exclusive statement of the contract in effect between [your company] and Vendor regarding the teaming of their GSA Schedules for the supply of Vendor Products/Services to the Government by [your company]. This Agreement supersedes any and all prior or contemporaneous oral and written agreements, terms, correspondence, proposals and communications between the parties regarding the teaming of their GSA Schedules. Amendments to this Agreement must be made in writing and executed by an authorized representative or agent of each of the parties.

13.5 The failure of a Party to insist upon performance of any of the terms of this Agreement, or the waiver by said Party of any breach of any of the terms of this Agreement, shall not be construed as a subsequent waiver of any such terms, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred. No waiver shall be effective unless it is in writing and signed by an authorized representative of the waiving Party. The invalidity or unenforceability of any provision of this Agreement or portion of a provision shall not affect the validity or enforceability of any other provision of this Agreement or the remaining portion of the applicable provision.

13.6 Except for references necessary to identify Products offered for resale, neither Party shall be entitled to use any of the other Party's trademarks, trade names, service marks or other intellectual property.

14.0 Terms and Conditions

14.1 This Agreement shall be governed and controlled as to validity, enforcement, interpretation, construction, and effect and in all other respects by the laws of the State of New York applicable to contracts made in that State, except for its provisions on conflicts of laws.

14.2 Any orders placed under a Delivery Order for Vendor Products/Services shall, for the benefit of the Government, incorporate the Vendor GSA Contract terms & conditions without modification. In the event of an inconsistency between the provisions of this Agreement and a Delivery Order, the Delivery Order shall take precedence. In the event of an inconsistency between this Agreement and either Party's GSA FSS Contract, the GSA FSS Contract relevant to the Product at issue shall take precedence.

14.3 Each party acknowledges that the terms of this Agreement are not confidential and may be disclosed to the Government by either party in accordance with FAR subpart 9.6.

Executed on behalf of the Parties by their duly authorized representatives, to be effective as of the Effective Date.

[YOUR COMPANY]

Vendor

Per

(signature)

Per

(signature)

(print name)

(print name)

(title)

(title)

(date)

(date)