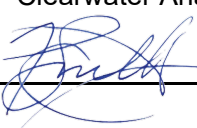



<b>AWARD/CONTRACT</b>		1. Solicitation Number: <b>CFOPD-20-R-002</b>		Page of Pages 1   39			
2. Contract Number <b>CFOPD-20-C-002</b>		3. Effective Date See 20C		4. Requisition/Purchase Request/Project No.			
5. Issued By <b>Office of the Chief Financial Officer Office of Contracts 1100 - 4th Street, SW., Suite E620 Washington, DC 20024</b>		Code		6. Administered By (If other than line 5)			
7. Name and Address of Contractor (No. Street, city, country, state and ZIP Code) <b>Clearwater Analytics LLC 777 W. Main Street, Suite 900 Boise, ID 83702 Tel: 208-918-2400 Jake McGrady, General Counsel <a href="mailto:legal@clearwateranalytics.com">legal@clearwateranalytics.com</a></b>				8. Delivery <input checked="" type="checkbox"/> FOB Destination <input type="checkbox"/> Other (See Schedule Section F)			
Code				9. Discount for prompt payment			
Facility				10. Submit Invoices in accordance with Section G.3   Item			
11. Ship to/Mark For Office of the Chief Financial Officer Office of Finance and Treasury Suite W850 1101 4th Street, S.W. Washington, DC 20024		Code		12. Payment will be made by Office of the Chief Financial Officer Office of Management and Administration Financial Operations/Accounts Payable 1100 4th Street, SW Suite E600 Washington, DC 20024			
13. Contract Type: Requirements with NTE Ceiling				14. Accounting and Appropriation Data			
15A. Item	15B. Supplies/Services			15C. Qty	15D. Unit		
1	<b>Investment Analytics Services</b>			1	Annual		
Total Amount of Contract					<b>\$100,000.00</b>		
16. Table of Contents							
(X)	Section	Description	Pages	(X)	Section	Description	Pages
	PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES		
	A	Solicitation/Contract Form	1		I	Contract Clauses	20
	B	Supplies or Services and Price/Cost	2		PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS		
	C	Description/Specifications/Work Statement	4		J	List of Attachments	39
	D	Packaging and Marking	6		PART IV - REPRESENTATIONS AND INSTRUCTIONS		
	E	Inspection and Acceptance	7		K	Representations, Certifications and Other Statements of Offerors	
	F	Deliveries or Performance	8				
	G	Contract Administration Data	9		L	Instructions, conditions & notices to offerors	
	H	Special Contract Requirements	14		M	Evaluation factors for award	
<b>Contracting Officer will Complete Item 17 or 18 as Applicable</b>							
17 <input checked="" type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return <u>1 pdf</u> copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)				18 <input type="checkbox"/> AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number _____, including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.			
19A. Name and Title of Signer (Type or print) <b>Nick Smith, Associate General Counsel</b>				20A. Name of Contracting Officer <b>Anthony A. Stover, CPPO or Dorothy Whisler Fortune, Esq., CPPO</b>			
19B. Name of Contractor <b>Clearwater Analytics, LLC</b>			19C. Date Signed <b>May 7, 2020</b>		20B. District of Columbia		20C. Date Signed <b>May 22, 2020</b>
 (Signature of person authorized to sign)					 (Signature of Contracting Officer)		

**SECTION B**

**CONTRACT TYPE, SUPPLIES OR SERVICES AND PRICE**

**B.1 GENERAL INFORMATION**

The District of Columbia Office of the Chief Financial Officer, Office of Contracts, on behalf of Office of Finance & Treasury (OFT) (the “District”) requires a Contractor to provide Investment Analytic Services.

**B.2 CONTRACT TYPE**

This is a Requirements Contract based on the Fees as described in Attachment J.4 – Order Form (referred to hereinafter as the “**Order Form**”).

**B.3 ALL-INCLUSIVE PRICING**

The stated Price Per Unit for each Contract Line Item Number (CLIN) shall be fixed, inclusive of all of the Contractor’s direct cost, indirect cost, and profit; including travel, material, and delivery costs. The price shall include all cost associated with the services described in and required by the Contract. The Total Estimated Price shall represent the price ceiling, fixed fee, or not to exceed amount of the Contract.

**B.4 PRICE SCHEDULE – FIRM FIXED PRICE**

**B.4.1 Base Year**

Contract Line Item No. (CLIN)	Item Description	Not to Exceed Price
001	Investment Analytic Services	\$100,000*

*\*The District will also obligate an additional \$50,000 in accordance with Section 9.1.2 of the MSA (Attachment J.5) for a total not-to-exceed of \$150,000.*

**B.4.2 Option Year One**

Contract Line Item No. (CLIN)	Item Description	Not to Exceed Price
101	Investment Analytic Services	\$150,000*

*\*The District will also obligate an additional \$50,000 in accordance with Section 9.1.2 of the MSA (Attachment J.5) for a total not-to-exceed of \$200,000.*

**B.4.3 Option Year Two**

Contract Line Item No. (CLIN)	Item Description	Not to Exceed Price
201	Investment Analytic Services	\$150,000*

*\*The District will also obligate an additional \$50,000 in accordance with Section 9.1.2 of the MSA (Attachment J.5) for a total not-to-exceed of \$200,000.*

**B.4.4 Option Year Three**

Contract Line Item No. (CLIN)	Item Description	Not to Exceed Price
301	Investment Analytic Services	\$150,000*

*\*The District will also obligate an additional \$50,000 in accordance with Section 9.1.2 of the MSA (Attachment J.5) for a total not-to-exceed of \$200,000.*

**B.4.5 Option Year Four**

Contract Line Item No. (CLIN)	Item Description	Not to Exceed Price
401	Investment Analytic Services	\$150,000*

*\*The District will also obligate an additional \$50,000 in accordance with Section 9.1.2 of the MSA (Attachment J.5) for a total not-to-exceed \$200,000.*

**B.4.6 Suspension of Services Upon Reaching Not to Exceed Price:** If, during the Base Year or each of the subsequent Option Years, the amount due and owed by the District reaches the prescribed Not to Exceed Price (“Ceiling”), the District may instruct Contractor to suspend all Services to the District by providing written notice to Contractor.. Contractor must suspend the Services and suspend charging the District within twenty-four (24) hours of written notice being provided to Contractor pursuant to this section. Suspending the Agreement for reaching the Ceiling does not alleviate the District’s responsibility to pay for Services up to and including the date of suspension. Contractor shall promptly recommence the Services upon written instruction from the District, which instructions shall include assurances reasonably satisfactory to Contractor that the District will pay for such Services as and when due.

**B.4.7** All Services and Fees are set forth in the Order Form, attached as Attachment J.4.

*[End of Section B]*

**SECTION C****DESCRIPTION/SPECIFICATIONS/WORK STATEMENT****C.1 SCOPE**

The District of Columbia Office of the Chief Financial Officer, Office of Contracts, on behalf of Office of Finance & Treasury (OFT) (the “District”) requires a Contractor to provide Investment Analytic Services. The Contractor shall provide an automated data aggregation and reporting solution for investment portfolio and bank data.

**C.2 BACKGROUND**

- C.2.1 The mission of the Office of Finance and Treasury (OFT) is to efficiently and effectively manage the financial assets and liabilities of the Government of the District of Columbia. This includes receiving, safe keeping, investing, disbursing, recording and acquiring District financial resources. The core financial assets are cash and equivalents and accounts receivable, and the core financial liabilities are debt and accounts payable.
- C.2.2 Further, the District’s Cash and Investment Management Unit (CMU) provides for the management of the cash resources of the District so that the District can meet its cash obligations and maximize its return on investments.
- C.2.3 The District requires automated data aggregation and reporting solution for investment portfolio and bank data.
- C.2.4 The District’s cash and investment activities include the following:
1. The District’s annual operating budget for Fiscal Year (FY) 2017 and FY 2018 were \$13.4B and for FY 2019 was \$13.9B as noted in the Proposed Budget and Financial Plan submitted to the Congress.
  2. Annual average market value of the District’s investment portfolio is approximately \$2.5B. The OFT CMU team executes up to ten trades per day. The portfolio consists of money market funds, direct obligations (federal and agency securities), commercial paper and bank CD’s.
  3. The District currently has 500+ bank accounts, custody accounts, and corporate trust accounts in managing its operating, investment, and debt proceeds. The District’s cash flow varies because of timing differences between receipts, such as, tax collections, debt financing proceeds, and disbursements, such as payroll expenditures and payments for payroll, purchased goods and services, and retirement.
  4. The CMU is responsible for investing the District’s idle funds, consistent with the District’s safety and liquidity requirements.
- C.2.5 Per the existing governing documents, the District is restricted to a relatively conservative investment strategy, seeking the safety of principal first and foremost, followed by the

maintenance of liquidity and ultimately seeking the highest available yield. This philosophy is embodied in the District's Financial Institutions Deposit and Investment Amendment Act of 1997, which states that all District investments shall be with qualified and approved investment firms or financial institutions, and that funds are to be invested only in:

- a. Bonds, bills, notes, or other obligations issued or backed by the full faith and credit of the United States' government;
- b. Federally insured negotiable certificates of deposit or other insured or uninsured evidences of deposit at a financial institution;
- c. Commercial paper that does not exceed 180 days maturity and does not exceed 10% of the outstanding commercial paper of the issuing corporation at the time of purchase;
- d. Money market funds registered with the Securities and Exchange Commission, which meet the requirement of Rule 2(a) (7) of the Investment Company Act of 1940.

C.2.6 The District has begun implementing a Treasury Workstation solution to manage its banking accounts, cash disbursements, investment monitoring, and analysis activities of the OFT.

### **C.3 REQUIREMENTS**

#### **C.3.1 Automate Data Aggregation and Validation**

See Article 1, Article 3, and Schedule A of the Order Form (Attachment J.4) for a detailed description of the Services to be provided to the District by Contractor.

#### **C.3.2 Statements and Reports**

See Schedule B and Schedule B.1 of the Order Form (Attachment J.4) for a detailed description of the Statements and Reports available through Contractor's SaaS Solution.

#### **C.3.3 Training**

See Article 5 of the Order Form (Attachment J.4) for provisions regarding Initial Account Creation and Training and On-Going Support.

*[End of Section C]*

**SECTION D**  
**PACKAGING AND MARKING**

**Intentionally Omitted**

*[End of Section D]*

**SECTION E****INSPECTION, ACCEPTANCE AND WARRANTY OF SERVICES****E.1 INSPECTION**

E.1.1 All services provided by the Contractor under this contract shall be subject to inspection by the Contracting Officer's Technical Representative ("COTR") identified in Section G.1 (b).

E.1.2 Inspection of Services

- (a) **Definition.** "Services" as used in this clause includes services performed, workmanship, and material furnished or utilized in the performance of services.
- (b) Due to Services being delivered on a daily basis via a multi-tenant, single instance SaaS Solution, the Services are incapable of being inspected and accepted through a formal Acceptance Testing procedure.
- (c) Pursuant to Section 5.3 of the Order Form (Attachment J.4), the Contractor shall provide to the District a Client Services team that will be available to, among other things, answer District questions and help resolve any District concerns.
- (c) The District has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The District will perform inspections and tests in a manner that will not unduly delay the work.
- (d) If any of the services do not conform to the contract requirements, the District may require the Contractor to perform these services again in conformity with contract requirements, at no increase in contract amount. If the Contractor fails to promptly perform the services again in conformity to contract requirements, the District may terminate the contract for default.

*[End of Section E]*

**SECTION F****PERIOD OF PERFORMANCE AND DELIVERABLES****F.1 TERM OF CONTRACT**

The term of the contract shall be for a period of one year from the Contract Effective Date.

**F.2 OPTION TO EXTEND THE TERM OF THE CONTRACT**

- F.2.1 The District may extend the term of this contract for a period of Four (4) one-year option periods, or successive fractions thereof, by written notice to the Contractor before the expiration of the contract; provided that the District will give the Contractor preliminary written notice of its intent to extend before the contract expires. The preliminary notice does not commit the District to an extension. The exercise of this option is subject to the availability of funds at the time of the exercise of this option. The District will give the Contractor at least five (5) days' written notice prior to the expiration of the then-current Term if the District does not intend to renew this contract ("Non-Renewal Notice").
- F.2.2 If the District exercises this option, the extended contract shall be considered to include this option provision.
- F.2.3 The Not-to-Exceed price for the option period shall be as specified in the Section B of the contract in accordance with the fees as outlined in the Order Form.

**F.3 DELIVERABLES**

- F.3.1 The Contractor shall perform the activities required to successfully complete the District's requirements and make each deliverable available through its SaaS Solution to the COTR identified in Section G in accordance with Section C.
- F.3.2 The Contractor shall submit to the District, as a deliverable, the report described in Section I.31 that is required by the 51% District Residents New Hires Requirements and First Source Employment Agreement. If the Contractor does not submit the report as part of the deliverables, final payment to the Contractor shall not be paid pursuant to Section G.6.

*[End of Section F]*



**SECTION G****CONTRACT ADMINISTRATION****G.1 CONTRACT ADMINISTRATORS****(a) Contracting Officer**

- i. The Contracting Officer (or “CO”) for this contract is:

Anthony A. Stover, CPPO  
Contracting Officer  
1100 4<sup>th</sup> St. SW Suite E620  
Washington, DC 20024  
Telephone: (202) 442-7122  
Fax: 202-442-6454  
E-mail address: [Anthony.stover@dc.gov](mailto:Anthony.stover@dc.gov)

- ii. The Contracting Officer is the only official authorized to legally bind the District and make changes to the requirements, terms and conditions of this contract. Only the Contracting Officer can increase, decrease, extend or terminate this contract. All other changes are unauthorized.
- iii. The Contractor shall not comply with any order, directive or request that changes or modifies the requirements of this contract, unless issued in writing and signed by the Contracting Officer.
- iv. In the event the Contractor effects any change at the instruction or request of any person other than the Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any cost increase incurred as a result thereof.

**(b) Contracting Officer Technical Representative (COTR)**

- i. The COTR for this contract is:

Grace Lee  
Financial Investment Manager  
1101 4th St. S.W., Suite 850 West  
Washington, DC 20024  
(202) 727-018  
[Grace.Lee3@dc.gov](mailto:Grace.Lee3@dc.gov)

- ii. The COTR is responsible for general administration of the contract and advising the Contracting Officer as to the Contractor’s compliance or noncompliance with the contract. The COTR has the responsibility of ensuring the work conforms to the requirements of the contract and such other responsibilities and authorities as may be specified in the contract. These include:

- a. Keeping the Contracting Officer fully informed of any technical or contractual difficulties encountered during the performance period and advising the Contracting Officer of any potential problem areas under the contract;
  - b. Coordinating site entry for Contractor personnel, if applicable;
  - c. Reviewing invoices for completed work and recommending approval by the Contracting Officer if the Contractor's costs are consistent with the negotiated amounts and progress is satisfactory and commensurate with the rate of expenditure;
  - d. Reviewing and approving invoices for deliverables to ensure receipt of goods and services.
  - e. Timely processing of invoices and vouchers in accordance with the District's payment provisions; and
  - f. Maintaining a file that includes all contract correspondence, modifications, records of inspections and invoice or vouchers.
- iii. The COTR does NOT have the authority to:
- a. Award, agree to, or sign any contract, delivery order or task order. Only the Contracting Officer shall make contractual agreements, commitments or modifications;
  - b. Grant deviations from or waive any of the terms and conditions of the contract;
  - c. Increase the dollar limit of the contract or authorize work beyond the dollar limit of the contract,
  - d. Authorize the expenditure of funds by the Contractor;
  - e. Change the period of performance; or
  - f. Authorize the use of District property, except as specified under the contract.
- iv. The Contractor will be fully responsible for any changes not authorized in advance, in writing, by the Contracting Officer; may be denied compensation or other relief for any additional work performed that is not so authorized; and may also be required, at no additional cost to the District, to take all corrective action necessitated by reason of the unauthorized changes.

## **G.2 INVOICE PAYMENT**

- G.2.1 The District will make payments to the Contractor, upon the submission of proper invoices, at the prices stipulated in this contract, for supplies delivered and accepted or services performed and accepted, less any discounts, allowances or adjustments provided for in this contract.
- G.2.2 The District will pay the Contractor on or before the 30<sup>th</sup> day after receiving a proper invoice from the Contractor. The District reserves the right to conduct post payment reviews or audits.

- G.2.3 Unless otherwise specified in this contract, and with presentation of a properly executed invoice:
- a) Payment will be made on completion and acceptance of each item for which the price is stated in the Pricing Schedule in Section B,
  - b) Payment will be made on completion and acceptance of each percentage or milestone of work in accordance with the prices stated in the Pricing Schedule in Section B, or
  - c) Payment may be made on partial deliveries of goods and services accepted by the District if the Contractor requests it and the amount due on the deliveries warrants it as determined by the District.

### **G.3 INVOICE SUBMITTAL**

- G.3.1 The Contractor shall submit proper invoices on a monthly basis or as otherwise specified in the contract.
- G.3.2 The Contractor shall submit payment requests in electronic format through the DC Vendor Portal [www.vendorportal.dc.gov](http://www.vendorportal.dc.gov) by selecting the applicable purchase order number which is listed on the Contractor's profile.
- G.3.3 To constitute a proper invoice, the Contractor shall attach to all payment requests the invoice and all supporting documentation or information.

### **G.4 THE QUICK PAYMENT ACT**

#### **G.4.1 Interest Penalties to Contractors**

- G.4.1.1 The District will pay interest penalties on amounts due to the Contractor under the Quick Payment Act, D.C. Official Code § 2-221.01 *et seq.*, as amended, for the period beginning on the day after the required payment date and ending on the date on which payment of the amount is made. Interest shall be calculated at the rate of at least 1% per month. No interest penalty shall be paid if payment for the completed delivery of the item of property or service is made on or before the required payment date. The required payment date shall be:
- G.4.1.1.1 The date on which payment is due under the terms of this contract;
  - G.4.1.1.2 Not later than seven (7) calendar days, excluding legal holidays, after the date of delivery of meat or meat food products;
  - G.4.1.1.3 Not later than ten (10) calendar days, excluding legal holidays, after the date of delivery of a perishable agricultural commodity; or
  - G.4.1.1.4 Thirty (30) calendar days, excluding legal holidays, after receipt of a proper invoice for the amount of the payment due.
- G.4.1.2 No interest penalty shall be due to the Contractor if payment for the completed delivery of goods or services is made on or before:

- G.4.1.2.1 3<sup>rd</sup> day after the required payment date for meat or a meat product;
  - G.4.1.2.2 5<sup>th</sup> day after the required payment date for an agricultural commodity; or
  - G.4.1.2.3 15<sup>th</sup> day after any other required payment date.
- G.4.1.3 Any amount of an interest penalty which remains unpaid at the end of any 30-day period shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on the added amount.

#### **G.4.2 Payments to Subcontractors**

- G.4.2.1 The Contractor shall take one of the following actions within seven (7) days of receipt of any amount paid to the Contractor by the District for work performed by any subcontractor under the contract:
- G.4.2.1.1 Pay the subcontractor(s) for the proportionate share of the total payment received from the District that is attributable to the subcontractor(s) for work performed under the contract; or
  - G.4.2.1.2 Notify the CO and the subcontractor(s), in writing, of the Contractor's intention to withhold all or part of the subcontractor's payment and state the reason for the nonpayment.
- G.4.2.2 The Contractor shall pay subcontractors or suppliers interest penalties on amounts due to the subcontractor or supplier beginning on the day after the payment is due and ending on the date on which the payment is made. Interest shall be calculated at the rate of at least 1% per month. No interest penalty shall be paid on the following if payment for the completed delivery of the item of property or service is made on or before the:
- G.4.2.2.1 3<sup>rd</sup> day after the required payment date for meat or a meat product;
  - G.4.2.2.2 5<sup>th</sup> day after the required payment date for an agricultural commodity; or
  - G.4.2.2.3 15<sup>th</sup> day after any other required payment date.
- G.4.2.3 Any amount of an interest penalty which remains unpaid by the Contractor at the end of any 30-day period shall be added to the principal amount of the debt to the subcontractor and thereafter interest penalties shall accrue on the added amount.
- G.4.2.4 A dispute between the Contractor and subcontractor relating to the amounts or entitlement of a subcontractor to a payment or a late payment interest penalty under the Quick Payment Act does not constitute a dispute to which the District is a party. The District may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

#### **G.4.3 Subcontract requirements**

- G.4.3.1 The Contractor shall include in each subcontract under this contract a provision requiring the subcontractor to include in its contract with any lower-tier subcontractor or supplier the

payment and interest clauses required under paragraphs (1) and (2) of D.C. Official Code § 2-221.02(d).

- G.4.3.2 The Contractor shall include in each subcontract for services to be provided exclusively to the District under this contract a provision that obligates the Contractor, at the election of the subcontractor, to participate in negotiation or mediation as an alternative to administrative or judicial resolution of a dispute between them.

**G.5 ASSIGNMENT OF CONTRACT PAYMENTS**

- G. 5.1 The Contractor may assign funds due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution.

- G.5.2 Any assignment shall cover all unpaid amounts payable under this contract and shall not be made to more than one party.

- G.5.3 Notwithstanding an assignment of contract payments, the Contractor, not the assignee, is required to prepare invoices. Where such an assignment has been made, the original copy of the invoice must refer to the assignment and must show that payment of the invoice is to be made directly to the assignee as follows:

*“Pursuant to the instrument of assignment dated \_\_\_\_\_, make payment of this invoice to (name and address of assignee).”*

**G.6 FIRST SOURCE AGREEMENT REQUEST FOR FINAL PAYMENT**

- G.6.1 For contracts subject to the 51% District Residents New Hires Requirement and First Source Employment Agreement, final requests for payment shall be accompanied by the report or a waiver of compliance pursuant to Section I.31.

- G.6.2 No final payment shall be made to the Contractor until the CFO has received the Contracting Officer’s final determination or approval of waiver of the Contractor’s compliance with 51% District Residents New Hires Requirement and First Source Employment Agreement requirements.

*[End of Section G]*

## SECTION H

### SPECIAL CONTRACT REQUIREMENTS

#### H.1 STAFFING

The Contractor shall not employ or permit the employment of any unfit or unqualified person or persons not skilled in the tasks assigned to them by the contractor. The Contractor shall at all times employ sufficient labor to carry out functions and services in the manner and time prescribed by the Contract. The Contractor shall be responsible to the District for all acts and omissions of the Contractor's employees, agents and subcontractors and the Contractor shall enforce strict discipline among the Contractor's employees, agents and subcontractors performing the services under the Contract. Any person employed by the Contractor shall, at the written request of the District, and within the District's sole discretion, be removed immediately by the Contractor from work relating to the Contract.

#### H.2 SUBCONTRACTS

The Contractor hereunder shall not subcontract any of the Contractor's work or services to any subcontractor to perform services directly to the District without the prior, written consent of the Contracting Officer in consultation with the COTR. Any such subcontract shall specify that the Contractor and the subcontractor shall be subject to every provision of this Contract. Notwithstanding any such subcontract approved by the District, the Contractor shall remain liable to the District for all Contractor's work and services required hereunder, including any work conducted by a subcontractor.

#### H.3 CERTIFIED BUSINESS ENTERPRISE SUBCONTRACTING REQUIREMENTS

H.3.1 Beneficiaries of all non-construction contracts for government-assisted projects in excess of \$250,000, unless a waiver has been approved by the Director of the Department of Small and Local Business Development in accordance with D.C. Code §2-218.51, are required. This contract shall not be binding on Contractor until a waiver under D.C. Code § 2-218.51 has been approved.

- (a) Subcontract at least 35% of the dollar volume to small business enterprises, as defined in D.C. Code §2-218.32; or
- (b) If there are insufficient qualified small business enterprises to completely fulfill the requirement set forth in H.3.1(a), then the subcontracting requirement may be satisfied by subcontracting 35% of the dollar volume to any qualified certified business enterprises, as defined in D.C. Code §§2-218.31-39a; provided, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.
- (c) For each government-assisted project for which a certified business enterprise is utilized to meet the subcontracting requirements set forth above in H.3.1(a) or H.3.1(b), the certified

business enterprise shall perform at least 35% of the contracting effort with its own organization and resources.

- (d) Beneficiaries certified as a small business enterprise, local business enterprise, or disadvantaged business enterprise shall not have to comply with Sections H.3.1(a) or H.3.1(b).

### H.3.2

- (a) For each government-assisted project for which a certified business enterprise is selected as a Beneficiary and is granted points or a price reduction pursuant to D.C. Code §2-218.43 or is selected through a set-aside program, the certified business enterprise shall perform at least 35% of the contracting effort with its own organization and resources and, if it subcontracts, 35% of the subcontracted effort shall be with certified business enterprises.
- (b) For each government-assisted project for which a certified joint venture is selected as a Beneficiary and is granted points or a price reduction pursuant to D.C. Code §2-218.43 or is selected through a set-aside program, the certified business enterprise shall perform at least 50% of the contracting effort with its own organization and resources and, if it subcontracts, 35% of the subcontracted effort shall be with certified business enterprises.
- (c) For each government-assisted project of \$1 million or less for which a certified business enterprise is selected as a Beneficiary and is granted points or a price reduction pursuant to D.C. Code §2-218.43 or is selected through a set-aside program, the certified business enterprise shall perform at least 50% of the on-site work with its own workforce.

### H.3.3 RESERVED

### H.3.4 A Beneficiary's subcontracting plan shall specify all of the following:

- (a) The name and address of the subcontractor;
- (b) A current certification number of the small or certified business enterprise;
- (c) The scope of work to be performed by the subcontractor; and
- (d) The price to be paid by the Beneficiary to the subcontractor.

### H.3.5 No Beneficiary shall be allowed to amend the subcontracting plan filed as part of its bid or proposal except with the consent of the Director of the Department of Small and Local Business Development. Any reduction in the dollar volume of the subcontracted portion resulting from such amendment of the plan shall inure to the benefit of the District.

### H.3.6 No multiyear contracts or extended contracts, which are not in compliance with D.C. Code §2-218.46 or this Section H.3 at the time of the contemplated exercise of the option or extension, shall be renewed or extended, and any such option or extension shall be void.

### H.3.7 A Beneficiary shall submit within fifteen (15) days of contract award, to the Contracting Officer, project manager, District of Columbia Auditor and the Director of the Department of Small and Local Business Development (at [compliance.enforcement@dc.gov](mailto:compliance.enforcement@dc.gov)) copies of the executed contracts with the subcontracts identified in the subcontracting plan. Failure to submit copies of the executed contracts shall render the underlying contract voidable by the District.

- H.3.8 The Beneficiary shall provide written notice to the Department of Small and Local Business Development and District of Columbia Auditor upon the initiation and completion of a project.
- H.3.9 Within fifteen (15) days after the end of each quarter, the Beneficiary shall provide a quarterly report to the Department of Small and Local Business Development (at [compliance.enforcement@dc.gov](mailto:compliance.enforcement@dc.gov)), the Contracting Officer, project manager and the District of Columbia Auditor which shall include a list of each subcontractor identified in the subcontracting plan and for each subcontract:
- (a) The price to be paid by the contractor to the subcontractor;
  - (b) A description of the goods procured, or the services contracted for;
  - (c) The amount paid by the contractor to the subcontractor under the subcontract; and
  - (d) A copy of the fully executed subcontract, if it was not provided in a prior quarterly report. If not included, the Beneficiary shall not receive credit toward the subcontracting requirements of this section for that subcontract.

The Beneficiary shall go to <https://dslbd.dc.gov> □ Scroll down to SBE Forms under the section 'Stay in Compliance' □ Click on that link & select 'District Agency Compliance' in order to access the DSLBD forms for beneficiaries to use for reporting requirements. The Beneficiary may further contact DSLBD at (202) 727-3900 for instructions on SBE Forms.

- H.3.10 The Beneficiary shall meet on an annual basis with the Department of Small and Local Business Development, the Contracting Officer, project manager and the District of Columbia Auditor to provide an update of the subcontracting plan for utilization of small business enterprises and certified business enterprises. The Department of Small and Local Business development shall provide the Beneficiary with a 30-day written notice of the meeting.
- H.3.11 A Beneficiary and/or certified business enterprise subject to this section, that fails to meet the requirements of this section shall be subject to penalties set forth in D.C. Code §2-218.63.
- H.3.12 Waiver of Subcontracting Requirements
- (a) The Director of the Department of Small and Local Business Development may waive the subcontracting requirements only if there is insufficient market capacity for the goods and services that comprise the project and such lack of capacity leaves the contractor commercially incapable of achieving the subcontracting requirements.
  - (b) Prior to submission of bids or proposals, the Beneficiary may request a waiver of the subcontracting requirements by timely filing a written request with to the point of contact on Page 1 of this solicitation, to the attention of the Contracting Officer detailing the reasons justifying a waiver, including the Beneficiary's efforts to secure involvement by Certified Business Enterprises. The Contracting Officer will, in turn, use the Beneficiary's information to submit a waiver request to the Director of the Department of Small and Local Business Development.



- (c) The Contracting Officer will provide written notice of the waiver determination to the Beneficiary prior to the acceptance of bids or proposals and upon a decision of the waiver by the Director of the Department of Small and Local Business Development.
- (d) The Beneficiary should provide the following information in its waiver request to the Contracting Officer to demonstrate the Beneficiary's good faith efforts to secure involvement by a Certified Business Enterprise:
  - i. Whether the Beneficiary advertised in general circulation, trade association, or other media outlets concerning the subcontracting opportunity;
  - ii. Whether the Beneficiary provided written notice to a reasonable number of certified business enterprises that their interest in the subcontracting opportunity was being solicited;
  - iii. Whether the Beneficiary conducted any pre-solicitation or pre-bid conferences to inform certified business enterprises of the subcontracting opportunity;
  - iv. Whether the Beneficiary provided sufficient time to allow certified business enterprises to participate effectively in its efforts to secure involvement by a certified business enterprise;
  - v. Whether the Beneficiary followed up responses of interest by conducting negotiations with certified business enterprises;
  - vi. Whether rejections by the Beneficiary of certified business enterprises as being unqualified were based on sound reasoning and thorough investigation of their capabilities;
  - vii. Whether the Beneficiary made efforts to assist interested certified business enterprises in obtaining bonding, lines of credit, or insurance required by the Beneficiary;
  - viii. Whether the Beneficiary effectively used the services of the Department of Small and Local Business Development, (202) 727-3900 and <http://dslbd.dc.gov>, in recruiting qualified certified business enterprises; and
  - ix. Whether bids submitted by certified business enterprises were excessive or noncompetitive based upon a review of prevailing market conditions.
- (e) While the information described in (d) above will assist the Director of the Department of Small and Local Business Development in reviewing the waiver request, it does not guarantee that a waiver will, in fact, be approved. Additional factors may be considered, and additional information may be requested from the Beneficiary to support the waiver request.

H.3.13 In addition to the information provided by the Beneficiary, the Contracting Officer will include the following information in its written request for a waiver:

- (a) The number of certified business enterprises, if any, qualified to perform the elements of the work that comprise the project;
- (b) A summary of the market research or outreach conducted to analyze the relevant market; and
- (c) The consideration given to alternate methods for acquiring the work to be subcontracted in order to make the work more amenable to being performed by certified business enterprises.

H.3.14 For purposes of this Section H.3, the term:

- (a) “Beneficiary” means a business enterprise that is the prime contractor or developer on a government-assisted project.
- (b) “Government-assisted project” means:
  - i. A contract executed by an agency on behalf of the District or pursuant to statutory authority that involves District funds or, to the extent not prohibited by federal law, funds that the District administers in accordance with a federal grant or otherwise;
  - ii. A project funded in whole or in part by District funds;
  - iii. A project that receives a loan or grant from a District agency;
  - iv. A project that receives bonds or notes or the proceeds thereof issued by a District agency, including tax increment financing or payment in lieu of tax bonds and notes, or industrial revenue bonds;
  - v. A project that receives District tax exemptions or abatements that are specific to the project and not to the nature of the entity undertaking the project, such as a religious institution or nonprofit corporation; or
  - vi. A development project conducted pursuant to a disposition under section 1 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Code § 10-801).

H.3.15 Notwithstanding the requirements set forth in this Section H.3, a Beneficiary, and any other certified business enterprise subject to this section, shall fully comply with the requirements set forth in D.C. Code §§ 2-218.46, 2-218.51. If there is a conflict between the requirements set forth in this Section H.3 and D.C. Code §§ 2-218.46, 2-218.51, the requirements set forth in D.C. Code §§ 2-218.46, 2-218.51 shall govern.

#### **H.4 WARRANTIES**

H.4.1 Section 4.1 of the MSA contains mutual warranties. Section 4.2 of the MSA contains warranties by Contractor. Section 4.3 of the MSA (Attachment J.5) contains a mutual Warranty Disclaimer.

#### **H.5 DISCLOSURE OF LITIGATION**

The Contractor shall provide complete disclosure of any material civil or criminal litigation or indictment either threatened or pending involving the Contractor. The Contractor shall also disclose any material litigation threatened or pending for subcontractors, consultants, and/or lobbyists. For purposes of this section, material refers to any action or pending action that a reasonable person knowledgeable in the industry would consider relevant or any development such a person would want to be aware of in order to stay fully apprised of the total mix of

information relevant to the industry and its operations. This is a continuing disclosure requirement; any litigation commencing after submission of a response to a solicitation or execution of a contract shall be disclosed in a written statement within ninety (90) days of its occurrence. The Contractor shall be required to file with the District upon request comprehensive reports regarding all threatened or pending litigation involving the Contractor's District of Columbia operations and all threatened or pending litigation that may be considered material to the overall operations of the Contractor.

#### **H.6 CONTINUITY OF SERVICES**

See Section 5.5 of the MSA (Attachment J.5).

#### **H.7 BACKGROUND INVESTIGATIONS AND OTHER INTEGRITY REQUIREMENTS**

The District requires that contractors (1) fully cooperate with official inquiries by responding to questions truthfully and under oath when required, whether orally or in writing, and (2) provide documents and other information of official interest.

#### **H.8 ADVISORY AND ASSISTANCE SERVICES**

This contract is a "non-personal services contract". The Contractor and the Contractor's employees: (1) shall perform the services specified herein as independent contractors, not as employees of the government; (2) shall be responsible for their own management and administration of the work required and bear sole responsibility for complying with any and all technical, schedule, financial requirements or constraints attendant to the performance of this contract; (3) shall be free from supervision or control by any government employee with respect to the manner or method of performance of the service specified; but (4) shall, pursuant to the government's right and obligation to inspect, accept or reject work, comply with such general direction of the CO, or the duly authorized representative of the CO as is necessary to ensure accomplishment of the contract objectives.

*[End of Section H]*

**SECTION I****CONTRACT CLAUSES****I.1 LAWS AND REGULATIONS INCORPORATED BY REFERENCE**

- I.1.1 To the extent applicable, the provisions of the following acts, together with the provisions of applicable regulations made pursuant to said acts are hereby incorporated by reference into this contract; together with the laws and regulations of the District of Columbia:
- A. Contract Work Standards Act of August 13, 1962, also known as the Contract Work Hours and Safety Standards Act of 1962, 76 Stat. 357-360.
  - B. Buy American Act, Act of March 3, 1983, c.212, Title III, 47 Stat. 1520, as amended.
  - C. Walsh-Healy Public Contracts Act, Act of June 30, 1936, c.881, 49 Stat. 2036, as amended. (Applies only when contract is \$10,000 or more).
  - D. Mayor's Order 85-85, dated June 10, 1985, as amended, entitled: "Compliance with Equal Opportunity Obligations in Contracts."
  - E. Public Law 93-112, Rehabilitation Act of 1973, Section 504, as amended.
  - F. Mayor's Order 83-265, dated November 9, 1983 entitled: Employment Agreement Goals and Objectives for all District of Columbia Projects."
  - G. D.C. Law 5-93, dated May 9, 1984, the First Source Employment Agreement Act of 1984.
  - H. Protecting Pregnant Workers Fairness Act of 2016, D.C. Official Code § 32-1231.01 et seq. (PPWF Act)
  - I. Unemployed Anti-Discrimination Act of 2012, D.C. Official Code § 32-1361 et seq.
  - J. Fair Criminal Record Screening Amendment Act of 2014, effective December 17, 2014 (D.C. Law 20-152)
  - K. Title I of the Way to Work Amendment Act of 2006, effective June 8, 2006 (D.C. Law 16-118, D.C. Official Code §2-220.01 et seq.), as amended, ("Living Wage Act of 2006") which applies to all contracts for services in the amount \$100,000 or more in a 12-month period. The current living wage rate, the Living Wage Act Fact Sheet which includes exemption information, and the Living Wage Act Poster may be found at <http://does.dc.gov/service/wage-and-hour-compliance> or contact the Department of Employment Services at (202) 724-7000.
- I.1.2 Incorporation of the foregoing laws and regulations into this contract does not constitute either (i) affirmation by Contractor that such laws and regulations apply to this contract or to

Contractor; or (ii) waiver by Contractor of its right to assert any argument against the applicability of such laws or regulations or exceptions to the same.

## **I.2 WAIVER**

The waiver of any breach of the contract will not constitute a waiver of any subsequent breach thereof, or a waiver of the contract.

## **I.3 INDEMNIFICATION**

I.3.1 See Article 9 of the MSA (Attachment J.5).

I.3.2 The indemnification obligation under Article 9 of the MSA (Attachment J.5) shall not be limited by the existence of any insurance policy or by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor and shall survive the termination of this Contract.

## **I.4 TRANSFER**

See Section 11.1 of the MSA (Attachment J.5).

## **I.5 TAXES**

(a) Subject to Section 3.4 of the MSA (Attachment J.5), the Government of the District of Columbia is exempt from and will not pay Federal Excise Tax, Transportation Tax, and the District of Columbia Sales and Use Taxes.

(b) Tax exemption certificates are no longer issued by the District for Federal Excise Tax. The following statement may be used by the supplier when claiming tax deductions for Federal Excise Tax exempt items sold to the District.

“The District of Columbia Government is Exempt from Federal Excise Tax –  
Registration No. 52-73-0206-K, Internal Revenue Service, Baltimore, Maryland.”

Exempt from Maryland Sales Tax, Registered with The Comptroller of The Treasury –  
Exemption No. 09339

“The District of Columbia Government is Exempt from Sales and Use Tax –  
Registration No. 53-600, The District of Columbia Office of Tax and Revenue.”

## **I.6 OFFICIALS NOT TO BENEFIT**

I.6.1 Unless a determination is made as provided herein, no officer or employee of the District will be admitted to any share or part of this contract or to any benefit that may arise therefrom, and any contract made by the Contracting Officer or any District employee authorized to execute contracts in which they or an employee of the District will be personally interested shall be void, and no payment shall be made thereon by the District or any officer thereof, but this provision shall not be construed to extend to this contract if made with a corporation for its

general benefit. A District employee shall not be a party to a contract with the District and will not knowingly cause or allow a business concern or other organization owned or substantially owned or controlled by the employee to be a party to such a contract, unless a written determination has been made by the head of the procuring agency that there is a compelling reason for contracting with the employee, such as when the District's needs cannot reasonably otherwise be met. (Procurement Practices Reform Act of 2010, D.C. Law 18-0371, D.C. Official Code, section 2-359.10, and Chapter 18 of the DC Personnel Regulations)

- I.6.2 The Contractor represents and covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants not to employ any person having such known interests in the performance of the contract.

## I.7 **DISPUTES**

All disputes arising under or relating to this contract shall be resolved as provided herein.

- (a) **Claims by a Contractor against the District:** Claim, as used in paragraph (a) of this clause, means a written assertion by the Contractor seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.
- (1) All claims by a Contractor against the District arising under or relating to a contract shall be in writing and shall be submitted to the Contracting Officer for a decision. The Contractor's claim shall contain at least the following:
 

A description of the claim and the amount in dispute;

    - (ii) Data or other information in support of the claim;
    - (iii) A brief description of the Contractor's efforts to resolve the dispute prior to filing the claim; and
    - (iv) The Contractor's request for relief or other action by the Contracting Officer.
  - (2) The Contracting Officer may meet with the Contractor in a further attempt to resolve the claim by agreement.
  - (3) The Contracting Officer shall issue a decision on any claim within 120 calendar days after receipt of the claim. Whenever possible, the CO shall take into account factors such as the size and complexity of the claim and the adequacy of the information in support of the claim provided by the Contractor.
  - (4) The Contracting Officer's written decision shall do the following:
    - (i) Provide a description of the claim or dispute;
    - (ii) Refer to the pertinent contract terms;
    - (iii) State the factual areas of agreement and disagreement;

- (iv) State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;
  - (v) If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;
  - (vi) Indicate that the written document is the contracting officer's final decision; and
  - (vii) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.
- (5) Failure by the Contracting Officer to issue a decision on a contract claim within 120 days of receipt of the claim will be deemed to be a denial of the claim and will authorize the commencement of an appeal to the Contract Appeals Board as authorized by D.C. Official Code § 2-360.04.
- (6) If a Contractor is unable to support any part of his or her claim and it is determined that the inability is attributable to a material misrepresentation of fact or fraud on the part of the Contractor, the Contractor shall be liable to the District for an amount equal to the unsupported part of the claim in addition to all costs to the District attributable to the cost of reviewing that part of the Contractor's claim. Liability this paragraph (a)(6) shall be determined within six (6) years of the commission of the misrepresentation of fact or fraud.
- (7) Pending final decision of an appeal, action, or final settlement, a Contractor shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.
- (b) **Claims by the District against a Contractor:** Claim as used in paragraph (b) of this clause, means a written demand or written assertion by the District seeking, as a matter of right, the payment of money in a sum certain, the adjustment of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.
- (1) The Contracting Officer shall decide all claims by the District against a Contractor arising under or relating to a contract.
  - (2) The Contracting Officer shall send written notice of the claim to the Contractor. The Contracting Officer's written decision shall do the following:
    - (i) Provide a description of the claim or dispute;
    - (ii) Refer to the pertinent contract terms;
    - (iii) State the factual areas of agreement and disagreement;
    - (iv) State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;

- (v) If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;
  - (vi) Indicate that the written document is the Contracting Officer's final decision; and
  - (vii) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.
- (3) The Contracting Officer shall support the decision by reasons and shall inform the Contractor of its rights as provided herein.
  - (4) Before or after issuing the decision, the CO may meet with the Contractor to attempt to resolve the claim by agreement.
  - (5) The authority contained in this paragraph (b) shall not apply to a claim or dispute for penalties or forfeitures prescribed by statute or regulation which another District agency is specifically authorized to administer, settle, or determine.
  - (6) This paragraph shall not authorize the Contracting Officer to settle, compromise, pay, or otherwise adjust any claim involving fraud.
- (c) Decisions of the Contracting Officer shall be final and not subject to review unless an administrative appeal or action for judicial review is timely commenced by the Contractor as authorized by D.C. Official Code §2-360.04.
  - (d) Pending final decision of an appeal, action, or final settlement, the Contractor shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.

## **I.8 CHANGES**

- (a) The CO may, at any time, by written order, and without notice to the surety, if any, reduce the Services provided under the Order Form, if such Services are capable of being terminated separately from other Services. The parties may agree to include additional services for additional fees in a contract addendum signed by both parties.
- (b) The District shall not require the Contractor, and the Contractor shall not require a subcontractor, to undertake any work that is beyond the original scope of the contract or subcontract, including work under a District-issued change order, when the additional work increases the contract price beyond the not-to-exceed price or negotiated maximum price of the contract, unless the CO:
  - (1) Agrees with the Contractor, and if applicable the subcontractor, on a price for the additional work;
  - (2) Obtains a certification of funding to pay for the additional work;



- (3) Makes a written, binding commitment with the Contractor to pay for the additional work within thirty (30) days after the Contractor submits a proper invoice; and
  - (4) Provides the Contractor with written notice of the funding certification.
- (c) Neither the District, Contractor, nor any subcontractor may declare another party to be in default, or assess, claim, or pursue damages for delays regarding the additional work until the parties agree on a price for the additional work.

## **I.9 TERMINATION FOR DEFAULT**

- A. The District may, subject to the provisions of paragraph C., below, by written notice of default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances: (i) If the Contractor fails to perform the services within the time specified within the project work plan or any extension thereof; or (ii) If the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms and in either of these two circumstances does not cure such failure within a period of ten (10) days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure.
- B. RESERVED
- C. Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the contractor. Such causes may include, but are not restricted to, acts of God or of public enemy, acts of the District or Federal Government in either their sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of the subcontractor, and if such default arises out of causes beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess cost for failure to perform, unless the supplies or services to be furnished by the contractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.
- D. If this contract is terminated as provided in paragraph A., above, the District in addition to any other rights provided in D.C. Mun. Regs. tit. 27-3700 et. seq, as applicable, may require the Contractor to transfer title and deliver to the District, in the manner and to the extent directed by the Contracting Officer, (i) completed supplies, (ii) such partially completed supplies and materials, information, and contract rights (herein after called “manufacturing materials”) as the Contractor has specifically produced or specifically produced or specifically acquired for the performance being terminated; and the Contractor, shall, upon direction of the Contracting Officer, protect and preserve property in possession of the Contractor in which the District has an interest.

- E. If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provision of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for a termination for convenience be the same as if the notice of termination had been issued pursuant to such clause. Section I.10 “Termination for Convenience.”
- F. The rights and remedies of the District provided in this clause shall not be exclusive and are in addition to any rights and remedies provided by law or under this contract.
- G. As used in paragraph C., above, the terms “subcontractor” and “subcontractors” means subcontractor(s) at any tier.

#### **I.10 TERMINATION FOR CONVENIENCE**

- (a) In accordance with D.C. Mun. Regs. tit. 27-3700, et. seq., as applicable, the District may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the District’s interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and effective date, which date shall not be sooner than 30 days after receipt of the termination notice by Contractor.
- (b) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:
  - (1) Stop work as specified in the notice.
  - (2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.
  - (3) Terminate all contracts to the extent they relate exclusively to the work terminated.
  - (4) Continue performance of the work not terminated.
  - (5) Take any action that may be necessary, or that the Contracting Officer may reasonably direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the District has or may acquire an interest.
- (c) Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor’s costs and expenses under this contract. The Contractor shall make these records and documents available to the District, at the Contractor’s office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs,

micrographs, or other authentic reproductions may be maintained instead of original records and documents.

#### **I.11 TERMINATION OF CONTRACTS FOR CERTAIN CRIMES AND VIOLATIONS**

- A. The District may terminate without liability any contract and may deduct from the contract price or otherwise recover the full amount of any fee, commission, percentage, gift, or consideration paid in violation of this title if:
- (1) the Contractor has been convicted of a crime arising out of or in connection with the procurement of any work to be done or any payment made under this contract.
  - (2) There has been any breach or violation of:
    - (A) Any provision of the District of Columbia Procurement Practices Reform Act of 2010, (D.C. Law 18-371; D.C. Official Code §§ 2-351.01, et seq., or
    - (B) The contract provision against contingent fees.
- B. If a contract is terminated pursuant to this section, the Contractor: (i) May be paid only the actual costs of the work performed to the date of termination, plus termination costs, if any; and (ii) shall refund all profits or fixed fees realized under the contract.
- C. The rights and remedies contained in this Clause are in addition to any other rights or remedies provided by law, and the exercise of any of them is not a waiver of any other right or remedy provided by law.

#### **I.12 EXAMINATION OF THE BOOKS**

- I.12.1 The Contractor shall establish and maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting principles and practices which sufficiently and properly reflect all revenues and expenditures of funds provided by the District under the contract that results from this solicitation. The Contractor shall retain all records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to the contract for a period of three (3) years after termination of the contract, or if an audit has been initiated and audit findings have not been resolved at the end of three (3) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of the contract. The Contractor shall assure that these records shall be subject at all reasonable times to inspection, review, or audit (but not more frequently than once per year) by Federal, District, or other personnel duly authorized by the Contracting Officer.
- I.12.2 The Contracting Officer, the DC Inspector General, OCFO, and the District of Columbia Auditor, and/or any of their duly authorized representatives shall, until three years after final payment, have the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to the contract.

**I.13 NON-DISCRIMINATION CLAUSE**

- (a) The Contractor shall not discriminate in any manner against any employee or applicant for employment that would constitute a violation of the District of Columbia Human Rights Act, approved December 13, 1977, as amended (D.C. Law 2-38; D.C. Official Code §2-1402.11) (2001 Ed.) (“Act” as used in this Section). The Contractor shall include a similar clause in all subcontracts, except subcontracts for standard commercial supplies or raw materials. In addition, Contractor agrees and any subcontractor shall agree to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this non-discrimination clause as provided in Section 251 of the Act.
- (b) Pursuant to rules of the Office of Human Rights, published on August 15, 1986 in the D.C. Register, Mayor’s Order 2002-175 (10/23/02), 49 DCR 9883 and Mayor’s Order 2006-151 (11/17/06), 52 DCR 9351, the following clauses apply to this contract:
- (1) The Contractor shall not discriminate against any employee or applicant for employment because of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, disability, matriculation, political affiliation, genetic information, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act.
- (2) The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, disability, matriculation, political affiliation, genetic information, source of income, or place of residence or business.

The affirmative action shall include, but not be limited to the following:

- (a) employment, upgrading or transfer;
- (b) recruitment or recruitment advertising;
- (c) demotion, layoff, or termination;
- (d) rates of pay, or other forms of compensation; and
- (e) selection for training and apprenticeship.
- (3) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Agency,

setting forth the provisions in subsections (b)(1) and (b)(2) concerning non-discrimination and affirmative action.

- (4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment pursuant to the non-discrimination requirements set forth in subsection (b)(2).
- (5) The Contractor agrees to send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the contracting agency, advising the said labor union or workers' representative of that contractor's commitments under this nondiscrimination clause and the Act, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (6) The Contractor agrees to permit access to its books, records and accounts pertaining to its employment practices, by the Chief Procurement Officer or designee, or the Director of Human Rights or designee, for purposes of investigation to ascertain compliance with this chapter, and to require under the terms of any subcontractor agreement each subcontractor to permit access of such subcontractor's books, records, and accounts for such purposes.
- (7) The Contractor agrees to comply with the provisions of this chapter and with all guidelines for equal employment opportunity applicable in the District of Columbia adopted by the Director of the Office of Human Rights, or any authorized official.
- (8) The Contractor shall include in every subcontract the equal opportunity clauses, subsections (b)(1) through (b)(9) of this section, so that such provisions shall be binding upon each subcontractor or vendor.
- (9) The Contractor shall take such action with respect to any subcontract as the Contracting Officer may direct as a means of enforcing these provisions, including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or Contractor as a result of such direction by the Contracting Officer, the Contractor may request the District to enter into such litigation to protect the interest of the District.

#### **I.14 SERVICE CONTRACT ACT OF 1965**

##### **Definitions:**

“Act”, as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. 351- 358). “Contractor” as used in this clause, means the prime Contractor or any subcontractor at any tier. “Service employee” as used in this clause, means any person (other than a person employed in a bona fide executive, administrative, or professional capacity as

defined in 29 CFR 541) engaged in performing a Government contract nor exempted under 41 U.S.C. 356, the principal purpose of which is to furnish services in the United States as defined in section 22.1001 of the Federal Acquisition Regulation. It includes all such persons regardless of the actual or alleged contractual relationship between them and a contractor.

**Applicability.** To the extent that the Act applies, this contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (29 CFR 4). All interpretations of the Act in Subpart C of 29 CFR 4 are incorporated in this contract by reference. This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C, 29 CFR 4.

- A. **Compensation:** (i) The Contractor shall pay not less than the minimum wage and shall furnish fringe benefits to each service employee under this contract in accordance with wages and benefits determined by the Secretary of Labor or the Secretary's authorized representative, as specified in any attachments to this contract; (ii) If there is an attachment, the Contractor shall classify any class of service employees not listed in it, but to be employed under this contract. The classification shall provide a reasonable relationship to those listed in the attachment. The Contractor shall pay that class wages and fringe benefits determined by agreement of the interested parties: The contracting agency, the Contractor, and the employees who will perform the contract or their representatives. If the interested parties do not agree, the Contracting Officer shall submit the question, with a recommendation for final determination to the Office of Government Contract Wage Standards, Wage and Hour Division Employment Standards Administration (ESA), and the Department of Labor. Failure to pay such employees the compensation agreed upon by the interested parties or finally determined by ESA is a contract violation. (iii) If the term of this contract is more than one (1) year, the minimum wages and fringe benefits required for service employees under this contract shall be subject to adjustment after 1 year and not less often than once every two (2) years under wage determinations issued by ESA.
- B. **Minimum Wage.** In the absence of a minimum wage attachment for this contract, the Contractor shall not pay any service or other employees performing this contract less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206). Nothing in this clause shall relieve the Contractor of any other legal or contractual obligations to pay a higher wage to any employee.
- D. **Successor Contracts.** If this contract succeeds a contract subject to the Act under which substantially the same services were furnished and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, then, in the absence of a minimum wage attachment to this contract, the Contractor may not pay any service employee performing this contract less than the wages and benefits, including those accrued and any prospective increases, provided for under that agreement. No Contractor may be relieved of this obligation unless the limitations of 29 CFR 4.1c (b) apply or unless the Secretary of Labor or the Secretary's authorized representative - (i) Determines that the agreement under the predecessor was not the result of arms-length negotiations, or (ii) Finds, after a hearing under 29 CFR 4.10, that

the wages and benefits provided for by that agreement vary substantially from those prevailing for similar services in the locality.

- E. **Notification to Employees.** The Contractor shall notify each service employee commencing work on this contract of the minimum wage and any fringe benefits required to be paid, or shall post a notice of these wages and benefits in a prominent and accessible place at the work site, using such poster as may be provided by the Department of Labor.
- F. **Safe and sanitary working conditions.** The Contractor shall not permit services called for by this contract to be performed in building or surroundings or under working conditions provided by or under the control or supervision of the Contractor that are unsanitary, hazardous, or dangerous to the health or safety of service employees. The Contractor shall comply with the health standards applied under 29 CFR Part 1925.
- G. **Records.** The Contractor shall maintain for three (3) years from the completion of the work, and make available for inspection and transcription by authorized ESA representatives, a record of the following:
- (i) For each employee subject to the Act –
    - (a) Name and address;
    - (b) Work classification or classifications, rate or rates of wages and fringe benefits provided;
    - (c) Rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;
    - (d) Daily and weekly hours worked; and
    - (e) Any deductions, rebates, or refunds from total daily and weekly compensation.
  - (ii) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by ESA under the terms of paragraph (B)(iii) of this clause. A copy of the report required by paragraph (D) of this clause will fulfill this requirement.
- H. **Withholding of Payments and Termination of Contract:** The Contracting Officer shall withhold from the prime contractor under this or any other government contract with the prime contractor any sums the Contracting Officer, or an appropriate officer of the Labor Department, decides may be necessary to pay underpaid employees. Additionally, any failure to comply with the requirements of this clause may be grounds for termination for default.

- I. **Contractor's Report:** (i) If there is a wage determination attachment to this contract and any classes of service employees not listed on it are to be employed under the contract, the Contractor shall report promptly to the Contracting Officer the wages to be paid and the fringe benefits to be provided each of these classes, when determined under paragraph C. of this clause. (ii) If wages to be paid or fringe benefits to be furnished any service employee(s) under the contract are covered in collective bargaining agreement effective at any time when the contract is being performed, the prime Contractor shall provide to the Contracting Officer a copy of the agreement and full information on the application and accrual of wages and benefits (including any prospective increases) to service employees working on the contract. The prime Contractor shall report when contract performance begins, in the case of agreements then in effect, and shall report subsequently effective agreements, provisions, or amendments promptly after they are negotiated.
- J. **Variations, tolerances, and exemptions involving employment:** Notwithstanding any of the provisions in this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions authorized by the Secretary of Labor: (i) In accordance with regulations issued under Section 14, of the Fair Labor Standards Act of 1938 by the Administrator of the Wage and Hour Division, ESA(29 CFR 520, 521, 524 and 525), apprentices, student learners, and workers whose earning capacity is impaired by age or by physical or mental deficiency or injury, may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Service Contract Act, without diminishing any fringe benefits or payments in lieu of these benefits required under section 2(a)(2) of the Act. (ii) The Administrator will issue certificates under the Act for employing apprentices, and student learners, disabled persons, or disabled clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of minimum wages, but without changing requirements concerning fringe benefits for supplementary cash payments in lieu of these benefits; (iii) The Administrator may also withdraw, annul, or cancel such certificates under 29 CFR 525 and 528; and (iv) an employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips credited by the employer against the minimum wage required by section 2(a)(1) of the Act or section 2(b)(1) of the Act, in accordance with regulations in 29 CFR 531. However, the amount of credit shall not exceed 40 percent of the minimum rate specified in section 6(a) (1) of the Fair Labor Standards Act of 1938, as amended.

#### **I.15 RECOVERY OF DEBTS OWED THE DISTRICT**

The Contractor hereby agrees that the District may use all or any portion of any consideration or refund due the Contractor under the present contract to satisfy in whole or part, any debt due the District.

#### **I.16 NON-DISCLOSURE AGREEMENT (MARKETING MATERIALS)**

The Contractor shall at all times obtain the prior written approval from the Contracting Officer before it, any of its officers, agents, employees or subcontractors, either during or after expiration or termination of the contract, make any marketing statement, or issue any marketing



material, for publication through any medium of communication, bearing on the work performed or data collected under this contract.

**I.17 GOVERNMENT PROPERTY**

Contractor use of Government property shall be governed by Chapter 41 of Title 27 of the D.C. Municipal Regulations.

**I.18 RIGHTS IN DATA**

See Article 2, Article 7, Article 8, and Schedule 2.2.2 of the MSA (Attachment J.5).

**I.19 PATENTS**

See Article 9 of the MSA (Attachment J.5).

**I.20 RESERVED**

**I.21 APPROPRIATION OF FUNDS**

The District's liability under this contract is contingent upon the future availability of appropriated monies with which to make payment for the contract purposes. The legal liability on the part of the District for payment of any money shall not arise unless and until such monies shall have been provided. The District's obligation to pay under this contract is subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§1341, 1342, 1349, 1351; (ii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01 – 355.08 (2001); (iii) D.C. Official Code § 47-105 (2001); and (iv) D.C. Official Code § 1-204.46 (2001), as the foregoing statutes may be amended from time to time. Any expenditures under the contract in excess of the encumbered budget authority are subject to appropriation or additional budget authority.

**I.22 RESERVED**

**I.23 RESERVED**

**I.24 CONTRACTS IN EXCESS OF \$1 MILLION DOLLARS**

Any contract in excess of one million dollars (\$1,000,000) within a 12-month period shall not be binding or give rise to any claim or demand against the District unless first approved by the Council of the District of Columbia and signed by the Contracting Officer.

**I.25 CONTRACTS THAT CROSS FISCAL YEARS**

Continuation of this contract beyond the current fiscal year is contingent upon future fiscal appropriations.

**I.26 RESERVED**

**I.27 AMERICANS WITH DISABILITIES ACT OF 1990 (“ADA”)**

During the performance of the contract, the Contractor and any of its subcontractors shall comply with the ADA, if applicable.

**I.28 FREEDOM OF INFORMATION ACT (“FOIA”)**

The District of Columbia’s Freedom of Information Act, at D.C. Official Code § 2-532 (a)(3), requires the District to make available for inspection and copying any record produced or collected pursuant to a District contract with a private contractor to perform a public function, to the same extent as if the record were maintained by the agency on whose behalf the contract is made. If the Contractor receives a request for such information, the Contractor shall immediately send the request to the COTR designated in subsection G.1 who will provide the request to the FOIA Officer for the agency with programmatic responsibility in accordance with the D.C. Freedom of Information Act. If the agency with programmatic responsibility receives a request for a record maintained by the Contractor pursuant to the contract, the COTR will forward a copy to the Contractor. In either event, the Contractor is required by law to provide all responsive records to the COTR within the timeframe designated by the COTR. The FOIA Officer for the agency with programmatic responsibility will determine the releasability of the records. The District will reimburse the Contractor for the costs of searching and copying the records in accordance with D.C. Official Code § 2-532 and Chapter 4 of Title 1 of the *D.C. Municipal Regulations*.

**I.29 RESERVED****I.30 INSURANCE**

A. GENERAL REQUIREMENTS. The Contractor shall procure and maintain, during the entire period of performance under this contract, the types of insurance specified below. The Contractor shall have its insurance broker or insurance company submit a Certificate of Insurance to the CO giving evidence of the required coverage prior to commencing performance under this contract. In no event shall any work be performed until the required Certificates of Insurance signed by an authorized representative of the insurer(s) have been provided to, and accepted by, the CO. All insurance shall be written with financially responsible companies authorized to do business in the District of Columbia or in the jurisdiction where the work is to be performed and have an A.M. Best Company rating of A-VIII or higher. The Contractor shall require all of its subcontractors to carry the same insurance required herein.

All required liability policies shall include the Government of the District of Columbia as an additional insured and shall contain a waiver of subrogation.

If the Contractor and/or its subcontractors maintain broader coverage and/or higher limits than the minimums shown below, the District requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Grantee and subcontractors. Any

available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the District.

1. Commercial General Liability Insurance. The Contractor shall provide evidence satisfactory to the CO with respect to the services performed that it carries \$1,000,000 per occurrence limits; \$2,000,000 aggregate; Bodily Injury and Property Damage including, but not limited to: premises-operations; broad form property damage; Products and Completed Operations; Personal and Advertising Injury; contractual liability and independent contractors. The policy coverage shall include the District of Columbia as an additional insured under Contractor's blanket additional insured endorsement, shall be primary and non-contributory with any other insurance maintained by the District of Columbia.
2. Automobile Liability Insurance. The Contractor shall provide automobile liability insurance to cover all owned, hired or non-owned motor vehicles used in conjunction with the performance of this contract. The policy shall provide a \$1,000,000 per occurrence combined single limit for bodily injury and property damage.
3. Workers' Compensation Insurance. The Contractor shall provide Workers' Compensation insurance in accordance with the statutory mandates of the jurisdiction in which the contract is performed.
4. Employer's Liability Insurance. The Contractor shall provide employer's liability insurance as follows: \$500,000 per accident for injury; \$500,000 per employee for disease; and \$500,000 for policy disease limit.
5. Umbrella Liability (Excess Liability). Providing coverage excess of the insurance required above with limits of no less than Four Million US Dollars (\$4,000,000) per occurrence and Four Million US Dollars (\$4,000,000) in the aggregate or equivalent thereof in local currency. Clearwater may structure the insurance coverage required above in any manner that allows it to reach the total limits of the coverage as required herein.
6. Cybersecurity/Technology E&O. Providing coverage for claims for loss or damage resulting from errors or omissions made while rendering the Services required pursuant to this Agreement including, without limitation, coverage for unauthorized computer access or use, Internet liability, failure to protect privacy, virus transmission and denial of service, with limits of no less than Eight Million US Dollars (\$8,000,000) each claim and Eight Million US Dollars (\$8,000,000) in the aggregate or the equivalent in local currency.
7. Employee Dishonesty/Commercial Crime. Insurance providing coverage for employee dishonesty, loss of money and securities, computer fraud and depositor's forgery with limits of not less than One Million US Dollars (\$1,000,000) per loss, naming Client as loss payee.

- B. PRIMARY AND NONCONTRIBUTORY INSURANCE. For Commercial General Liability Insurance and Employer's Liability Insurance only, this insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:
1. The additional insured is a Named Insured under such other insurance; and
  2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.
- C. DURATION. The Contractor shall carry all required insurance until all contract work is accepted by the District of Columbia and shall carry listed coverages for two years following final acceptance of the work performed under this contract.
- D. LIABILITY. These are the required minimum insurance requirements established by the District of Columbia. **HOWEVER, THE REQUIRED MINIMUM INSURANCE REQUIREMENTS PROVIDED ABOVE WILL NOT IN ANY WAY LIMIT THE CONTRACTOR'S LIABILITY UNDER THIS CONTRACT.**
- E. CONTRACTOR'S PROPERTY. Contractor and subcontractors are solely responsible for any loss or damage to their personal property, including but not limited to tools and equipment, scaffolding and temporary structures, rented machinery, or owned and leased equipment. A waiver of subrogation shall apply in favor of the District of Columbia.
- F. MEASURE OF PAYMENT. The District shall not make any separate measure or payment for the cost of insurance and bonds. The Contractor shall include all of the costs of insurance and bonds in the contract price
- G. NOTIFICATION. The Contractor shall give the CO thirty (30) days prior written notice in the event of coverage and / or limit changes or if the policy is canceled prior to the expiration date shown on the certificate. The Contractor shall provide the CO with ten (10) days prior written notice in the event of non-payment of premium. The Contractor will also provide the CO with an updated Certificate of Insurance upon request should the insurance coverages renew during the contract.
- H. CERTIFICATES OF INSURANCE. The Contractor shall submit certificates of insurance giving evidence of the required coverage as specified in this section prior to commencing work. Evidence of insurance shall be submitted to:

**The Government of the District of Columbia**

**And mailed to the attention of:  
(See G.1.a)**

- I. DISCLOSURE OF INFORMATION. The Contractor agrees that the District may disclose the name and contact information of its insurers to any third party which presents a claim against the District for any damages or claims resulting from or arising out of work performed by the

Contractor, its agents, employees, servants or subcontractors in the performance of this contract.

**I.31 51% DISTRICT RESIDENTS NEW HIRES REQUIREMENTS AND FIRST SOURCE EMPLOYMENT AGREEMENT**

- I.31.1 For contracts for services in the amount of \$300,000 or more, the Contractor shall comply with the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code § 2-219.01 et seq. (First Source Act).
- I.31.2 The Contractor shall enter into and maintain during the term of the contract, a First Source Employment Agreement (Employment Agreement) with the District of Columbia Department of Employment Service's (DOES), in which the Contractor shall agree that:
- (a) The first source for finding employees to fill all jobs created in order to perform the contract shall be the First Source Register; and
  - (b) The first source for finding employees to fill any vacancy occurring in all jobs covered by the Employment Agreement shall be the First Source Register.
- I.31.3 The Contractor shall not begin performance of the contract until its Employment Agreement has been accepted by DOES. Once approved, the Employment Agreement shall not be amended except with the approval of DOES.
- I.31.4 The Contractor agrees that at least 51% of the new employees hired to perform the contract shall be District residents.
- I.31.5 The Contractor's hiring and reporting requirements under the First Source Act and any rules promulgated thereunder shall continue for the term of the contract.
- I.31.6 The CO may impose penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the contract, for a willful breach of the Employment Agreement, failure to submit the required hiring compliance reports, or deliberate submission of falsified data.
- I.31.7 If the Contractor does not receive a good faith waiver, the CO may also impose an additional penalty equal to 1/8 of 1% of the total amount of the direct and indirect labor costs of the contract for each percentage by which the Contractor fails to meet its hiring requirements.
- I.31.8 Any contractor which violates, more than once within a 10-year timeframe, the hiring or reporting requirements of the First Source Act shall be referred for debarment for not more than five (5) years.
- I.31.9 The contractor may appeal any decision of the CO pursuant to this clause to the D.C. Contract Appeals Board as provided in Section I.7.
- I.31.10 The provisions of the First Source Act do not apply to nonprofit organizations which employ 50 employees or less.

**I.32 COVENANT AGAINST CONTINGENT FEES**

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the District will have the right to terminate the contract without liability or in its discretion to deduct from the contract price or consideration or otherwise recover, the full amount of the commission, percentage, brokerage, or contingent fee.

**I.33 HEALTH AND SAFETY STANDARDS**

Items delivered under this contract shall conform to all applicable requirements of the Occupational Safety and Health Act of 1970, as amended (“OSHA”), and Department of Labor Regulations under OSHA, and all Federal requirements in effect at time of bid opening/proposal submission.

**I.34 FORCE MAJEURE**

Neither the Contractor nor the District shall be deemed in default or otherwise liable hereunder due to either party’s inability to perform by reason of any fire, earthquake, flood, epidemic, accident, explosion, casualty, strike, lockout, labor controversy, riot, civil disturbance, act of public enemy, embargo, war, act of God, or any municipal, county, state or national ordinance or law, or any executive, administrative or judicial orders (which judicial orders are not the result of any act or omission to act which would constitute a default hereunder), or any failure or delay of any transportation, power or other essential thing required, or similar causes beyond the parties control.

**I.35 GOVERNING LAW**

This contract shall be governed by, and construed in accordance with, the laws of the District of Columbia, including, but not limited to, the District of Columbia Procurement Practices Reform Act of 2010, (D.C. Law 18-371; D.C. Official Code §§ 2-351.01, et seq. and D.C. MUN. REGS. tit. 27.

**I.36 ORDER OF PRECEDENCE**

A conflict in language shall be resolved by giving precedence to the document in the highest order of priority that contains language addressing the issue in question. The following documents are incorporated into the contract by reference and made a part of the contract in the following order of precedence:

- (1) Contract CFPD-20-C-002
- (2) Order Form, Attachment J.4
- (3) Master Services Agreement, Attachment J.5
- (4) Contract Attachments J.1 through J.3

*[End of Section I]*

**SECTION J**  
**ATTACHMENTS**

The following Attachments are hereby incorporated:

- J.1 U.S. Department of Labor Wage Determination No. 2015-4281, Revision 15, Dated 12/23/2019
- J.2 Doing Business with Integrity
- J.3 Bidder/Offeror Form
- J.4 Order Form
- J.5 Master Services Agreement

*[End of Section J]*

"REGISTER OF WAGE DETERMINATIONS UNDER  
THE SERVICE CONTRACT ACT  
By direction of the Secretary of Labor

U.S. DEPARTMENT OF LABOR  
EMPLOYMENT STANDARDS ADMINISTRATION  
WAGE AND HOUR DIVISION  
WASHINGTON D.C. 20210

Daniel W. Simms                      Division of  
Director                                  Wage Determinations

Wage Determination No.: 2015-4281  
Revision No.: 15  
Date Of Last Revision: 12/23/2019

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Note: Under Executive Order (EO) 13658 an hourly minimum

wage of \$10.80 for calendar year 2020 applies to all contracts subject to the Service Contract Act for which the contract is awarded (and any solicitation was issued) on or after January 1 2015. If this contract is covered by the EO the contractor must pay all workers in any classification listed on this wage determination at least \$10.80 per hour (or the applicable wage rate listed on this wage determination if it is higher) for all hours spent performing on the contract in calendar year 2020. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

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States: District of Columbia Maryland Virginia

Area: District of Columbia Statewide

Maryland Counties of Calvert Charles Prince George's

Virginia Counties of Alexandria Arlington Fairfax Falls Church Fauquier Loudoun Manassas Manassas Park Prince William Stafford

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**\*\*Fringe Benefits Required Follow the Occupational Listing\*\***

OCCUPATION CODE - TITLE	FOOTNOTE	RATE
01000 - Administrative Support And Clerical Occupations		
01011 - Accounting Clerk I		18.95
01012 - Accounting Clerk II		21.28
01013 - Accounting Clerk III		23.81
01020 - Administrative Assistant		34.06
01035 - Court Reporter		24.02
01041 - Customer Service Representative I		14.94
01042 - Customer Service Representative II		16.81



01043 - Customer Service Representative III	18.33
01051 - Data Entry Operator I	16.64
01052 - Data Entry Operator II	18.16
01060 - Dispatcher Motor Vehicle	19.84
01070 - Document Preparation Clerk	17.75
01090 - Duplicating Machine Operator	17.75
01111 - General Clerk I	14.88
01112 - General Clerk II	16.24
01113 - General Clerk III	18.74
01120 - Housing Referral Assistant	25.29
01141 - Messenger Courier	16.71
01191 - Order Clerk I	15.29
01192 - Order Clerk II	16.68
01261 - Personnel Assistant (Employment) I	18.87
01262 - Personnel Assistant (Employment) II	21.11
01263 - Personnel Assistant (Employment) III	23.52
01270 - Production Control Clerk	25.59
01290 - Rental Clerk	16.55
01300 - Scheduler Maintenance	18.07
01311 - Secretary I	18.07
01312 - Secretary II	20.18
01313 - Secretary III	25.29
01320 - Service Order Dispatcher	17.73
01410 - Supply Technician	34.06
01420 - Survey Worker	20.03
01460 - Switchboard Operator/Receptionist	15.56
01531 - Travel Clerk I	16.28
01532 - Travel Clerk II	17.50
01533 - Travel Clerk III	18.79
01611 - Word Processor I	17.16
01612 - Word Processor II	19.27
01613 - Word Processor III	21.56
05000 - Automotive Service Occupations	
05005 - Automobile Body Repairer Fiberglass	28.60
05010 - Automotive Electrician	23.78
05040 - Automotive Glass Installer	22.39
05070 - Automotive Worker	22.39
05110 - Mobile Equipment Servicer	19.26
05130 - Motor Equipment Metal Mechanic	25.04
05160 - Motor Equipment Metal Worker	22.39
05190 - Motor Vehicle Mechanic	25.04
05220 - Motor Vehicle Mechanic Helper	18.49
05250 - Motor Vehicle Upholstery Worker	21.63
05280 - Motor Vehicle Wrecker	22.39
05310 - Painter Automotive	23.78
05340 - Radiator Repair Specialist	22.39
05370 - Tire Repairer	14.44
05400 - Transmission Repair Specialist	25.04
07000 - Food Preparation And Service Occupations	
07010 - Baker	14.14

07041 - Cook I	15.92
07042 - Cook II	18.51
07070 - Dishwasher	12.39
07130 - Food Service Worker	11.88
07210 - Meat Cutter	20.41
07260 - Waiter/Waitress	11.34
09000 - Furniture Maintenance And Repair Occupations	
09010 - Electrostatic Spray Painter	19.86
09040 - Furniture Handler	14.06
09080 - Furniture Refinisher	20.23
09090 - Furniture Refinisher Helper	15.52
09110 - Furniture Repairer Minor	17.94
09130 - Upholsterer	19.86
11000 - General Services And Support Occupations	
11030 - Cleaner Vehicles	11.64
11060 - Elevator Operator	13.50
11090 - Gardener	19.77
11122 - Housekeeping Aide	13.50
11150 - Janitor	13.50
11210 - Laborer Grounds Maintenance	14.75
11240 - Maid or Houseman	13.12
11260 - Pruner	13.08
11270 - Tractor Operator	18.08
11330 - Trail Maintenance Worker	14.75
11360 - Window Cleaner	15.22
12000 - Health Occupations	
12010 - Ambulance Driver	23.71
12011 - Breath Alcohol Technician	23.49
12012 - Certified Occupational Therapist Assistant	33.40
12015 - Certified Physical Therapist Assistant	27.29
12020 - Dental Assistant	22.82
12025 - Dental Hygienist	45.97
12030 - EKG Technician	33.48
12035 - Electroneurodiagnostic Technologist	33.48
12040 - Emergency Medical Technician	23.71
12071 - Licensed Practical Nurse I	19.82
12072 - Licensed Practical Nurse II	22.17
12073 - Licensed Practical Nurse III	24.71
12100 - Medical Assistant	17.99
12130 - Medical Laboratory Technician	22.97
12160 - Medical Record Clerk	18.96
12190 - Medical Record Technician	21.21
12195 - Medical Transcriptionist	20.67
12210 - Nuclear Medicine Technologist	40.09
12221 - Nursing Assistant I	11.91
12222 - Nursing Assistant II	13.39
12223 - Nursing Assistant III	14.61
12224 - Nursing Assistant IV	16.41
12235 - Optical Dispenser	23.25
12236 - Optical Technician	19.12

12250 - Pharmacy Technician	18.12
12280 - Phlebotomist	19.00
12305 - Radiologic Technologist	34.88
12311 - Registered Nurse I	27.64
12312 - Registered Nurse II	33.44
12313 - Registered Nurse II Specialist	33.44
12314 - Registered Nurse III	40.13
12315 - Registered Nurse III Anesthetist	40.13
12316 - Registered Nurse IV	48.10
12317 - Scheduler (Drug and Alcohol Testing)	28.97
12320 - Substance Abuse Treatment Counselor	27.04
13000 - Information And Arts Occupations	
13011 - Exhibits Specialist I	22.07
13012 - Exhibits Specialist II	27.35
13013 - Exhibits Specialist III	33.44
13041 - Illustrator I	20.48
13042 - Illustrator II	25.38
13043 - Illustrator III	31.03
13047 - Librarian	38.84
13050 - Library Aide/Clerk	17.04
13054 - Library Information Technology Systems Administrator	35.07
13058 - Library Technician	20.89
13061 - Media Specialist I	25.31
13062 - Media Specialist II	28.32
13063 - Media Specialist III	31.55
13071 - Photographer I	18.32
13072 - Photographer II	20.79
13073 - Photographer III	26.04
13074 - Photographer IV	31.52
13075 - Photographer V	37.14
13090 - Technical Order Library Clerk	21.40
13110 - Video Teleconference Technician	27.27
14000 - Information Technology Occupations	
14041 - Computer Operator I	18.92
14042 - Computer Operator II	21.18
14043 - Computer Operator III	23.60
14044 - Computer Operator IV	26.22
14045 - Computer Operator V	29.05
14071 - Computer Programmer I	(see 1)
14072 - Computer Programmer II	(see 1)
14073 - Computer Programmer III	(see 1)
14074 - Computer Programmer IV	(see 1)
14101 - Computer Systems Analyst I	(see 1)
14102 - Computer Systems Analyst II	(see 1)
14103 - Computer Systems Analyst III	(see 1)
14150 - Peripheral Equipment Operator	18.92
14160 - Personal Computer Support Technician	26.22
14170 - System Support Specialist	38.69
15000 - Instructional Occupations	

15010 - Aircrew Training Devices Instructor (Non-Rated)	36.47
15020 - Aircrew Training Devices Instructor (Rated)	44.06
15030 - Air Crew Training Devices Instructor (Pilot)	52.81
15050 - Computer Based Training Specialist / Instructor	36.47
15060 - Educational Technologist	39.20
15070 - Flight Instructor (Pilot)	52.81
15080 - Graphic Artist	32.93
15085 - Maintenance Test Pilot Fixed Jet/Prop	49.06
15086 - Maintenance Test Pilot Rotary Wing	49.06
15088 - Non-Maintenance Test/Co-Pilot	49.06
15090 - Technical Instructor	29.67
15095 - Technical Instructor/Course Developer	36.30
15110 - Test Proctor	23.96
15120 - Tutor	23.96
16000 - Laundry Dry-Cleaning Pressing And Related Occupations	
16010 - Assembler	13.81
16030 - Counter Attendant	13.81
16040 - Dry Cleaner	16.94
16070 - Finisher Flatwork Machine	13.81
16090 - Presser Hand	13.81
16110 - Presser Machine Drycleaning	13.81
16130 - Presser Machine Shirts	13.81
16160 - Presser Machine Wearing Apparel Laundry	13.81
16190 - Sewing Machine Operator	17.81
16220 - Tailor	18.68
16250 - Washer Machine	15.14
19000 - Machine Tool Operation And Repair Occupations	
19010 - Machine-Tool Operator (Tool Room)	27.18
19040 - Tool And Die Maker	31.49
21000 - Materials Handling And Packing Occupations	
21020 - Forklift Operator	20.25
21030 - Material Coordinator	25.59
21040 - Material Expediter	25.59
21050 - Material Handling Laborer	13.83
21071 - Order Filler	15.09
21080 - Production Line Worker (Food Processing)	20.25
21110 - Shipping Packer	18.13
21130 - Shipping/Receiving Clerk	18.13
21140 - Store Worker I	14.12
21150 - Stock Clerk	18.82
21210 - Tools And Parts Attendant	20.25
21410 - Warehouse Specialist	20.25
23000 - Mechanics And Maintenance And Repair Occupations	
23010 - Aerospace Structural Welder	38.52
23019 - Aircraft Logs and Records Technician	28.93
23021 - Aircraft Mechanic I	36.58
23022 - Aircraft Mechanic II	38.52
23023 - Aircraft Mechanic III	40.41
23040 - Aircraft Mechanic Helper	25.67
23050 - Aircraft Painter	34.74

23060 - Aircraft Servicer	28.93
23070 - Aircraft Survival Flight Equipment Technician	34.74
23080 - Aircraft Worker	30.76
23091 - Aircrew Life Support Equipment (ALSE) Mechanic I	30.76
23092 - Aircrew Life Support Equipment (ALSE) Mechanic II	36.58
23110 - Appliance Mechanic	21.75
23120 - Bicycle Repairer	14.92
23125 - Cable Splicer	34.63
23130 - Carpenter Maintenance	22.89
23140 - Carpet Layer	20.49
23160 - Electrician Maintenance	28.88
23181 - Electronics Technician Maintenance I	30.70
23182 - Electronics Technician Maintenance II	32.60
23183 - Electronics Technician Maintenance III	34.33
23260 - Fabric Worker	23.31
23290 - Fire Alarm System Mechanic	25.71
23310 - Fire Extinguisher Repairer	21.47
23311 - Fuel Distribution System Mechanic	32.57
23312 - Fuel Distribution System Operator	25.56
23370 - General Maintenance Worker	22.30
23380 - Ground Support Equipment Mechanic	36.58
23381 - Ground Support Equipment Servicer	28.93
23382 - Ground Support Equipment Worker	30.76
23391 - Gunsmith I	21.47
23392 - Gunsmith II	24.96
23393 - Gunsmith III	27.91
23410 - Heating Ventilation And Air-Conditioning Mechanic	28.90
23411 - Heating Ventilation And Air Contidioning Mechanic (Research Facility)	30.44
23430 - Heavy Equipment Mechanic	28.32
23440 - Heavy Equipment Operator	23.39
23460 - Instrument Mechanic	30.07
23465 - Laboratory/Shelter Mechanic	26.51
23470 - Laborer	14.98
23510 - Locksmith	28.14
23530 - Machinery Maintenance Mechanic	28.87
23550 - Machinist Maintenance	26.10
23580 - Maintenance Trades Helper	18.27
23591 - Metrology Technician I	30.07
23592 - Metrology Technician II	31.67
23593 - Metrology Technician III	33.22
23640 - Millwright	28.19
23710 - Office Appliance Repairer	22.96
23760 - Painter Maintenance	21.75
23790 - Pipefitter Maintenance	28.47
23810 - Plumber Maintenance	27.04
23820 - Pneudraulic Systems Mechanic	27.91

23850 - Rigger	28.23
23870 - Scale Mechanic	24.96
23890 - Sheet-Metal Worker Maintenance	26.09
23910 - Small Engine Mechanic	20.49
23931 - Telecommunications Mechanic I	31.34
23932 - Telecommunications Mechanic II	33.00
23950 - Telephone Lineman	33.81
23960 - Welder Combination Maintenance	24.34
23965 - Well Driller	22.91
23970 - Woodcraft Worker	27.91
23980 - Woodworker	21.47
24000 - Personal Needs Occupations	
24550 - Case Manager	20.05
24570 - Child Care Attendant	13.72
24580 - Child Care Center Clerk	17.77
24610 - Chore Aide	12.99
24620 - Family Readiness And Support Services Coordinator	20.05
24630 - Homemaker	20.05
25000 - Plant And System Operations Occupations	
25010 - Boiler Tender	33.55
25040 - Sewage Plant Operator	25.77
25070 - Stationary Engineer	33.55
25190 - Ventilation Equipment Tender	23.62
25210 - Water Treatment Plant Operator	25.77
27000 - Protective Service Occupations	
27004 - Alarm Monitor	23.83
27007 - Baggage Inspector	17.28
27008 - Corrections Officer	26.85
27010 - Court Security Officer	28.44
27030 - Detection Dog Handler	20.57
27040 - Detention Officer	26.85
27070 - Firefighter	30.03
27101 - Guard I	17.28
27102 - Guard II	20.57
27131 - Police Officer I	30.76
27132 - Police Officer II	34.19
28000 - Recreation Occupations	
28041 - Carnival Equipment Operator	13.62
28042 - Carnival Equipment Repairer	14.88
28043 - Carnival Worker	9.85
28210 - Gate Attendant/Gate Tender	15.74
28310 - Lifeguard	11.59
28350 - Park Attendant (Aide)	17.62
28510 - Recreation Aide/Health Facility Attendant	12.85
28515 - Recreation Specialist	21.82
28630 - Sports Official	14.03
28690 - Swimming Pool Operator	18.21
29000 - Stevedoring/Longshoremen Occupational Services	
29010 - Blocker And Bracer	33.39

29020 - Hatch Tender	33.39
29030 - Line Handler	33.39
29041 - Stevedore I	31.17
29042 - Stevedore II	35.46
30000 - Technical Occupations	
30010 - Air Traffic Control Specialist Center (HFO) (see 2)	43.35
30011 - Air Traffic Control Specialist Station (HFO) (see 2)	29.89
30012 - Air Traffic Control Specialist Terminal (HFO) (see 2)	32.93
30021 - Archeological Technician I	20.19
30022 - Archeological Technician II	22.60
30023 - Archeological Technician III	27.98
30030 - Cartographic Technician	27.98
30040 - Civil Engineering Technician	27.17
30051 - Cryogenic Technician I	29.70
30052 - Cryogenic Technician II	32.81
30061 - Drafter/CAD Operator I	20.19
30062 - Drafter/CAD Operator II	22.60
30063 - Drafter/CAD Operator III	25.19
30064 - Drafter/CAD Operator IV	31.00
30081 - Engineering Technician I	22.92
30082 - Engineering Technician II	25.72
30083 - Engineering Technician III	28.79
30084 - Engineering Technician IV	35.64
30085 - Engineering Technician V	43.61
30086 - Engineering Technician VI	52.76
30090 - Environmental Technician	27.93
30095 - Evidence Control Specialist	26.82
30210 - Laboratory Technician	25.68
30221 - Latent Fingerprint Technician I	34.60
30222 - Latent Fingerprint Technician II	38.22
30240 - Mathematical Technician	28.94
30361 - Paralegal/Legal Assistant I	21.36
30362 - Paralegal/Legal Assistant II	26.47
30363 - Paralegal/Legal Assistant III	32.36
30364 - Paralegal/Legal Assistant IV	39.16
30375 - Petroleum Supply Specialist	32.81
30390 - Photo-Optics Technician	27.98
30395 - Radiation Control Technician	32.81
30461 - Technical Writer I	27.08
30462 - Technical Writer II	33.13
30463 - Technical Writer III	40.08
30491 - Unexploded Ordnance (UXO) Technician I	27.56
30492 - Unexploded Ordnance (UXO) Technician II	33.34
30493 - Unexploded Ordnance (UXO) Technician III	39.96
30494 - Unexploded (UXO) Safety Escort	27.56
30495 - Unexploded (UXO) Sweep Personnel	27.56
30501 - Weather Forecaster I	29.70
30502 - Weather Forecaster II	36.13
30620 - Weather Observer Combined Upper Air Or Surface Programs	(see 2) 25.19

30621 - Weather Observer Senior	(see 2)	27.98
31000 - Transportation/Mobile Equipment Operation Occupations		
31010 - Airplane Pilot		33.34
31020 - Bus Aide		14.32
31030 - Bus Driver		20.85
31043 - Driver Courier		15.66
31260 - Parking and Lot Attendant		12.79
31290 - Shuttle Bus Driver		17.12
31310 - Taxi Driver		14.64
31361 - Truckdriver Light		17.12
31362 - Truckdriver Medium		18.58
31363 - Truckdriver Heavy		21.87
31364 - Truckdriver Tractor-Trailer		21.87
99000 - Miscellaneous Occupations		
99020 - Cabin Safety Specialist		16.26
99030 - Cashier		11.43
99050 - Desk Clerk		13.77
99095 - Embalmer		33.76
99130 - Flight Follower		27.56
99251 - Laboratory Animal Caretaker I		13.24
99252 - Laboratory Animal Caretaker II		14.47
99260 - Marketing Analyst		35.01
99310 - Mortician		34.10
99410 - Pest Controller		20.07
99510 - Photofinishing Worker		14.85
99710 - Recycling Laborer		21.84
99711 - Recycling Specialist		26.77
99730 - Refuse Collector		19.37
99810 - Sales Clerk		12.20
99820 - School Crossing Guard		16.38
99830 - Survey Party Chief		27.60
99831 - Surveying Aide		17.15
99832 - Surveying Technician		26.22
99840 - Vending Machine Attendant		15.48
99841 - Vending Machine Repairer		19.67
99842 - Vending Machine Repairer Helper		15.48

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Note: Executive Order (EO) 13706 Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Service Contract Act for which the contract is awarded (and any solicitation was issued) on or after January 1 2017. If this contract is covered by the EO the contractor must provide employees



with 1 hour of paid sick leave for every 30 hours they work up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness injury or other health-related needs including preventive care; to assist a family member (or person who is like family to the employee) who is ill injured or has other health-related needs including preventive care; or for reasons resulting from or to assist a family member (or person who is like family to the employee) who is the victim of domestic violence sexual assault or stalking. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$4.54 per hour up to 40 hours per week or \$181.60 per week or \$786.93 per month

HEALTH & WELFARE EO 13706: \$4.22 per hour up to 40 hours per week or \$168.80 per week or \$731.47 per month\*

\*This rate is to be used only when compensating employees for performance on an SCA-covered contract also covered by EO 13706 Establishing Paid Sick Leave for Federal Contractors. A contractor may not receive credit toward its SCA obligations for any paid sick leave provided pursuant to EO 13706.

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor 3 weeks after 5 years and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor wherever employed and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of ten paid holidays per year: New Year's Day Martin Luther King Jr.'s Birthday Washington's Birthday Memorial Day Independence Day Labor Day Columbus Day Veterans' Day Thanksgiving Day and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4.174)

THE OCCUPATIONS WHICH HAVE NUMBERED FOOTNOTES IN PARENTHESES RECEIVE THE FOLLOWING:

1) COMPUTER EMPLOYEES: Under the SCA at section 8(b) this wage determination does not apply to any employee who individually qualifies as a bona fide executive administrative or professional employee as defined in 29 C.F.R. Part 541. Because most Computer System Analysts and Computer Programmers who are compensated at a rate

not less than \$27.63 (or on a salary or fee basis at a rate not less than \$455 per week) an hour would likely qualify as exempt computer professionals (29 C.F.R. 541.400) wage rates may not be listed on this wage determination for all occupations within those job families. In addition because this wage determination may not list a wage rate for some or all occupations within those job families if the survey

data indicates that the prevailing wage rate for the occupation equals or exceeds \$27.63 per hour conformances may be necessary for certain nonexempt employees. For example if an individual employee is nonexempt but nevertheless performs duties within the scope of one of the Computer Systems Analyst or Computer Programmer occupations for which this wage determination does not specify an SCA wage rate then the wage rate for that employee must be conformed in accordance with the conformance procedures described in the conformance note included on this wage determination.

Additionally because job titles vary widely and change quickly in the computer industry job titles are not determinative of the application of the computer professional exemption. Therefore the exemption applies only to computer employees who satisfy the compensation requirements and whose primary duty consists of:

(1) The application of systems analysis techniques and procedures including consulting with users to determine hardware software or system functional specifications;

(2) The design development documentation analysis creation testing or modification of computer systems or programs including prototypes based on and related to user or system design specifications;

(3) The design documentation testing creation or modification of computer programs related to machine operating systems; or

(4) A combination of the aforementioned duties the performance of which requires the same level of skills. (29 C.F.R. 541.400).

2) AIR TRAFFIC CONTROLLERS AND WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am.

If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime

(i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

**\*\* HAZARDOUS PAY DIFFERENTIAL \*\***

An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordnance explosives and incendiary materials. This includes work such as screening blending dying mixing and pressing of sensitive ordnance explosives and pyrotechnic compositions such as lead azide black powder and photoflash powder. All dry-house activities involving propellants or explosives. Demilitarization modification renovation demolition and maintenance operations on sensitive ordnance explosives and incendiary materials. All operations involving re-grading and cleaning of artillery ranges.

A 4 percent differential is applicable to employees employed in a position that represents a low degree of hazard when working with or in close proximity to ordnance (or employees possibly adjacent to) explosives and incendiary materials which involves potential injury such as laceration of hands face or arms of the employee engaged in the operation irritation of the skin minor burns and the like; minimal damage to immediate or adjacent work area or equipment being used. All operations involving unloading storage and hauling of ordnance explosive and incendiary ordnance material other than small arms ammunition. These differentials are only applicable to work that has been specifically designated by the agency for ordnance explosives and incendiary material differential pay.

**\*\* UNIFORM ALLOWANCE \*\***

If employees are required to wear uniforms in the performance of this contract

(either by the terms of the Government contract by the employer by the state or local law etc.) the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition where uniform cleaning and maintenance is made the responsibility of the employee all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount or the furnishing of contrary affirmative proof as to the actual cost) reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However in those instances where the uniforms furnished are made of "wash and wear" materials may be routinely washed and dried with other personal garments and do not require any special treatment such as dry cleaning daily washing or commercial laundering in order to meet the cleanliness or appearance standards set by the terms

of the Government contract by the contractor by law or by the nature of the work there is no requirement that employees be reimbursed for uniform maintenance costs.

\*\* SERVICE CONTRACT ACT DIRECTORY OF OCCUPATIONS \*\*

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations" Fifth Edition (Revision 1) dated September 2015 unless otherwise indicated.

\*\* REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE Standard Form 1444 (SF-1444) \*\*

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e. the work to be performed is not performed by any classification listed in the wage determination) be classified by the contractor so as to provide a reasonable

relationship (i.e. appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination (See 29 CFR 4.6(b)(2)(i)). Such conforming procedures shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees (See 29 CFR 4.6(b)(2)(ii)). The Wage and Hour Division shall make a final determination of conformed classification wage rate and/or fringe benefits which shall be paid to all employees performing in the classification from the first day of work on which contract work is performed by them in the classification. Failure to pay such unlisted employees the compensation agreed upon by the interested parties and/or fully determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract. (See 29 CFR 4.6(b)(2)(v)). When multiple wage determinations are included in a contract a separate SF-1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

- 1) When preparing the bid the contractor identifies the need for a conformed occupation(s) and computes a proposed rate(s).
  
- 2) After contract award the contractor prepares a written report listing in order the proposed classification title(s) a Federal grade equivalency (FGE) for each proposed classification(s) job description(s) and rationale for proposed wage rate(s) including information regarding the agreement or disagreement of the authorized representative of the employees involved or where there is no authorized representative the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.
  
- 3) The contracting officer reviews the proposed action and promptly submits a report of the action together with the agency's recommendations and pertinent information including the position of the contractor and the employees to the U.S. Department of Labor Wage and Hour Division for review (See 29 CFR 4.6(b)(2)(ii)).
  
- 4) Within 30 days of receipt the Wage and Hour Division approves modifies or

disapproves the action via transmittal to the agency contracting officer or notifies the contracting officer that additional time will be required to process the request.

5) The contracting officer transmits the Wage and Hour Division's decision to the contractor.

6) Each affected employee shall be furnished by the contractor with a written copy of such determination or it shall be posted as a part of the wage determination (See 29 CFR 4.6(b)(2)(iii)).

Information required by the Regulations must be submitted on SF-1444 or bond paper.

When preparing a conformance request the "Service Contract Act Directory of Occupations" should be used to compare job definitions to ensure that duties requested are not performed by a classification already listed in the wage determination. Remember it is not the job title but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split combine or subdivide classifications listed in the wage determination (See 29 CFR 4.152(c)(1))."



**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE CHIEF FINANCIAL OFFICER**

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**DOING BUSINESS WITH INTEGRITY**

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***Introduction***

You are receiving this because you are a contractor or a vendor who does repeated business with the Office of the Chief Financial Officer (OCFO), Government of the District of Columbia, or you are an organization or individual outside the OCFO with whom we frequently interact.

Our purpose is to advise you of the high expectation of integrity that we strive to bring to bear in all of our business relationships.

***Environment of Trust***

The Office of the Chief Financial Officer is committed to maintaining working relationships that are founded on fair and honest exchanges in all of our business interactions. Our employees are held to high standards of ethical behavior in the conduct of their official business.

We want to share these expectations of ethical business practices with you to ensure that our business relationships are conducted with the highest level of honesty and integrity.

***OCFO Code of Conduct for Employees***

The OCFO Code of Conduct imparts three fundamental values for employees:

- Employees should conduct themselves in such a manner as to maintain and enhance the integrity and professional reputation of the OCFO organization
- Employees should not use their position to secure unwarranted privileges, awards, or exemptions for themselves or others
- Employees should avoid real or perceived conflicts of interest between the employee's private interest and the employee's official duties.

For your reference, the OCFO Code of Conduct can be accessed electronically at [www.cfo.dc.gov](http://www.cfo.dc.gov). Go to Information, click on Integrity and Oversight, then click on Integrity Documents to reach the Code of Conduct.

### ***Confidentiality of Financial and Other Information***

We expect our employees to maintain absolute confidentiality concerning all information that they obtain, observe, or create relating to the financial affairs of those we do business with. We vigorously investigate any compromise of confidentiality by employees or any attempts to improperly obtain such information by private parties or businesses.

### ***Bribery and Conflict of Interest***

In addition to our standards of conduct, there are certain criminal statutes in the federal criminal code relating to bribery and conflict of interest that apply not only to employees of the federal government, but also to employees of the District of Columbia.

- The offer of anything of value in expectation of specific performance by a government employee is a crime, and even the appearance of such activity should be avoided.
- Employees may not accept anything of value (other than their government salaries) for the performance of their duties. This is outlined below under Gratuities and Other Gift Rules.
- Our employees are required to report all offers of bribes and gratuities to us, and we ensure that these matters are investigated and addressed. Likewise, we encourage anyone who believes they may have been solicited for a bribe or gratuity by an OCFO employee to report the matter immediately, as indicated at the end of this document.
- We also expect our employees to avoid conflicts of interest or the appearance of conflicts of interest. A particularly sensitive issue for government employees is the offer of employment with a company doing business with the OCFO. At any point when a government employee is considering employment with a private company that has a business relationship with the government, that employee must discontinue work on any assignment involving that company or face the very real possibility of violating conflict of interest statutes. This could also jeopardize the company's eligibility to be awarded government contracts.
- Employees are also expressly forbidden from performing official duties in situations involving friends, relatives or persons or businesses with whom they, or their family members, have a financial relationship. At any point where such a relationship is discovered or develops, the employee must discontinue their involvement in the official matter. For the employee and the business entity to continue to conduct official business after such a conflict is evident, would be inappropriate and possibly illegal.



### ***Gratuities***

It is always gratifying to hear that our staff has provided exemplary service to those with whom we do business. Sometimes, however, the expression of appreciation is made in a form that is inappropriate for government employees to accept.

OCFO employees are prohibited by law from accepting money or other things of value as an appreciation for a job well done. Sometimes even the mere offer of something of value may violate bribery and gratuity statutes. A more appropriate expression of gratitude for the service rendered is a letter to the employee's supervisor. If you don't know who that is, you may simply send your letter to the Office of the Chief Financial Officer, and it will be routed to the proper official.

### ***Other Gift Rules***

Gifts of food and/or beverages, even during holiday seasons and other celebratory occasions, are not acceptable if the giver has a business relationship of any kind with the D.C. Government. Such offers, while well-intentioned, tend to give the impression of a special relationship between the giver and the government employee.

This rule does not apply to the offer and acceptance of an insignificant item, such as a soft drink, coffee, donuts and other modest items of food and refreshments when not offered as part of a meal. Additional information on gift rules and exceptions is contained in OCFO Code of Conduct, which can be accessed electronically at [www.cfo.dc.gov](http://www.cfo.dc.gov). Go to Information, click on Integrity and Oversight, then click on Integrity Documents to reach the Code of Conduct.

### ***Compliance with Contracting Rules and Regulations***

Ensuring compliance with the provisions of contracts is an important expectation of government employees. Even so, we have seen examples where the rules were not followed, usually based on the "need to get the job done." Such behavior puts both the government employee and the contractor in jeopardy.

If modifications to existing contracts are necessary, they should be formally pursued in accordance with OCFO contracting rules and regulations. No work outside the specifications of a contract should be performed without an approved contract modification. Performing work outside of contract specifications or beyond authorized funding, could result in a default for the contractor and denial of payment for such work. In the more extreme cases, failure to comply with contracting regulations could be considered fraud and may be investigated as a criminal violation.

### ***Reporting Misconduct, Fraud, Waste and Abuse***

The OCFO has a zero tolerance policy for fraud and misconduct involving its employees and programs. Similarly, we do not tolerate attempts to corrupt our employees.

The Office of Integrity and Oversight is an independent entity of the OCFO with responsibility for protecting the integrity of the OCFO and preventing fraud and other misconduct in OCFO programs. OIO conducts investigations of alleged employee misconduct and works closely with federal and District law enforcement agencies in investigating criminal offenses affecting the integrity of the OCFO.

We all want the government's business to be conducted fairly, impartially, and with the highest degree of integrity. The best way to ensure this is to report any indication that illegal acts or administrative misconduct may have occurred. Here is how you can report such matters, by telephone, in person, mail, or electronically:

**OCFO Office of Integrity and Oversight**

1100 4<sup>th</sup> Street, S.W.; Suite 750-E  
Washington, DC 20024  
(202) 442-6433

In addition to receiving your report, investigators are available to discuss any questions or concerns you may have about the matter. Reporting can also be done electronically at the OCFO website: [www.cfo.dc.gov](http://www.cfo.dc.gov). Under Information, click on the Integrity and Oversight link, and then click on Reporting Incidents and Concerns.

**OCFO Confidential Hotline**

In order to address any concern about reporting anonymously, the OCFO has contracted with an independent, third-party organization that provides a confidential hotline service. This hotline is available for reporting allegations of OCFO employee misconduct, and fraud, waste and abuse involving OCFO programs.

Reports can be made by telephone to this toll-free hotline, which is staffed 24 hours a day, at 1-877-252-8805, or it can be accessed at [www.ocfo.ethicspoint.com](http://www.ocfo.ethicspoint.com).

**District of Columbia Office of the Inspector General**

Reports of fraud, waste and abuse may be reported to the Office of the Inspector General by telephone at 1-800-521-1639, or electronically at [www.oig.dc.gov](http://www.oig.dc.gov).

### BIDDER/OFFEROR CERTIFICATION FORM

COMPLETION			
The person(s) completing this form must be knowledgeable about the bidder's/offeror's business and operations.			
RESPONSES			
Every question must be answered. Each response must provide all relevant information that can be obtained within the limits of the law. Individuals and sole proprietors may use a Social Security number but are encouraged to obtain and use a federal Employer Identification Number (EIN). Provide any explanation at the end of the section or attach additional sheets with numbered responses. Include the bidder's/offeror's name at the top of each attached page.			
GENERAL INSTRUCTIONS			
This form contains four (4) sections. Section I concerns the bidder's/offeror's responsibility; Section II includes additional required certifications; Section III relates to the Buy American Act (if applicable); and Section IV requires the bidder's/offeror's signature.			
SECTION I. BIDDER/OFFEROR RESPONSIBILITY CERTIFICATION			
<i>Instructions for Section I: Section I contains eight (8) parts. Part 1 requests information concerning the bidder's/offeror's business entity. Part 2 inquires about current or former owners, partners, directors, officers or principals. Part 3 relates to the responsibility of the bidder's/offeror's business. Part 4 concerns the bidder's/offeror's business certificates and licenses. Part 5 inquires about legal proceedings. Part 6 relates to the bidder's/offeror's financial and organizational status. Part 7 requires the bidder/offeror to agree to update the information provided. Part 8 relates to disclosures under the District of Columbia Freedom of Information Act (FOIA).</i>			
PART 1: BIDDER/OFFEROR INFORMATION			
Legal Business Entity Name: <b>Clearwater Analytics, LLC</b>		Solicitation #: <b>CFOPD-20-R-002</b>	
Address of the Principal Place of Business (street, city, state, zip code) <b>777 W. Main St., Suite 900</b>		Telephone # and ext.: <b>208-918-2400</b>	Fax #:
Email Address: <b>legal@clearwateranalytics.com</b>		Website: <b>clearwateranalytics.com</b>	
Additional Legal Business Entity Identities: If applicable, list any other DBA, Trade Name, Former Name, Other Identity and EIN used in the last five (5) years and the status (active or inactive).			
Type:	Name:	EIN:	Status:
1.1 Business Type (Please check the appropriate box and provide additional information if necessary.):			
<input type="checkbox"/> Corporation (including PC)		Date of Incorporation:	
<input type="checkbox"/> Joint Venture		Date of Organization:	
<input checked="" type="checkbox"/> Limited Liability Company (LLC or PLLC)		Date of Organization: <b>12/8/2010</b>	
<input type="checkbox"/> Nonprofit Organization		Date of Organization:	
<input type="checkbox"/> Partnership (including LLP, LP or General)		Date of Registration or Establishment:	
<input type="checkbox"/> Sole Proprietor		How many years in business?:	
<input type="checkbox"/> Other		Date established?:	
If "Other," please explain:			
1.2 Was the bidder's/offeror's business formed or incorporated in the District of Columbia?			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "No" to Subpart 1.2, provide the jurisdiction where the bidder's/offeror's business was formed or incorporated. Attach a Certificate or Letter of Good Standing from the applicable jurisdiction and a certified Application for Authority from the District, or provide an explanation if the documents are not available.			
State <u>Delaware</u>		Country <u>USA</u>	
1.3 Please provide a copy of each District of Columbia license, registration or certification that the bidder/offeror is required by law to obtain (other than those provided in Subpart 1.2). If the bidder/offeror is not providing a copy of its license, registration or certification to transact business in the District of Columbia, it shall either:			
(a) Certify its intent to obtain the necessary license, registration or certification prior to contract award; or			
(b) Explain its exemption from the requirement. <b>Clearwater does not conduct business in the District of Columbia.</b>			
PART 2: INDIVIDUAL RESPONSIBILITY			
<i>Additional Instructions for Section I, Parts 2 through 8: Provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s).</i>			



Within the past five (5) years, has any current or former owner, partner, director, officer, principal or any person in a position involved in the administration of funds, or currently or formerly having the authority to sign, execute or approve bids, proposals, contracts or supporting documentation on behalf of the bidder/offeror with any government entity:	
2.1 Been sanctioned or proposed for sanction relative to any business or professional permit or license?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2.2 Been under suspension, debarment, voluntary exclusion or determined ineligible under any federal, District or state statutes?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2.3 Been proposed for suspension or debarment?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2.4 Been the subject of an investigation, whether open or closed, by any government entity for a civil or criminal violation for any business-related conduct?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2.5 Been charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime, or subject to a judgment or a plea bargain for: (a) Any business-related activity; or (b) Any crime the underlying conduct of which was related to truthfulness?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2.6 Been suspended, cancelled, terminated or found non-responsible on any government contract, or had a surety called upon to complete an awarded contract?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Please provide an explanation for each "Yes" in Part 2.	
<b>PART 3: BUSINESS RESPONSIBILITY</b>	
Within the past five (5) years, has the bidder/offeror:	
3.1 Been under suspension, debarment, voluntary exclusion or determined ineligible under any federal, District or state statutes?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3.2 Been proposed for suspension or debarment?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3.3 Been the subject of an investigation, whether open or closed, by any government entity for a civil or criminal violation for any business-related conduct?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3.4 Been charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime, or subject to a judgment or plea bargain for: (a) Any business-related activity; or (b) Any crime the underlying conduct of which was related to truthfulness?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3.5 Been disqualified or proposed for disqualification on any government permit or license?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3.6 Been denied a contract award or had a bid or proposal rejected based upon a non-responsibility finding by a government entity?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3.7 Had a low bid or proposal rejected on a government contract for failing to make good faith efforts on any Certified Business Enterprise goal or statutory affirmative action requirements on a previously held contract?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3.8 Been suspended, cancelled, terminated or found non-responsible on any government contract, or had a surety called upon to complete an awarded contract?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Please provide an explanation for each "Yes" in Part 3.	
<b>PART 4: CERTIFICATES AND LICENSES</b>	
Within the past five (5) years, has the bidder/offeror:	
4.1 Had a denial, decertification, revocation or forfeiture of District of Columbia certification of any Certified Business Enterprise or federal certification of Disadvantaged Business Enterprise status for other than a change of ownership?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Please provide an explanation for "Yes" in Subpart 4.1.	
4.2 Please provide a copy of the bidder's/offeror's District of Columbia Office of Tax and Revenue Tax Certification Affidavit. N/A	
<b>PART 5: LEGAL PROCEEDINGS</b>	
Within the past five (5) years, has the bidder/offeror:	
5.1 Had any liens or judgments (not including UCC filings) over \$25,000 filed against it which remain undischarged?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes" to Subpart 5.1, provide an explanation of the issue(s), relevant dates, the Lien Holder or Claimant's name, the amount of the lien(s) and the current status of the issue(s).	
5.2 Had a government entity find a willful violation of District of Columbia compensation or prevailing wage laws, the Service Contract Act or the Davis-Bacon Act?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
5.3 Received any OSHA citation and Notification of Penalty containing a violation classified as serious or willful?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Please provide an explanation for each "Yes" in Part 5.	



<b>PART 6: FINANCIAL AND ORGANIZATIONAL INFORMATION</b>	
6.1 Within the past five (5) years, has the bidder/offeror received any formal unsatisfactory performance assessment(s) from any government entity on any contract?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes" to Subpart 6.1, provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s).	
6.2 Within the past five (5) years, has the bidder/offeror had any liquidated damages assessed by a government entity over \$25,000?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes" to Subpart 6.2, provide an explanation of the issue(s), relevant dates, the government entity involved, the amount assessed and the current status of the issue(s).	
6.3 Within the last seven (7) years, has the bidder/offeror initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes" to Subpart 6.3, provide the bankruptcy chapter number, the court name and the docket number. Indicate the current status of the proceedings as "initiated," "pending" or "closed".	
6.4 During the past three (3) years, has the bidder/offeror failed to file a tax return or pay taxes required by federal, state, District of Columbia or local laws?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes" to Subpart 6.4, provide the taxing jurisdiction, the type of tax, the liability year(s), the tax liability amount the bidder/offeror failed to file/pay and the current status of the tax liability.	
6.5 During the past three (3) years, has the bidder/offeror failed to file a District of Columbia unemployment insurance return or failed to pay District of Columbia unemployment insurance?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes" to Subpart 6.5, provide the years the bidder/offeror failed to file the return or pay the insurance, explain the situation and any remedial or corrective action(s) taken and the current status of the issue(s).	
6.6 During the past three (3) years, has the bidder/offeror failed to comply with any payment agreement with the Internal Revenue Service, the District of Columbia Office of Tax and Revenue and the Department of Employment Services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes" to Subpart 6.6, provide the years the bidder/offeror failed to comply with the payment agreement, explain the situation and any remedial or corrective action(s) taken and the current status of the issue(s).	
6.7 Indicate whether the bidder/offeror owes any outstanding debt to any state, federal or District of Columbia government.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes" to Subpart 6.7, provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s).	
6.8 During the past three (3) years, has the bidder/offeror been audited by any government entity?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
(a) If "Yes" to Subpart 6.8, did any audit of the bidder/offeror identify any significant deficiencies in internal controls, fraud or illegal acts; significant violations of provisions of contract or grant agreements; significant abuse; or any material disallowance?	<input type="checkbox"/> Yes <input type="checkbox"/> No
(b) If "Yes" to Subpart 6.8(a), provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s).	
<b>PART 7: RESPONSE UPDATE REQUIREMENT</b>	
7.1 In accordance with the requirement of Section 302(c) of the Procurement Practices Reform Act of 2010 (D.C. Official Code § 2-353.02), the bidder/offeror shall update any response provided in Section I of this form during the term of this contract: (a) Within sixty (60) days of a material change to a response; and (b) Prior to the exercise of an option year contract.	
<b>PART 8: FREEDOM OF INFORMATION ACT (FOIA)</b>	
8.1 Indicate whether the bidder/offeror asserts that any information provided in response to a question in Section I is exempt from disclosure under the District of Columbia Freedom of Information Act (FOIA), effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code §§ 2-531, et seq.). Include the question number(s) and explain the basis for the claim. (The District will determine whether such information is, in fact, exempt from FOIA at the time of request for disclosure under FOIA.)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>SECTION II. ADDITIONAL REQUIRED BIDDER/OFFEROR CERTIFICATIONS</b>	
<i>Instructions for Section II: Section II contains four (4) parts. Part 1 requests information concerning District of Columbia employees. Part 2 applies to the bidder/offeror's pricing. Part 3 relates to equal employment opportunity requirements. Part 4 relates to First Source requirements.</i>	
<b>PART 1. DISTRICT EMPLOYEES NOT TO BENEFIT</b>	
The bidder/offeror certifies that: 1.2 No person listed in clause 13 of the Standard Contract Provisions, "District Employees Not To Benefit", will benefit from this contract.	



1.3 The following person(s) listed in clause 13 of the Standard Contract Provisions may benefit from this contract. (For each person listed, attach the affidavit required by clause 13.)

(a) \_\_\_\_\_

(b) \_\_\_\_\_

**PART 2: INDEPENDENT PRICE DETERMINATION REQUIREMENTS**

The bidder/offeror certifies that:

2.1 The signature of the bidder/offeror is considered to be a certification by the signatory that:

(a) The contract prices have been arrived at independently without, for the purpose of restricting competition, any consultation, communication or agreement with any bidder/offeror or competitor related to:

- (i) Those prices;
- (ii) The intention to submit a bid/proposal; or
- (iii) The methods or factors used to calculate the prices in the contract.

(b) The prices in this contract have not been and will not be knowingly disclosed by the bidder/offeror, directly or indirectly, to any other bidder/offeror or competitor before bid/proposal opening unless otherwise required by law; and

(c) No attempt has been made or will be made by the bidder/offeror to induce any other concern to submit or not to submit a contract for the purpose of restricting competition.

2.2 The signature on the bid/proposal is considered to be a certification by the signatory that the signatory:

(a) Is the person in the bidder's/offeror's organization responsible for determining the prices being offered in this contract, and that the signatory has not participated and will not participate in any action contrary to subparagraphs 2.1(a)(i) through (a)(iii) above; or

(b) Has been authorized, in writing, to act as an agent for the following principal in certifying that the principal has not participated, and will not participate, in any action contrary to subparagraphs 2.1(a)(i) through (a)(iii) above:

*CODY LOTT*

*[Insert full name of person(s) in the organization responsible for determining the prices offered in this contract and the title of his or her position in the bidder's/offeror's organization]*

(i) As an authorized agent, certifies that the principals named in subparagraph 2.2(b) above have not participated, and will not participate, in any action contrary to subparagraphs 2.1(a)(i) through (a)(iii) above; and

(ii) As an agent, has not participated and will not participate in any action contrary to subparagraphs 2.1(a)(i) through (a)(iii) above.

2.3 If the bidder/offeror deletes or modifies subparagraph 2.1(b) above, the bidder/offeror must furnish with its bid a signed statement setting forth in detail the circumstances of the disclosure.

**PART 3: EQUAL OPPORTUNITY AND HUMAN RIGHTS OBLIGATIONS**

I hereby certify that I am fully aware of the contents of Mayor's Order 85-85, Mayor's Order 2017-313 and the Office of Human Rights' regulations in Chapter 11 of title 4 of the DCMR, and agree to comply with them while performing this contract.

See Clearwater's response to Assurance of Compliance.

**PART 4: FIRST SOURCE OBLIGATIONS**

I hereby certify that I am fully aware of the requirements of the Workforce Intermediary Establishment and Reform of the First Source Amendment Act of 2011 (D.C. Law 19-84), and agree to enter into a First Source Employment Agreement with the Department of Employment Services if awarded any contract valued at \$300,000 or more which receives funds or resources from the District, or funds or resources which, in accordance with a federal grant or otherwise, is administered by the District government. N/A

I certify that the Initial Employment Plan submitted with my bid or proposal is true and accurate. N/A

**PART 5: EMPLOYMENT ELIGIBILITY OBLIGATIONS**

5.1 I hereby certify that the Bidder/Offeror has verified the identity and employment eligibility of all of its employees.

**PART 6: LANGUAGE ACCESS OBLIGATIONS**

For contracts where the contracting agency is a "covered entity" or "covered entity with major public contact" as defined in Sections 2(2) and 2(3) of the Language Access Act of 2004 (D.C. Official Code § 2-1931(2) and § 2-1931(3)), I hereby certify that I will comply with Language Access compliance requirements of the contracting agency while performing this contract. N/A

**SECTION III. BUY AMERICAN ACT CERTIFICATION**

*Instructions for Section III: Section III contains one (1) part which should only be completed if goods are being provided that are subject to the requirements of the Buy American Act.*

**PART 1: BUY AMERICAN ACT COMPLIANCE**

1.1 The bidder/offeror certifies that each end product, except the end products listed below, is a domestic end product (as defined in Paragraph 22 of the Standard Contract Provisions, "Buy American Act"), and that components of unknown origin are considered to have been mined, produced or manufactured outside the United


\_\_\_\_\_ EXCLUDED END PRODUCTS

COUNTRY OF ORIGIN

**SECTION IV. CERTIFICATION**

*Instruction for Section IV: This section must be completed by all bidder/offers.*

I, [ Nick Smith ], as the person authorized to sign these certifications, hereby certify that the information provided in this form is true and accurate.

Name [Print and sign]:  Nick Smith	Telephone #: 208-918-2400	Fax #:
Title: Associate General Counsel	Email Address: legal@clearwateranalytics.com	

Date: October 10, 2019

*The District of Columbia is hereby authorized to verify the above information with appropriate government authorities. Penalty for making false statements is a fine of not more than \$1,000.00, imprisonment for not more than 180 days, or both, as prescribed in D.C. Official Code § 22-2405. Penalty for false swearing is a fine of not more than \$2,500.00, imprisonment for not more than three (3) years, or both, as prescribed in D.C. Official Code § 22-2404.*

# **ORDER FORM**

**between**

**THE DISTRICT OF COLUMBIA OFFICE OF THE  
CHIEF FINANCIAL OFFICER**

**and**

**CLEARWATER ANALYTICS, LLC**

**[CFOPD-20-C-002 - *Attachment J.4*]**



## Order Form

This Order Form (the “**Order Form**”) is made and entered into by and between Clearwater Analytics, LLC, a Delaware limited liability company with a principal place of business at 777 W. Main St., Suite 900, Boise, Idaho 83702 (“**Clearwater**”), and the District of Columbia Office of the Chief Financial Officer, a government agency with a principal place of business at 1101 4<sup>th</sup> Street, SW, Washington, DC 20024 (“**Client**”), and is executed pursuant to and as part of that certain Master Services Agreement by and between Clearwater and the District of Columbia Office of the Chief Financial Officer dated as of the Effective Date of the Client Contract (the “**Agreement**”). Capitalized terms not defined herein shall have the meaning given to them in the Master Terms. In the event of a conflict between the Master Terms and this Order Form, the Order Form shall prevail.

### ARTICLE 1 – SAAS SOLUTION

**1.1 SaaS Solution.** Clearwater is providing Client with the SaaS Solution. Among other things, Clearwater’s daily investment accounting, compliance, risk, and performance solution provides the following to Client:

- A holistic client-support model, including a dedicated client service team of investment accounting professionals to ensure that the Services and SaaS Solution perform as required hereunder with respect to Client’s Accounts;
- Daily aggregation of trading detail and custody information on Client’s portfolio;
- Detailed, daily reconciliation between Client Safekeeping Locations, and Clearwater’s accounting platform;
- Automated general ledger entry files;
- Financial statement footnote disclosures;
- Customized reporting produced through the SaaS Solution to facilitate ad hoc reporting needs;
- Post-trade compliance reporting that tracks state guidelines and company policies on a daily basis; and
- Detailed performance and risk analysis that can be compared to benchmarks.

### ARTICLE 2 – FEES

<b>Annual Minimum Fee</b>	\$12,500
<b>Core Clearwater Fees</b>	1.000 bp
<b>Money Market Fund Rate</b>	0.5000 bp. <i>Fee replaces Core Clearwater Fees for assets held in Money Market funds.</i>
<b>Data File Delivery Year 1 Development and Use Fee</b>	\$10,000 Data File Delivery Year 1 Development and Use Fee applies to each Data File Client requests to be delivered. This fee includes development and use of the service in the first year each Data File is developed. The Data File Delivery Year 1 Development and Use Fee will be invoiced in the month following the first file transfer of each Data File. This fee will not be included in the calculation of any minimum fees. All data available through Clearwater are subject to change and may be subject to additional license requirements and fees upon prior notice from Clearwater.

<b>Goldman Provider Rate</b>	Zero. <i>Goldman Provider Rate replaces Money Market Fees for Money Market Fund Assets that are on Goldman's Money Market Portal with Clearwater for so long as Goldman is a Clearwater Provider. Goldman will be a "Clearwater Provider" only for those Money Market Fund Assets for which Goldman pays Clearwater for Services through a separate agreement between Clearwater and Goldman. If Goldman stops paying Clearwater on any Money Market Fund Assets, for any reason, Goldman will not be considered a Clearwater Provider for those Money Market Fund Assets starting the day following the date Goldman stopped paying Clearwater.</i>
<b>Training and Support Fees</b>	\$0
<b>Press Release and Case Studies</b>	Client grants Clearwater the right to issue at least two press releases and one case study regarding the parties' relationship. The first press release will be issued within thirty (30) days following execution of this Agreement and the second press release will be issued within thirty (30) days after Client is operational on the SaaS Solution. The Client and Clearwater must mutually agree upon the language in the press releases and case study. Both press releases shall have quotes from an executive-level sponsor or another mutually-agreeable alternative.

### ARTICLE 3 – SERVICES

<b>Core Clearwater Services:</b>	<p>Core Clearwater includes the following Services and Reports:</p> <p><b>Accounting:</b> Provides flexible accounting reports; daily balance sheets; income statements; general ledger entry files with flexible assumptions; and transaction, income and security detail, and impairment analysis. Client will also have access to Clearwater's Flexible GL Wizard, which guides Client step-by-step in the creation of a general ledger, including customized options for market value breakdowns, accrued methods, income options, security groupings, and other accounting options.</p> <p><b>Compliance Monitoring:</b> Provides status of portfolio compliance based on Client's investment policy parameters that are supported.</p> <p><b>Performance Analytics:</b> Provides intra-portfolio comparisons of account performance, including comparisons to custom benchmarks, in accordance with GIPS standards. Contains options to analyze security-level performance over customized date ranges.</p> <p><b>Risk Analytics:</b> Provides portfolio risk data, including issuer, security type, duration, currency, and country concentrations, across multiple asset classes. Risk summary reports have drill-down capabilities to display data at the tax-lot level.</p>
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### ARTICLE 4 – PAYMENT TERMS

<b>Billing Accrual Start Date</b>	<p><b>Initial Period Monthly Fees:</b> Beginning upon execution of the Client Contract and continuing until the earlier of the date that (i) Clearwater becomes Book of Record for the Client or (ii) Client is Live on the SaaS Solution (the "<b>Initial Period</b>"), Client shall pay \$1,500.00 per month. "<b>Book of Record</b>" is defined herein to mean that Client is utilizing data from Clearwater to close its monthly books, including using Clearwater data for entry into Client's general ledger, and "<b>Live</b>" is defined herein to</p>
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	<p>mean that the Client’s Data is loaded on the SaaS Solution and Clearwater is actively reconciling the data.</p> <p><b>True-Up Process:</b> Following the end of the Initial Period, Clearwater will calculate the Core Clearwater Fees and Annual Minimum Fees that would have accrued prior to the end of the Initial Period dating back to the earlier of (i) execution of Client contractor (ii) the first date of historical Client data loaded on the Clearwater System.</p> <p>Clearwater will then conduct a true up in Client’s first invoice following the Initial Period by comparing (y) the Initial Period Fees paid by Client and (z) the Core Clearwater and Annual Minimum Fees that accrued prior to the end of the Initial Period.</p> <p>If Client’s Core Clearwater and Annual Minimum Fees accrued prior to the end of the Initial Period exceed the Initial Period Fees, then Client is responsible for the difference. If the Initial Period Fees are more than the Core Clearwater and Annual Minimum Fees accrued prior to the end of the Initial Period, then Clearwater will credit Client the difference.</p> <p><b>Post-Initial Period Fees:</b> The Initial Period Monthly Fees will end, and the Core Clearwater Fees will apply, following the Initial Period. The Annual Minimum Fee will continue to apply following the Initial Period.</p>
<p><b>Asset-Based Fee Calculation</b></p>	<p>Asset-Based fee rates are stated in basis points (“<b>bp</b>”), which are equal to 1/100th of 1%. Asset-Based fees are calculated by multiplying the applicable basis point rate by the absolute value (calculated at the tax lot level) of the average daily value of all of Client’s applicable assets loaded on the SaaS Solution for that month (the “<b>Portfolio Market Value</b>”), and then multiplying the result by the number of days in the applicable month divided by 365.</p>
<p><b>Annual Minimum Fee</b></p>	<p>The Annual Minimum Fee (“Minimum Fee”) is the minimum amount Client commits to pay Clearwater each calendar year and is prorated for periods of less than a full calendar year. Each month, Client is invoiced for the greater of (i) the fees that have accrued for the prior month or (ii) the prorated portion of the Minimum Fee as further defined herein (“<b>Prorated Minimum Fee</b>”). When Client’s accrued fees exceed the Prorated Minimum Fee, Client will not have to pay any minimum fees until the accrued fees fall below the Prorated Minimum Fee.</p>
<p><b>Prorated Minimum Fee</b></p>	<p>The Prorated Minimum Fee is:</p> $\left( \frac{\text{Minimum Fee}}{365} \times \text{Days Elapsed in Calendar Year} \right) - \text{All fees accrued in calendar year}$
<p><b>Fee Lock</b></p>	<p>The fees for the Services to be provided by Clearwater under this Order Form will remain firm for one (1) year from the Order Form Effective Date. Thereafter, for any other potential Renewal, Clearwater may elect to increase fees upon no less than sixty (60) days’ prior written notice and no more than once every Renewal Term.</p>

**ARTICLE 5 – ACCESS, TRAINING, AND ON-GOING SUPPORT**

**5.1 SaaS Solution Access.** Client will be able to access the SaaS Solution from a personal computer with an internet connection and current version of a supported internet browser.

**5.2 Initial Account Creation and Training.** Clearwater will provide Client with a client services team to facilitate all aspects of the initial account creation including: (i) Client training; (ii) data feed creation; (iii) loading accounts; and (iv) initiating Account reconciliation. Clearwater shall provide all training services free of charge and such training shall include, but not be limited to: (1) training covering all key aspects of the SaaS Solution to enable Client and its Authorized Users to access the SaaS Solution; and (2) any additional types of training as reasonably requested by Client.


**5.3 On-Going Support.** Following the implementation process, Clearwater will continue to provide Client with a client services team responsible for but not limited to: (i) daily reconciliation; (ii) adding and removing Client Accounts; (iii) conducting additional trainings; (iv) responding to Client questions; and (v) updating the compliance Services to incorporate changes to Client’s investment policies.

**IN WITNESS WHEREOF**, duly authorized representatives of the parties have executed this Order Form as of the Effective Date.

**GOVERNMENT OF THE DISTRICT OF  
COLUMBIA**

**CLEARWATER ANALYTICS, LLC**

By:  \_\_\_\_\_

By:  \_\_\_\_\_

Printed Name: Anthony A. Stover

Printed Name: Nick Smith

Title: Contracting Officer

Title: Associate General Counsel

Date: May 22, 2020

Date: May 7, 2020

\*The following is the Portfolio Market Value anticipated to be loaded by Client on the Clearwater System within the first twelve (12) months of this Agreement (the “**Anticipated Portfolio Market Value**”). Client acknowledges that the Fees in this Agreement are provided, in part, based upon Client’s representation of the Anticipated Portfolio Market Value, and Clearwater acknowledges that the Anticipated Portfolio Market Value may change due to unanticipated events or market value fluctuations. Accordingly, Clearwater reserves the right to renegotiate the Fees if the actual Portfolio Market Value loaded within the first 12 months of this Agreement is materially lower than the Anticipated Portfolio Market Value.

Anticipated Portfolio Market Value:	\$2,300,000,000.00
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# **MASTER SERVICES AGREEMENT**

**between**

**THE DISTRICT OF COLUMBIA OFFICE OF THE  
CHIEF FINANCIAL OFFICER**

**and**

**CLEARWATER ANALYTICS, LLC**

**[CFOPD-20-C-002 - *Attachment J.5*]**

## SCHEDULES AND ATTACHMENTS

Schedule 1.3  
Schedule 2.2.2

Definitions  
Access Agreement

# **MASTER SERVICES AGREEMENT**

This Master Services Agreement is made and entered into by and between Clearwater Analytics, LLC, a Delaware limited liability company with a principal place of business at 777 W. Main St., Suite 900, Boise, Idaho 83702 (“**Clearwater**”), and the District of Columbia Office of the Chief Financial Officer, a government agency with a principal place of business at 1101 4<sup>th</sup> Street SW, Washington, DC 20024 (“**Client**”). Clearwater and the Client are referred to individually as a “**party**” and collectively as the “**parties**.”

## **ARTICLE 1 – NATURE OF THE AGREEMENT; INTERPRETATION**

**1.1 Nature of the Agreement.** The Master Terms set forth the general terms and conditions governing Clearwater’s provision of the SaaS Solution pursuant to an ordering document executed by the parties in accordance with the terms set forth in **Section 1.2** of the Master Terms (each ordering document, an “**Order Form**”). Each party acknowledges and agrees that the Agreement establishes a non-exclusive relationship between the parties.

**1.2 Order Forms.** Each Order Form shall incorporate by reference the Master Terms (but the Master Terms shall apply to each Order Form regardless of whether they are expressly incorporated by reference in the applicable Order Form) and shall contain terms and conditions that are specific to the SaaS Solution.

**1.3 Definitions.** Capitalized terms used in the Agreement shall have the meanings ascribed to them in the attached **Schedule 1.3**, in an Order Form, or in the context in which they are defined. All defined terms include both the plural and the singular.

**1.4 Conflicts.** The following order of precedence must be followed in resolving any conflicts among the terms of the Agreement: (a) first, and most senior, Client Contract CFOPD-20-C-XXX (“**Client Contract**”); (b) the terms contained in any Order Form, including its Schedules and Attachments, if any; (c) second, the terms in the body of the Master Terms; and (d) third, the terms contained in the Schedules to the Master Terms.

## **ARTICLE 2 – SAAS SOLUTION**

### **2.1 License to Access and Use.**

**2.1.1 General.** Clearwater hereby grants to Client a worldwide; non-exclusive; non-transferable (except in connection with a permitted assignment of the Agreement), non-sublicensable, revocable license (pursuant to the termination provisions of these Master Terms) for Client and its Authorized Users to access and use the SaaS Solution identified in the applicable Order Form in accordance with this Agreement.

**2.1.2 Authorized Users.** Client is entitled to add an unlimited number of Authorized Users for no additional fees. Client is responsible for each Authorized User’s use of the SaaS Solution and must ensure that all Authorized Users comply with the obligations under this Agreement including any applicable Order Form.

**2.1.3 License Restrictions.** Client shall not use the SaaS Solution in any manner or for any purpose other than expressly permitted by this Agreement. Client shall not: (i) use the SaaS Solution in any manner that could compete with the business of Clearwater in providing investment accounting and reporting software for third parties; (ii) create derivative works based upon the SaaS Solution other than

derivative works contemplated by this Agreement (e.g., client reports); (iii) copy, disassemble, or reverse engineer the SaaS Solution; or (iv) use the SaaS Solution for any unlawful purpose.

**2.1.4 Suggestions.** To the extent Client provides any Suggestions, Clearwater may use the Suggestions without restriction, and Client hereby irrevocably assigns to Clearwater all right, title, and interest in and to the Suggestions and agrees to provide Clearwater with any assistance that it requires to document, perfect, and maintain Clearwater's rights in the Suggestions.

**2.1.5 Training.** Clearwater will provide training in accordance with the applicable Order Form. Clearwater and Client shall mutually determine the location and scheduling for such training.

## **2.2 Data.**

**2.2.1 Provision of Client Data.** Clearwater shall have the right to use any Client Data and other Client Confidential Information solely to provide the SaaS Solution under these Master Terms and/or any Order Form. Client shall only provide Clearwater with Client Data that Client: either (1) owns; or (2) is licensed or authorized to make available to Clearwater in order for Clearwater to carry out its obligations under these Master Terms and/or any Order Form.

**2.2.2 Supplemental Data.** Use of Supplemental Data is subject to the terms required by Supplemental Data Providers set forth in **Schedule 2.2.2** (the "**Access Agreement**"). Client and its Authorized Users may only use the Supplemental Data in accordance with the Access Agreement. The version of the Access Agreement in effect as of the date of this Agreement is attached as **Schedule 2.2.2** to these Master Terms, and such schedule may be updated from time to time upon prior written notice to Client. Clearwater will endeavor to provide Client with at least sixty (60) days' notice before a change goes into effect, but may not be able to do so if Clearwater does not receive sufficient notice from the Supplemental Data Providers. Client expressly acknowledges that: (a) Supplemental Data is provided as a convenience under the Master Terms and/or any Order Form; (b) the fees under any Order Form are not intended to cover the provision of any particular Supplemental Data; and (c) Clearwater cannot guarantee the continued availability of any Supplemental Data.

**2.2.3 Additional Provisions.** From time to time, certain Supplemental Data Providers may require Clearwater to pass certain additional terms relating only to that Supplemental Data Provider. Such terms may impose further limitations on Client's use of the Supplemental Data and can be viewed as part of Clearwater's "Terms of Use" within the SaaS Solution.

## **ARTICLE 3 – FEES, INVOICING, AND PAYMENT**

### **3.1 Fees and Charges.**

**3.1.1 SaaS Solution Fees.** The applicable Order Form shall set forth all fees for the SaaS Solution to be provided by Clearwater under such Order Form (the "**Fees**").

### **3.2 Invoicing and Payment.**

**3.2.1 Invoices.** All invoices issued by Clearwater under the Agreement shall (a) set forth the Fees for which Clearwater seeks payment; (b) indicate the period to which the invoice relates; and (c) be submitted in accordance with Section G.3 of the Client Contract.

**3.2.2 Time to Pay.** Client shall remit all net undisputed amounts due to Clearwater under the applicable Order Form within thirty (30) days following its receipt of the applicable Clearwater invoice. Clearwater may elect to charge interest at the rate of 1% per month (or the highest rate permitted by law, if less) on all late payments.

**3.3 Disputed Amounts.** If Client in good faith disputes that an invoiced amount is due and owing, then Client shall (a) pay that portion of the invoiced amount (if any) that is not disputed in good faith; and (b) promptly notify Clearwater of the good faith dispute in writing, specifying in reasonable detail in such notice the nature of the dispute. Until the dispute has been resolved, Client shall not be obligated to pay the disputed amount (and the time to pay shall be extended accordingly), and the parties shall continue performing their obligations under the Agreement. If Client has already paid a disputed amount, Client may notify Clearwater of such dispute and withhold payment of an equal amount from another invoice.

**3.4 Taxes.** Fees are stated exclusive of any taxes, levies, duties, or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction (collectively, “Taxes”). Client will be responsible for paying all Taxes associated with its purchases, except for those taxes based on Clearwater’s net income.

#### **ARTICLE 4 – REPRESENTATIONS AND WARRANTIES**

**4.1 Mutual.** Each party represents and warrants as of the Effective Date and as of the effective date of each Order Form, that:

**4.1.1** it is an organization duly formed, validly existing, and in good standing under the Applicable Laws of the jurisdiction in which it is organized, and it is in good standing in each other jurisdiction where the failure to be in good standing would have a material adverse effect on its business or its ability to perform its duties, responsibilities and obligations under the Agreement (including each Order Form);

**4.1.2** the Agreement has been duly authorized, executed, and delivered by such party and constitutes a valid, binding, and legally enforceable agreement;

**4.1.3** the execution and delivery of the Agreement, and the performance of the covenants and agreements contained in the Agreement, are not limited or restricted by, and do not violate, any arrangement, obligation, contract, agreement, or instrument to which such party is bound or subject; and

**4.1.4** in the performance of its duties, responsibilities, and obligations under the Agreement, each party agrees that it is and shall be in compliance with all Applicable Laws.

**4.2 Clearwater.**

**4.2.1 Functionality of the SaaS Solution.** Clearwater represents and warrants that when made available for access and use by Client, the SaaS Solution will possess the functional capabilities in the applicable Order Form.

**4.2.2 Intellectual Property.** Clearwater represents and warrants that the SaaS Solution and Client’s receipt and use of the SaaS Solution and the Services in accordance with the terms of the Agreement, do not and shall not infringe upon, constitute a theft or misappropriation of, or otherwise violate, the Intellectual Property Rights of a Third Party.



**4.3 Warranty Disclaimer.** THE WARRANTIES SET FORTH IN THE AGREEMENT (INCLUDING IN ANY ORDER FORM) CONSTITUTE THE ONLY WARRANTIES OF THE PARTIES AND ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

## ARTICLE 5 – TERM AND TERMINATION

### **5.1 Term.**

**5.1.1 Master Terms.** The Master Terms shall be in accordance with the term set forth in Sections F.1 and F.2 of Client Contract.

**5.1.2 Order Forms.** Each Order Form shall commence on its effective date and shall continue in full force and effect for the term specified therein, unless earlier terminated in accordance with the terms of the Agreement (the “**Order Form Term**”).

**5.2 Termination for Convenience.** Client shall have the right to terminate the Agreement, including all Order Forms (or an individual Order Form in its entirety), for its convenience in accordance with Section I.10 of Client Contract. Notwithstanding anything to the contrary in the Client Contract, Clearwater shall have the right to terminate the Agreement, including all Order Forms (or an individual Order Form in its entirety), for its convenience upon ninety (90) days’ prior written notice to Client.

**5.3 Termination for Cause.** If Client defaults (the “**Defaulting Party**”) in any of its obligations under this Agreement, Clearwater (the “**Non-Defaulting Party**”) at its option shall have the right (in addition to any other remedies and rights at law or in equity) to terminate this Agreement (including all Order Forms or related documents), in whole or in part, by written notice to the Defaulting Party unless the Defaulting Party remedies the default within ten (10) business days after receipt of written notice of such default. Section I.9 of Client Contract shall govern Client’s rights to terminate for default.

**5.4 Termination for Insolvency.** Either party hereto shall have the right to immediately terminate this Agreement (including all Order Forms), in whole or in part, upon notice to the other: (a) in the event such other party (or any permitted successor organization) (1) ceases to do business as a going concern, (2) makes an assignment for the benefit of creditors, (3) admits in writing its inability to pay its debts as they become due, or (4) is insolvent or the subject of receivership; or (b) in the event any substantial part of the other’s property is or becomes subject to any levy, seizure, assignment or sale for, or by, any creditor or governmental agency without being released or satisfied within ten (10) business days thereafter.

**5.5 Survival.** Any provision of the Master Terms that expressly or by its nature may reasonably be understood to survive expiration or termination of the Master Terms will so survive. Any provision of an Order Form that expressly or by its nature may reasonably be understood to survive expiration or termination of that Order Form will so survive. The expiration or termination of the Master Terms or any Order Form shall not affect, and all of the terms and conditions of the Master Terms and each Order Form shall survive with respect to, any claim, demand, action, suit, or proceeding that may be asserted after the Termination Date relating to (a) rights, liabilities, or obligations that accrued prior to the Termination Date; or (b) a surviving provision.

## ARTICLE 6 – REMEDIES AND LIABILITY LIMITATIONS

**6.1 Attorneys’ Fees and Costs.** If a party brings an action, proceeding, or claim against the other party arising out of or relating to the Agreement, or pertaining to a declaration of rights under the Agreement, the

trier of fact may, in the exercise of its discretion, award the party it finds to be the prevailing party in such action, proceeding, or claim that portion or all of its fees, costs, and expenses (including court costs and reasonable fees for attorneys and expert witnesses) that it deems to be appropriate under the facts and circumstances.

**6.2 Excused Performance.** Clearwater shall not be in breach of the Agreement to the extent any failure to perform or delay in performing in accordance with the terms of the Agreement is caused by:

- (a) a Force Majeure Event; or
- (b) Client's material failure to perform duties, responsibilities, or obligations under the Agreement that were a precondition to Clearwater's ability to perform its duties, responsibilities, or obligations under the Agreement.

**6.3 Liability Limitations.**

**6.3.1 Types of Recoverable Damages.** EXCEPT AS PROVIDED IN SECTION 6.3.3 AND IRRESPECTIVE OF THE NATURE OF THE UNDERLYING CLAIM (WHETHER BASED ON BREACH OF CONTRACT, TORT, OR OTHERWISE), NEITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES ARISING OUT OF OR RELATING TO THE AGREEMENT.

**6.3.2 Cap on Damages.** EXCEPT AS PROVIDED IN SECTION 6.3.3, AND IRRESPECTIVE OF THE NATURE OF THE UNDERLYING CLAIM (WHETHER BASED ON BREACH OF CONTRACT, TORT, OR OTHERWISE), EACH PARTY'S AGGREGATE LIABILITY TO THE OTHER PARTY (OR TO ANY PERSON OR ENTITY CLAIMING BY OR THROUGH SUCH PARTY) FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THE AGREEMENT SHALL NOT EXCEED ONE-HUNDRED PERCENT (100%) OF THE FEES PAID OR TO BE PAID UNDER THE AGREEMENT BY CLIENT TO CLEARWATER FOR THE SAAS SOLUTION IN THE TWELVE (12) MONTHS PRECEDING THE DATE OF THE INCIDENT GIVING RISE TO THE LIABILITY.

**6.3.3 Exceptions.** The terms of Section 6.3.1 and Section 6.3.2 shall not apply to any of: (a) either party's indemnification duties, responsibilities, and obligations (or a breach of such obligations); or (b) either party's gross negligence, willful misconduct, or fraud.

## ARTICLE 7 – CONFIDENTIALITY AND SECURITY

**7.1 Confidentiality.**

**7.1.1 Ownership.** Each party is and shall remain the sole and exclusive owner of its Confidential Information, including any copies or derivatives thereof. Except for the use and disclosure rights expressly granted in the Agreement, the Recipient is not granted any express or implied rights in or to the Discloser's Confidential Information.

**7.1.2 Duty of Care.** The Recipient shall use the same degree of care and protection with respect to the Discloser's Confidential Information that the Recipient uses with respect to its own Confidential Information of a like kind, but in all events at least a reasonable degree of care.

**7.1.3 Uses.** Without the prior written consent of the Discloser, which consent the Discloser may withhold in its sole discretion, the Recipient shall not directly or indirectly use or allow its Personnel to use the Discloser's Confidential Information except as reasonably necessary in connection with the Agreement.

**7.1.4 Exclusions.** Confidential Information shall not include information that the Recipient can demonstrate: (a) is or becomes generally known or available to the public through no fault of the Recipient; (b) after disclosure to the Recipient, was lawfully received by the Recipient from a third party not bound in a confidential relationship to the Discloser; (c) was in lawful possession of the Recipient at the time of disclosure to the Recipient, if the Recipient was not then subject to obligations of confidentiality with respect to the information; or (d) was independently developed by the Recipient without reference to the Discloser's Confidential Information.

**7.1.5 Disclosures.** The Recipient shall not directly or indirectly disclose, transmit, publish, release, or otherwise make available the Discloser's Confidential Information to any other person without the prior written consent of the Discloser, which consent the Discloser may withhold in its sole discretion. Notwithstanding the foregoing:

(a) the Recipient may disclose the Discloser's Confidential Information as permitted under the terms of the Agreement;

(b) Clearwater may disclose Client Confidential Information to any of: (i) Clearwater Personnel who or that have a reasonable need to know in connection with the Agreement; or (ii) any entity with which Clearwater and/or any of its Affiliates is contemplating a merger, consolidation, acquisition, share exchange, reorganization, divestiture, spin-off, joint venture, or other business combination; provided, however, that disclosures to a Third Party (whether under **subsection (i)** or **(ii)**) must be made pursuant to written confidentiality obligations that are at least as restrictive as those set forth in this **Section 7.1** and that include within the scope of the confidential information thereunder the portions of the Client Confidential Information that will be disclosed;

(c) the Recipient may disclose the Discloser's Confidential Information to any of the Recipient's auditors, regulators, accountants, attorneys, insurance brokers or providers, financial advisors, financing sources, and other similar advisors who or that have a reasonable need to know such Confidential Information, provided that in each of the foregoing instances the Confidential Information must be disclosed pursuant to obligations of confidentiality that are at least as restrictive as those set forth in this **Section 7.1**; and

(d) provided the disclosure is made in accordance with the terms set forth in **Section 7.1.5**, the Recipient may disclose the Confidential Information of the Discloser to the extent disclosure is required by legal process or Applicable Laws, including to comply with applicable Securities and Exchange Commission requirements.

**7.1.5 Notification and Mitigation.** If the Recipient receives a subpoena or other validly issued administrative or judicial notice requesting the disclosure of the Discloser's Confidential Information, the Recipient: (i) shall use commercially reasonable efforts to give advance notice of such compelled disclosure to the Discloser in writing to allow the Discloser a reasonable opportunity to resist such disclosure and/or seek a protective order before the required time for disclosure; and (ii) if requested, shall provide reasonable assistance to the Discloser, at the Discloser's expense, in resisting the disclosure and/or seeking a protective order to govern the disclosure. Subject to its obligations stated in the preceding sentence, the Recipient shall be entitled to comply with any binding subpoena or other process to the extent required by Applicable Law, but shall in doing so make every effort to secure confidential treatment of any Confidential Information it

is compelled to disclose, and shall not disclose any more Confidential Information than is necessary to comply with the subpoena or other process.

**7.1.6 Return of Confidential Information.** Promptly following the Discloser's written request, the Recipient shall return or destroy all Confidential Information in its possession, custody, or control (including all copies thereof). The Recipient's obligation to return or destroy the Discloser's Confidential Information shall not apply to any electronic copies stored for back-up or archiving purposes that are not readily accessible by the Recipient, provided that the Recipient agrees not to restore any such back-up or archived copies for the purpose of accessing the Discloser's Confidential Information. In addition, the Recipient may retain the Discloser's Confidential Information to the extent reasonably necessary in connection with enforcement of rights or duties, responsibilities, or obligations under the Agreement.

**7.1.7 Termination of Pre-Effective Date Non-Disclosure Agreement.** If the parties executed a confidentiality or non-disclosure agreement prior to the Effective Date, such agreement shall terminate effective as of the Effective Date. From and after the Effective Date, all confidential information disclosed thereunder shall be governed by the terms of this Agreement.

**7.2 Information Security.** Clearwater shall maintain and comply with a comprehensive, documented information security program that includes appropriate legal, administrative, physical, and technical safeguards and controls to preserve the integrity, security, privacy, and confidentiality of Client Data and other Client Confidential Information in the possession, or under the custody or control, of Clearwater.

## **ARTICLE 8 – PROPRIETARY MATERIALS**

**8.1 Intellectual Property.** As between Clearwater and Client, all rights, title and interest in and to the SaaS Solution and all derivatives thereof (including all rights of patent, copyright, trademark, trade secret and other proprietary rights embodied therein or associated therewith) are and shall remain that of Clearwater, and this Agreement in no way conveys any right or interest in the SaaS Solution other than to use the SaaS Solution.

**8.2 Client Data.** As between Clearwater and Client, all Client Data that is stored, handled, used or worked on by Clearwater in its performance under this Agreement and all derivatives thereof belong exclusively to Client, and Client shall retain all rights, title and interest therein (including all rights of patent, copyright, trademark, trade secret and other proprietary rights embodied therein or associated therewith).

## **ARTICLE 9 – INDEMNIFICATION**

### **9.1 Indemnification.**

**9.1.1 Clearwater Indemnification.** Clearwater shall defend Client and its Affiliates, and their respective members, directors, officers, employees, contractors, representatives, agents, successors, and assigns (the "**Client Indemnitees**") against any demand, claim, suit, action, or proceeding asserted by a Third Party (each, a "**Third-Party Claim**"), and shall indemnify and hold harmless the Client Indemnitees from and against all Losses, in each case to the extent they arise out of or relate to any act or omission of gross negligence, willful misconduct, fraud or more culpable acts or omissions of Clearwater or its Personnel. In any event, Clearwater shall not indemnify Client Indemnitee for more than the percentage of responsibility for the Losses attributable to Clearwater. In addition, Clearwater shall defend the Client Indemnitees against any Third-Party Claim, and shall indemnify and hold harmless the Client Indemnitees from and against all Losses, in each case to the extent it is alleged that the SaaS Solution or the Services, or access to, use of, or receipt of the SaaS Solution or the Services by any Client Indemnitee in accordance with the terms of this Agreement infringes upon, misappropriates, or otherwise violates, the Intellectual

Property Rights or any other proprietary right of a Third Party. If any Client Indemnitee's right to access, use, or receive the SaaS Solution or Services is enjoined or appears likely to be enjoined, then Clearwater shall: (i) procure the right for the Client Indemnitees to continue exercising such rights; (ii) replace or modify the SaaS Solution or Services, as applicable, so that it is no longer subject to the Third-Party Claim while maintaining equivalent or better functionality and performance capabilities in a form acceptable to Client; or (iii) terminate the Agreement.

**9.1.2 Client Indemnification.** Client shall defend Clearwater and its Affiliates, and their respective members, directors, officers, employees, contractors, representatives, agents, successors, and assigns (the "**Clearwater Indemnitees**") against any demand, claim, suit, action, or proceeding asserted by a Third Party (each also a "**Third-Party Claim**"), and shall indemnify and hold harmless the Clearwater Indemnitees from and against all Losses, in each case to the extent they arise out of or relate to Client's or any User's breach of the Access Agreement. Client's obligations under this Section 9.1.2 and Section 4.3 of the Access Agreement attached as Schedule 2.2.2, collectively, shall not exceed the greater of: (i) \$50,000, or (ii) the amount of unspent funds that have been appropriated by Client for this Agreement.

**9.2 Indemnification Procedures.** Any Indemnitee seeking defense and/or indemnification under **Section 9.1** shall promptly notify the other party in writing of the Third-Party Claim; provided, however, that the failure to give notice shall not limit these obligations except to the extent the indemnifying party is materially prejudiced thereby. Once the indemnifying party assumes control of the defense of the Third-Party Claim (and provided the indemnifying party continues to diligently defend the Third-Party Claim), the indemnifying party will have the right to control the defense and settlement of the Third-Party Claim; provided, however, that: (a) the Indemnitees will have the right, but not the obligation, to be represented by counsel of their own selection at their own expense; and (b) without the Indemnitees' prior written consent, any settlement of the Third-Party Claim shall not adversely affect the Indemnitees' rights hereunder or impose any obligations on the Indemnitees. The Indemnitees shall reasonably cooperate with the indemnifying party and its legal representatives in the investigation and defense of any Third-Party Claim.

## **ARTICLE 10 – DISPUTE RESOLUTION**

**10.1** All disputes shall be resolved in accordance with Section I.7 of the Client Contract.

## **ARTICLE 11 – MISCELLANEOUS**

**11.1 Assignment.** Neither party, nor any successor, receiver, or assignee of either party, shall directly or indirectly assign any rights or obligations under this Agreement or any Order Form, without the other party's prior written consent, which shall not be unreasonably withheld, except that either party may assign its rights and obligations to any successor pursuant to a merger, reorganization to change company structure, consolidation, or sale, or to an entity that acquires all, or substantially all, of a party's assets or the business unit using, maintaining, or providing the Services, as applicable. Notwithstanding the foregoing sentence, neither party may assign any rights or obligations under this Agreement to any party that is a competitor of the other party, without the other party's prior written consent. This Agreement will be binding upon and inure to the benefit of the parties and their respective permitted successors and assigns.

**11.2 Waivers.** No delay or failure by a party to exercise or enforce any of its rights or remedies hereunder, and no course of dealing or performance with respect thereto, will constitute a waiver thereof.

**11.3 Governing Law.** The Agreement will be governed by and construed in accordance with the laws of the District of Columbia, exclusive of its choice-of-law rules or those of any other jurisdiction.

**11.4 Severability.** If any provision of the Agreement is found to be invalid, illegal or unenforceable in any jurisdiction, for any reason, then, to the fullest extent permitted by Applicable Laws: (a) all other provisions hereof will remain in full force and effect in such jurisdiction and will be liberally construed in order to carry out the intent of the parties hereto as nearly as may be possible; (b) such invalidity, illegality, or unenforceability will not affect the validity, legality or enforceability of any other provision hereof; and (c) any court or arbitrator having jurisdiction therefor will have the power to reform such provision to the extent necessary for such provision to be enforceable under Applicable Laws.

**11.5 Counterparts.** The Master Terms and each Order Form may be executed in any number of counterparts, each of which when executed and delivered will be deemed an original, and all of which taken together will constitute but one and the same instrument. Counterparts may be executed in either original or electronically transmitted form, and the parties hereby adopt as original any signatures received via electronically transmitted form.

**11.6 Entire Agreement; Modifications.** The Client Contract, including its Attachments, this Agreement, including the Master Terms and its Schedules, and any Order Forms executed by the parties (including their Schedules), constitutes the full understanding of the parties and a complete and exclusive statement of the terms of their agreement with respect to the subject matter hereof. The Client Contract and this Agreement, including the Master Terms and any Order Form, may be amended and supplemented only by a written instrument signed by both parties.

**11.7 Notices.** All notices or other communications permitted or required hereunder shall be in writing and may be hand-delivered, emailed or mailed by a nationally recognized overnight courier and shall be deemed given: (a) upon receipt if hand-delivered or emailed, or (b) at noon on the Business Day after dispatch if sent by a nationally recognized overnight courier, in each case addressed to the recipient at the addresses set forth below. Either party may change its notice recipients or notice addresses by giving written notice thereof to the other party in accordance with the terms set forth in this Section.

If to Client:

See Section G of the Contract CFOPD-20-C-002  
between Client and Clearwater.

If to Clearwater:


Clearwater Analytics, LLC  
777 W. Main St.  
Suite 900  
Boise, Idaho 83702  
Attention: Legal Department  
Email: [legal@clearwateranalytics.com](mailto:legal@clearwateranalytics.com)

**IN WITNESS WHEREOF**, duly authorized representatives of the parties have executed these Master Terms as of the Effective Date.

**GOVERNMENT OF THE DISTRICT OF  
COLUMBIA**

**CLEARWATER ANALYTICS, LLC**

By:  \_\_\_\_\_

By:  \_\_\_\_\_

Printed Name: Anthony A. Stover

Printed Name: Nick Smith

Title: Contracting Officer

Title: Associate General Counsel

Date: May 22, 2020

Date: May 7, 2020

### **SCHEDULE 1.3** **DEFINITIONS**

“**Account**” means a selection of Client Data mirroring Client’s account at the applicable Client Safekeeping Location.

“**Agreement**” means, collectively, this Master Services Agreement, including all Schedules and other documents attached hereto and/or incorporated herein by reference, and all Order Forms executed by the parties (including all Schedules and other documents attached to an Order Form and/or incorporated by reference in an Order Form), as any of the foregoing may be amended and/or supplemented from time to time.

“**Affiliate**” means any entity that, now or in the future, directly or indirectly, controls, is controlled by, or is under common control with, a party. For purposes of the foregoing, “control” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and operating policies of the entity in respect of which the determination is being made through the ownership of more than fifty percent (50%) of the voting or equity securities or contract or voting trust or otherwise.

“**Applicable Laws**” means all laws, statutes, regulations, rules, requirements, administrative codes, ordinances, executive orders, policies, judicial opinions, decrees and other decisions having the effect of law (and any amendments to any of the foregoing), by any federal, state, or local government, authority, department, or agency in any location.

“**Authorized Affiliates**” is defined as Client’s Affiliates that have been approved by Clearwater to access the SaaS Solution under the Master Terms and any Order Form.

“**Authorized User**” is defined as (i) Client’s and its Authorized Affiliates’ employees and (ii) any third parties approved for access by Clearwater. If Client requests access for an unaffiliated Third Party that is the type of entity that customarily pays for access to the SaaS Solution (e.g., asset-managers), Clearwater reserves the right to deny the request if such Third Party is unwilling to pay for its own license to access the SaaS Solution.

“**Business Day**” means each of Monday through Friday, excluding holidays observed by the Federal Reserve Bank of New York.

“**Client Data**” means: (a) all information, data, materials and content of any kind, whether or not Confidential Information of Client, furnished or made available, directly or indirectly, to Clearwater by, or on behalf of, Client and/or processed via the SaaS Solution, including (i) information stored or entered into the SaaS Solution by, or on behalf of, Client and/or (ii) the data regarding Client’s portfolio holdings provided to Clearwater by a Client Safekeeping Location or Client; (b) all information, data, materials and content derived from the foregoing including, but not limited to, the data and output resulting from the operation of the SaaS Solution on Client Data; and (c) third-party data provided to Clearwater by, or on behalf of, Client pursuant to Client’s license with such third-party data provider(s).

“**Client Safekeeping Location**” means Client’s bank, asset manager or other investment safekeeping location.

“**Confidential Information**” means in relation to a party, confidential and proprietary information (whether in written, oral or electronic form) that: (1) either (a) is by its nature confidential, (b) is designated by that party as confidential or (c) the other party knows or ought to know is confidential; and (2) includes, but is



not limited to trade secrets, know-how, inventions, techniques, processes, software programs and other information technology (IT) related information, documentation, schematics, procedures, contracts, customer databases, customer information, financial information, budgets, sales, marketing, insurance secrets, anti-money laundering and compliance data, ideas, strategies, designs, projections, business plans, real estate plans, strategic expansion plans, products and product designs, sourcing information, potential product labeling and marking ideas, unpublished information relating to the intellectual property rights of either party, Personal Data, and all communications between the parties and other non-public information relating to the either party's business activities, practices, systems, conditions, or services.

**"Discloser"** means the party that, directly or indirectly (including through its Personnel), has disclosed Confidential Information.

**"Force Majeure Event"** means fire, flood, earthquake, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions, revolutions, or any other causes of a similar nature beyond the reasonable control of the affected party, but specifically excluding, when Clearwater is the affected party: (a) any labor issues involving Clearwater Personnel; (b) any non-performance by Clearwater Personnel, other than any non-performance that is caused by any of the events described above in this definition; or (c) any action, suit, claim, investigation, or proceeding against or otherwise adversely affecting Clearwater.

**"Intellectual Property Rights"** means all: (a) patents, patent applications, patent disclosures and inventions (whether patentable or not); (b) trademarks, service marks, trade dress, trade names, logos, corporate names, Internet domain names and registrations and applications for the registration thereof, together with all of the goodwill associated therewith; (c) copyrights and copyrightable works (including computer programs and mask works) and registrations and applications thereof; (d) trade secrets; (e) waivable or assignable rights of publicity, and waivable or assignable moral rights; and (f) any other intellectual property or proprietary rights.

**"Losses"** means all losses, liabilities, damages, fines, penalties, and costs and expenses (including reasonable attorney's fees and costs, and reasonable costs of investigation, litigation, and settlement) actually sustained or incurred by a party, including amounts paid or payable by a party to a Third Party.

**"Master Terms"** means the terms set forth in the Agreement, excluding the terms set forth in any Order executed by the parties (including all Schedules and Attachments and other documents attached to an Order and/or incorporated by reference in an Order (excluding the Master Terms)), as any of the same may be amended from time to time.

**"Personnel"** means the employees of a party or its Affiliates.

**"Recipient"** means the party that, directly or indirectly (including through its Personnel), has received Confidential Information.

**"SaaS Solution"** means Clearwater's web-based software-as-a-service investment accounting solution.

**"Services"** means the services provided by Clearwater in providing the SaaS Solution.

**"Suggestions"** means any suggestions, enhancement request, recommendations, proposals, corrections, or other information provided by Client or any Authorized User related to the operation or functionality of the SaaS Solution.

**"Supplemental Data"** means Supplemental Data Provider data provided to Client by, or on behalf of, Clearwater pursuant to the terms of the Access Agreement but does not include (i) Client Data provided to

Clearwater or (ii) Client Data provided to Clearwater by, or on behalf of, Client pursuant to Client's license with such third-party data provider(s).

**“Supplemental Data Provider(s)”** means third parties that compile and sell financial and securities data (e.g., Thomson Reuters).

**“Termination Date”** means the last day of the Term.

**“Third Party”** means a person or entity other than Client, Clearwater, or any of their Affiliates.

**SCHEDULE 2.2.2**  
**ACCESS AGREEMENT**

**1. Introduction.** Client may have access to Supplemental Data as part of the SaaS Solution. This Access Agreement contains terms that Clearwater is required to pass through to Client in order to redistribute any Supplemental Data as part of the SaaS Solution.

**2. Ownership Rights.** Client acknowledges that Supplemental Data available through the SaaS Solution, other than Client Data, is and will remain the intellectual property of Supplemental Data Providers and that no proprietary rights are transferred to Client in such Supplemental Data.

**3 Acceptable Use.**

**3.1 Generally.** Client may only access and use Supplemental Data for activities generally involved in the management of Client's investment portfolio within the SaaS Solution. Client may not place Supplemental Data on any third-party system not explicitly authorized under this Access Agreement. Client shall not use, or permit any third party to use, Supplemental Data for any unlawful or unauthorized purpose.

**3.2 Downloads.** As part of the SaaS Solution, Client may download Supplemental Data solely for the purposes of managing Client's investment portfolio and not for any other commercial use not authorized hereunder. Client may not download Supplemental Data to place such Supplemental Data on any third-party system not explicitly authorized under this Access Agreement.

**3.3 Distribution.** Subject to potential exclusions that may be specifically communicated to Client in writing by Clearwater, Client may distribute Supplemental Data to its Authorized Users, auditors, and regulators.

**3.4 Additional Uses.** If Client wishes to access or use Supplemental beyond the parameters set forth herein, Client shall work with Clearwater to obtain authorization from the applicable Supplemental Data Provider for such access or use.

**4 Warranty Disclaimer, Limits of Liability, and Indemnification.**

**4.1 NO WARRANTY.** All Supplemental Data furnished as part of the SaaS Solution is provided "AS IS" and without warranty of any kind, express or implied, or as to merchantability, fitness for any particular purpose, or any other matter.

**4.2 LIMITATION OF LIABILITY.** To the maximum extent permitted by law, Supplemental Data Providers shall have no liability whatsoever (including liability for any direct, indirect, consequential, incidental, punitive, exemplary or special damages) to Client or any Authorized User related to Supplemental Data.

**4.3 Indemnification.** Subject to the limitation in Section 9.1.2 of the MSA, Client shall defend, indemnify, and hold harmless the Supplemental Data Providers and their respective affiliates, officers, directors, shareholders, employees, and successors and assigns from and against any and all Losses based on, arising out of, or otherwise in connection with any misuse of Supplemental Data in breach of the rights and obligations outlined in this Access Agreement.