

2. Contract Number CFOPD-24-C-008	3. Effective Date See 20C	4. Requisition/Purchase Request/Project No.
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5. Issued By Office of the Chief Financial Officer Office of Contracts 1100 - 4th Street, SW., Suite E620 Washington, DC 20024	Code	6. Administered By (If other than line 5)
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7. Name and Address of Contractor (No. Street, city, country, state and ZIP Code) Maverick Training Corporation dba Maverick Solutions 3150 Rogers Road, Suite 200 Wake Forest, NC 27587 Attn: Ben Brittain, M.Ed., Sr. Contracts Manager bbrittain@mavericksolutions.net	8. Delivery <input checked="" type="checkbox"/> FOB Destination <input type="checkbox"/> Other (See Schedule Section F)
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9. Discount for prompt payment	10. Submit Invoices to the Address shown in Line 12 Item (2 copies unless otherwise specified)
11. Ship to/Mark For Office of the Chief Financial Officer Office of the Chief Information Officer 1101 4th Street, S.W., Suite W350 Washington, DC 20024	12. Payment will be made by Office of the Chief Financial Officer Office of Management and Administration Financial Operations/Accounts Payable https://vendorportal.dc.gov 1100 4th Street, SW Suite E600 Washington, DC 20024

13. Contract Type Requirements with NTE Ceiling	14. Accounting and Appropriation Data
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15A. Item	15B. Supplies/Services	15C. Qty	15D. Unit	15E. Unit Price	15F. Amount
1	Maverick ENGAGE Learning Platform	1	Lot	\$331,980.00	\$331,980.00
Total Amount of Contract					\$331,980.00

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Contracting Officer will Complete Item 17 or 18 as Applicable

17 <input checked="" type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return <u>1</u> pdf 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.
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19A. Name and Title of Signer (Type or print) Fred Von Canon, President	20A. Name of Contracting Officer Anthony A. Stover, CPPO; Dorothy Whisler Fortune, Esq., CPPO; or Drakus Wiggins, CPPB, CPPO
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19B. Name of Contractor  (Signature of person authorized to sign)	19C. Date Signed Nov 21, 2023	20B. District of Columbia  (Signature of Contracting Officer)	20C. Date Signed Dec 5, 2023
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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 the Chief Information Officer (OCIO) (the “District”) requires continuation of the Guided Learning Tool provided by Maverick Solutions (Contractor) to the OCFO in the implementation of the District’s Integrated Financial System (DIFS).

B.2 CONTRACT TYPE

This is a Fixed Price contract with Requirements components.

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.3.1 NONPROFIT FAIR COMPENSATION ACT OF 2020, D.C. Code § 2-222.01 et seq.

Nonprofit organizations, as defined in the Act, shall include in their rates the indirect costs incurred in provision of goods or performance of services under this contract pursuant to the nonprofit organization's unexpired Negotiated Indirect Cost Rate Agreement (NICRA). If a nonprofit organization does not have an unexpired NICRA, the nonprofit organization may elect to instead include in its rates its indirect costs:

- (1) As calculated using a *de minimis* rate of 10% of all direct costs under this contract;
- (2) By negotiating a new percentage indirect cost rate with the awarding agency;
- (3) As calculated with the same percentage indirect cost rate as the nonprofit organization negotiated with any District agency within the past two years; however, a nonprofit organization may request to renegotiate indirect costs rates in accordance with B.3.2; or
- (4) As calculated with a percentage rate and base amount, determined by a certified public accountant using the nonprofit organization’s audited financial statements from the immediately preceding fiscal year, pursuant to the OMB Uniform Guidance and certified in writing by the certified public accountant.

B.3.2 If this contract is funded by a federal agency, indirect costs shall be consistent with the requirements for pass-through entities in 2 C.F.R. § 200.331, or any successor regulations.

B.3.3 The Contractor shall pay its subcontractors which are nonprofit organizations the same indirect cost rates as the nonprofit organization subcontractors would have received as a prime contractor.

B.4 REQUIREMENTS CONTRACT

The District will purchase its requirements of the articles or services included herein from the Contractor. The estimated quantities stated herein reflect the best estimates available. The estimate shall not be construed as a representation that the estimated quantity will be required or ordered, or that conditions affecting requirements will be stable. The estimated quantities shall not be construed to limit the quantities which may be ordered from the Contractor by the District or to relieve the Contractor of its obligation to fill all such orders.

B.5 PRICING SCHEDULE

B.5.1 Subscription Term and Pricing

Training Software	Base Year	Option Year 1	Option Year 2	Option Year 3	Option Year 4
Maverick ENGAGE Training, includes ENGAGE Learning Platform with Structured Courseware Library	\$331,980	\$331,980	\$331,980	\$331,980	\$331,980

B.5.2 The pricing schedule in Section B.5.1 covers the following number of users and customizations:

a.

<u>User Groups</u>	<u>Number of Users</u>
Core Business Users	700
Self-service Users	21,000

b. Customizations (Number of Customized Transactions) is 123.

B.5.3 If required, additional Maverick ENGAGE Core users may be added in blocks of 25 users. Each block of 25 users purchased by the District in addition to the number of users specified in Section B.5.2(a) shall be at the price of **\$4,750/block**. Any order placed shall be via a written modification to the contract.

B.5.4 If required, additional Maverick ENGAGE Self-Service users may be added in blocks of 100 users. Each block of 100 users purchased by the District in addition to the number of users specified in Section B.5.2(a) shall be at the price of **\$6,000/block**. Any order placed shall be via a written modification to the contract.

B.5.5 If required, each customized asset purchased by the District in addition to the number of simulations specified in Section B.5.2(b) shall be at the price **\$800/each**. Any order placed shall be via a written modification to the contract.

B.5.6 Travel Requirements have not been determined for this project. Any travel required shall be approved prior to incurrence and shall not exceed the agreed upon ceiling set forth in a written modification to the contract.

[End of Section B]

SECTION C

DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

C.1 SCOPE

The OCFO, Office of the Chief Information Officer (OCIO) requires continuation of the Guided Learning Tool provided by Maverick Solutions to the OCFO in the implementation of the District’s Integrated Financial System (DIFS).

C.2 DEFINITIONS

These terms when used herein have the following meanings:

<p>Core User (Learn or Live)</p>	<p>An everyday user; anyone who uses the Oracle Applications daily to perform essential job functions, and training focuses on operational functions and transactions. For example, running payroll or administering benefits enrollment; entering and reconciling financial transactions, creating a requisition or receiving inventory; or creating reports.</p>
<p>Self Service User (Live)</p>	<p>The occasional user of the application who will be performing occasional tasks in the system such as updating personal information, entering expense reports, completing timecards, etc.</p>
<p>Customizations</p>	<p>Any training asset built by Contractor that are not part of the standard assets within ENGAGE Learn - a digital sandbox of an Oracle Cloud environment with unlimited 24/7 access to practice hands-on activities without the risk of working in a live environment or ENGAGE Live - a Digital Adoption solution that accelerates user adoption across enterprise applications, by providing customizable, real-time guidance and support inside the application. (Collectively, “ENGAGE”).</p>

C.3 BACKGROUND

- C.3.1 The OCFO migrated off its legacy accounting system, SOAR (System of Accounting and Reporting), on October 3, 2023, and implemented the District’s Integrated Financial System (DIFS), an Oracle Cloud Financials subscription product for accounting and reporting. The District purchased the Maverick Guided Learning Tool (GLT) under the DIFS Organizational Change Management (OCM) contract.
- C.3.2 The District seeks to retain Maverick’s Engage Learn and Engage Live as a guided learning tool for DIFS.

C.4 REQUIREMENTS**C.4.1 Maverick ENGAGE Learn**

The Oracle Cloud Training content listed below shall be offered as an on-demand solution via an annual subscription:

- a. Oracle Cloud Starter Course:
 - Starter Course
- b. ERP Cloud Financials
 - Advanced Collections
 - Cash Management
 - Credit Management
 - Expenses
 - Financial Reporting
 - Fixed Assets
 - General Ledger
 - Payables
 - Receivables
 - Revenue Management
 - Risk Management
 - Tax Cloud
- c. ERP Cloud Procurement
 - Procurement
- d. ERP Cloud Project Portfolio Management
 - Project Financial Management
 - Project Management
- e. ERP Cloud Enterprise Performance Management
 - Account Reconciliation
 - Financial Consolidation and Close
 - Planning

C.4.2 Maverick ENGAGE Live

The Oracle Cloud Applications listed below are in scope for this subscription:

- Financials Cloud
- Procurement Cloud
- Project Portfolio Management Cloud
- Enterprise Performance Management Cloud

C.5 NUMBER AND TYPE OF USERS

The Contractor shall provide named-user licenses to access ENGAGE as detailed in the following table:

User Type	ENGAGE Learn Number and Type of Users
Core User	700

User Type	ENGAGE Live Number and Type of Users
Core User	700
Self-Service User	21,000

C.6 ENGAGE CUSTOM TRAINING DEVELOPMENT

C.6.1 The Contractor shall create customized training assets on behalf of the District which are unique to the look and feel of the District’s Oracle environment, processes, and procedures. A customized asset may include ENGAGE Learn tutorials, corresponding user guide, learning paths, or ENGAGE Live workflows, or other in-application guidance tools. Every Oracle release cycle, the Contractor shall update the customized assets in line with the system changes.

C.6.2 ENGAGE Training Asset Types

a. ENGAGE Learn Asset Types:

ENGAGE Learn Asset Types	Purpose
Standard Topic Document	Written documentation that discusses particular concepts, detailing the features, functionality and purpose of the Oracle Cloud Application. This documentation includes detailed terms, functions, and information relevant to the District’s Oracle Cloud Application.
Standard Tutorial	Guided and interactive (simulated) workflow that captures the Oracle interface as Users progress through a process or work area in Oracle Cloud. Each step builds on the previous step. However, the User can enter the Tutorial at any step and can navigate to and step using the Tutorial navigation. These simulations are created from the Contractor’s Oracle Instance. Tutorials offer a digital training sandbox for Users to practice functionality outside of the District’s live Oracle environment.
	Guided and interactive (simulated) workflow that captures the District’s Oracle interface as Users progress through a process or

Custom Tutorial	work area in Oracle Cloud. Each step builds on the previous step. However, the User can enter the Tutorial at any step and can navigate to and step using the Tutorial navigation. These simulations are created from the District’s Oracle Instance and capture the look and feel of what users experience in their live Oracle Cloud environment. Tutorials offer a digital training sandbox for Users to practice functionality outside of the District’s live Oracle environment.
Custom Learning Path	An architected path combining Topics and Tutorials (standard or custom) designed in a specific order for learning District-specific business processes or functional areas. These are custom built for the District and are designed for specific User-roles within an organization.
User Guide	Printable guides generated from Tutorials. User Guides are available for all Tutorials, whether Standard or Custom. The guides include images from the Tutorial which can be collapsed so that Step data will only be displayed. It is recommended that User Guides are consumed on the ENGAGE Learn site as they are continuously updated with each Oracle release. Printed material quickly becomes obsolete in a dynamically changing system.

b. ENGAGE Live Asset Types:

ENGAGE Live Asset Types	Purpose
Workflow	A series of steps that help users learn an objective or complete a task through a series of step-by-step actions. These steps display as a layer over the live Web Application.
Tool Tip	Provide users with static contextual information when there is a need for additional information on a page. Will always be present in the User Interface (UI) until turned off.
Announcement	An announcement to inform users about items that need user's immediate attention. These can include videos, external links, or attach to a workflow. (Note: Attached workflow will be charged separately.)
Launcher	Button or in-system tool tip that launches into a URL, video, or workflow.
Checklist	A set of resources grouped together as a list of tasks; completion is tracked.
Validation	Field based validation with customizable rules. Shows as green checkmark when rules are followed successfully.
Link	A link to a specific, District-owned document, website, etc. that lives within the self-help menu or checklist widget.
Video Link	A link to any external video that lives within the self-help checklist widget and opens in a pop-up.

Text	A text entry that provides additional information to the user which lives in the self-help widget or checklist and opens in an in-system pop-up.
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C.6.3 Roles and Responsibilities during Customization Development Process

The table below sets forth the necessary Roles and Responsibilities for the District internal project team(s), and the Contractor, related to asset customizations to ensure a smooth and successful delivery. The intention of this information is to help in the planning process to ensure adequate personnel are available to complete the work related to the custom training assets.

Licensor or End-Client’s Training Implementation Roles	Responsibilities
Project Sponsor(s)	Ensures resources are available to support the project as defined by our agreed upon Order.
Project Lead(s)	Confirm and sign off on the accuracy of the test scripts for delivery to the Contractor. Responsible for District data needed for use in customized training assets. Final approvers of customized training assets.
Functional Lead(s)	Analyze business requirements and share relevant Oracle software system customization decisions with the Contractor. Responsible for validating test scripts and reviewing and providing feedback on the customized assets with the Contractor team during the development process.
Technical Lead(s)	Manages technical aspects of software development flow in a specific context or team. Also responsible for curating test scripts during the requirements gathering phase of customization development.
Subject Matter Experts (SMEs)	Reviews and provides feedback on the customized training assets in the relevant area of expertise.
Maverick’s Training Implementation Roles	Responsibilities
Maverick Solutions Learning Consultant	Assists the District through the ENGAGE customization development process by helping the District determine what ENGAGE content will be customized, and what Learning Paths will be developed that would provide the most value to the End-Client and their learners. *Note: All other Learning Consultant services would be an additional staff augmentation cost.
Maverick Solutions Project Manager	Manages the Contractor team’s resources, work assignments, and schedule for creation and vetting of assets for the project.

	<p>Work collaboratively with the District to address and mitigate risks or challenges during development and review cycles.</p> <p>Manages the overall training project scope and customization development process for the Contractor.</p>
Maverick Solutions Client Success Manager	<p>Is the primary point of contact for Maverick ENGAGE questions, feedback, contract requirements, user management, reporting, assessing additional contractual needs, and the overall quarterback during the Licensors contractual lifecycle.</p>
Maverick Solutions Technical Support Manager	<p>Point of contact for ticketing, technical support, technical onboarding, and various other technical functions throughout the project lifecycle.</p>
Maverick Solutions Content Developer	<p>Reviews and analyzes documentation (test scripts, training documentation, etc.) provided by the District in preparation for customization development to ensure completeness and thoroughness of requirements.</p> <p>Creates and manages custom asset development.</p> <p>Executes the creation of learning paths as identified by the Learning Consultant.</p> <p> *Note: District data that needs to be staged for use in customized training assets is the responsibility of the District.</p>

C.6.4 Time Commitment Estimations During the Customization Development Process:

The table below sets forth the range of time commitments for the District’s internal project team(s) related to asset customizations to ensure a smooth and successful delivery. The intention of this information is to help in the planning process to ensure adequate time is allotted to complete the work related to the custom training assets.

Activity	Licensors or End-Client Time Commitment Estimations	Expected Timeframes	Additional Information
System Access	1-2 hours	1 week before test scripts are provided to the Contractor	The Contractor will need functional system credentials with proper access and security permissions to be able to begin and complete the customization development.
Complete the Order Form for customizations	2-4 hours total per Application (dependent on # of customized assets)	Dependent on deployment and project cycle	The District will be asked for input at various stages throughout the project lifecycle. At project start, functional leads will be engaged in

Activity	Licensor or End-Client Time Commitment Estimations	Expected Timeframes	Additional Information
			<p>conversations with the Contractor’s Learning Consultant and other Contractor project members, to identify, review and confirm the desired customizations within each application.</p> <p>*Note: There are separate documents and processes for identification of ENGAGE Learn assets vs. ENGAGE Live assets that will be introduced at project kickoff.</p>
<p>Requirements Gathering (Test scripts and data) for custom training assets</p>	<p>20-30 minutes per customized asset</p>	<p>2 weeks before active development begins on customized asset</p>	<p>During requirements gathering, District Technical Leads will be asked to pull test scripts and District Functional Leads will be asked to validate those scripts. These test scripts must be mapped to the corresponding asset ordered and should include all relevant data, access/role information, and any specific notes that should be included in the customized asset. Having these fully vetted scripts is crucial and significantly reduces the amount of time spent in Subject Matter Expert (“SME”) review.</p> <p>*Note: Test scripts should not only be pulled but validated by the District before submission to the Contractor.</p>
<p>Review of customized training assets</p>	<p>15-30 minutes per customized asset, x2 review rounds</p>	<p>Recurring live review sessions held weekly</p>	<p>When development is complete and content is ready to be reviewed, the District Functional Leads</p>

Activity	Licensor or End-Client Time Commitment Estimations	Expected Timeframes	Additional Information
		throughout development	can expect to spend 15-30 minutes per asset providing feedback. There are 2 review rounds per asset assumed in the timeline. The second review is typically shorter per asset (10-20 minutes). The Contractor shall review the assets with the District as soon as they are ready to review. The Contractor aims to have a weekly check-in and review meeting during the active project cycle.
Approval of customized training assets	5 minutes per customized asset	Occurs during recurring weekly review sessions, typically in the 2 nd review round for each asset	After two review rounds, if needed, there can be a final approval round, which should not take more than 5 minutes per asset, as it is confirmation of changes made and not a full review. This step may not be needed if Approval is granted during one of the initial review rounds. Final approval is typically granted by the Project Lead or Functional Lead.
Learning Path identification	2-4 hours per Application	30 days prior to the expected publication and use of Learning Paths	The Contractor’s Learning Consultant Team shall work with the District’s project team to identify the best architecture for a Learning Path(s) based on the District’s needs. The final identified Learning Paths will be documented in the Order Form.
Learning Path creation	N/A	Creation of each Learning Path takes 1-2 days Creation of a Learning Path Package typically takes 1-3 weeks	The Contractor shall create the Learning Path(s) based on the Order Form. Any changes to a learning path after the Order Form has been completed will add additional days to the creation time. Development turnaround time for a single Learning Path is 1-2 days. Development turnaround time

Activity	Licensor or End-Client Time Commitment Estimations	Expected Timeframes	Additional Information
			for a complete Learning Path package is typically 1-3 weeks, depending on the number of Learning Paths identified and the complexity of those Learning Paths.
Learning Path review and approval	30 min-1 hour	<p>Occurs during recurring weekly review sessions as individual Learning Paths are completed</p> <p>The full Learning Path Package shall be reviewed once all development is complete</p>	<p>The Contractor shall review the individual Learning Paths with the District as soon as they are ready to review. We aim to have a weekly check-in and review meeting during the active project cycle.</p> <p>When development is complete and a Learning Path package is ready to be reviewed, the District Functional Leads can expect to spend 30 minutes – 1 hour per Learning Path package providing feedback or approval. This step is a final review of the comprehensive Learning Path package.</p>
If access or data issues arise	15-30 minutes	A one-day delay for every day we do not have access to the District’s system or if data issues arise, may occur	Throughout the course of development, the Contractor will need points-of-contact if the Contractor has access issues or data issues while capturing customized assets. This communication usually takes place via email; however, if it would be easier to have a call to discuss, those meetings are estimated at 15-30 minutes.

C.7 NUMBER OF CUSTOMIZATIONS

The number of Customizations is described in Section B.5.2.b.

C.8 ENGAGE ASSUMPTIONS

- C.8.1 The effective date of the ENGAGE subscription shall be the contract effective date.
- C.8.2 All ENGAGE Material shall be presented in English.
- C.8.3 The District will need to provide Contractor with the URL and user credentials for the District's development instance for each functional area that requires the Contractor services. These credentials will come with the appropriate security and access required to perform the transactions associated with creating custom assets.
- a. Continuation of system and role access must be provided throughout the development process and contract lifecycle in order to create and maintain customized assets. This includes reinstatement of access within 24 hours of a system refresh/update.
 - b. For every day beyond this 24-hour period without access, the deliverable(s) will be delayed 1 day.
- C.8.4 The District will assign internal or District stakeholders to each of the Roles listed on the Roles and Responsibilities chart.
- a. Customization timelines are dependent on the availability and responsiveness of these District Roles. Delays in responsiveness may cause a delay in the projected development timeline.
- C.8.5 The District is responsible for providing adequate documentation and data for the Contractor to create the customized assets. These are, at a minimum, thoroughly documented test scripts and matching data in the District environment. Test scripts list out each step that should be taken within the system for a given transaction and should include expected results.
- C.8.6 Changes to the overall District project schedule or scope may impact the Contractor's ability to complete ENGAGE customization work by the scheduled due date. The Contractor Project Manager shall work with the District's internal Project Manager to identify and mitigate risks and challenges due to project schedule changes. Changes in the project schedule or scope may require a change order for impacted schedule, scope, level of effort, and associated pricing. A change order must be complete before additional development outside of the original scope or budget can begin.
- C.8.7 The Customized Training Content shall be maintained and updated by the Contractor, while District is a subscriber to Maverick ENGAGE.
- C.8.8 Customizations can be applied at any time during the subscription term and do not expire so long as the District maintains a subscription to Maverick ENGAGE.
- C.8.9 A subscription to ENGAGE Live software is required for Live custom asset creation.
- C.8.10 An ENGAGE Learn subscription is required if ENGAGE Learn assets are to be made available in the customized assets.

- C.8.11 The District may create its own Live customized assets, at the District's expense. In this case, the District will be responsible for maintaining and updating their customized assets.
- C.8.12 The Contractor shall generate the following reports upon request by District:
- a. User Count by Month – This report shall detail how many unique users have accessed ENGAGE Live each month.
 - b. Usage Analytics – This report shall detail user interaction with ENGAGE Live assets.

[End of Section C]

SECTION D**PACKAGING AND MARKING****D.1 PACKAGING**

All reports and deliverables that are in “hard copy” and physically transported through the U.S. mail or private courier services are to be securely packaged using the Contractor’s best practices.

D.2 MARKING

- D.2.1 Unless otherwise specified herein, all reports and deliverables delivered under this contract must be plainly marked, stating the Contractor’s name, contract number and addressed to the recipient, including the name of the office or floor, and the recipient’s office telephone number as noted in the contract.
- D.2.2 In case of carload lots, the Contractor shall tag the car, stating Contractor’s name and contract number. Any failure to comply with these instructions will place the material at the Contractor’s risk.
- D.2.3 Deliveries by rail, water, truck or otherwise, must be within the working hours and in ample time to allow for unloading and if necessary, the storing of the materials or supplies before closing time. Deliveries at any other time will not be accepted unless specific arrangements have been previously made with the contact person identified in the contract at the delivery point.

[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 [Intentionally Deleted]
- E.1.3 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) The Contractor shall provide and maintain an inspection system acceptable to the District covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the District during contract performance and for as long afterwards as the contract requires.
 - (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 the District performs inspections or tests on the premises of the Contractor or subcontractor, the Contractor shall furnish, without additional charge, all reasonable facilities and assistance for the safety and convenient performance of these duties.
 - (e) 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. When the defects in services cannot be corrected by performance, the District may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and reduce the contract price to reflect value of services performed. If the Contractor fails to promptly perform the services again or take the necessary action to ensure future performance in conformity to contract requirements, the District may (1) by contract or otherwise, perform the services and charge the Contractor any cost incurred by the District that is directly related to the performance of such services, or (2) terminate the contract for default.

E.2 ACCEPTANCE

Acceptance of all products and services provided under this contract shall be performed by the COTR. Acceptance means approval by the COTR of specific services as partial or complete performance of the contract.

E.3 WARRANTY OF SERVICES

- E.3.1 The time period for this warranty provision is the life of the contract plus all active options and extensions.

E.3.2 Warranty Provision:

- (a) Notwithstanding inspection and acceptance by the District or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The Contracting Officer shall give written notice of any defect or nonconformance to the Contractor within 30 days from the date of discovery. This notice shall state either:
 - (1) That the Contractor shall correct or re-perform any defective or nonconforming services; or
 - (2) That the District does not require correction or reperformance.
- (b) If the Contractor is required to correct or reperform, it shall be at no cost to the District, and any services corrected or reperformed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or reperform, the Contracting Officer may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the cost occasioned to the District thereby, or make an equitable adjustment in the contract price.
- (c) If the District does not require correction or reperformance, the Contracting Officer shall make an equitable adjustment in the contract price.

[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, which shall be the date of last signature on the Contract.

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.
- F.2.2 If the District exercises this option, the extended contract shall be considered to include this option provision.
- F.2.3 The price for the option period shall be as specified in Section B of the contract.

F.3 DELIVERABLES

- F.3.1 The Contractor shall perform the activities required to successfully complete the District's requirements and submit each deliverable 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
Office of the Chief Financial Officer
1100 4th St. SW, Suite E620
Washington, DC 20024
Telephone: (202) 442-7122
E-mail address: 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:

James Snight
PMP | Director, DIFS Support Center
Office of the Chief Information Officer (OCIO)
1101 4th St. SW, Suite W350
Washington, DC 20024
Telephone: (202) 442-6345
E-mail address: James.Snight@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 approving invoices 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 services to be performed, less any discounts, allowances or adjustments provided for in this contract.
- G.2.2 The District will pay the Contractor on or before the 30th 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 create and submit payment requests in an electronic format through the DC Vendor Portal, <https://vendorportal.dc.gov>
- G.3.2 The Contractor shall submit proper invoices on a monthly basis or as otherwise specified in Section G.4.
- G.3.3 To constitute a proper invoice, the Contractor shall enter all required information into the Portal after selecting the applicable purchase order number which is listed on the Contractor’s profile.

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; or

G.4.1.1.2 [Intentionally Deleted]

G.4.1.1.3 [Intentionally Deleted]

G.4.1.1.4 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 [Intentionally Deleted]

G.4.1.2.2 [Intentionally Deleted]

G.4.1.2.3 15th 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 [Intentionally Deleted]

G.4.2.2.2 [Intentionally Deleted]

G.4.2.2.3 15th 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 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, be removed immediately by the Contractor from work relating to the Contract, and the District acknowledges that such removal may result in delays in Contractor's performance under the Contract for which Contractor shall not be liable in any way.

H.2 SUBCONTRACTS

The Contractor hereunder shall not subcontract any of the Contractor's work or services to any subcontractor 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 to:
- (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. A certified business enterprise prime contractor that performs less than 35% of the contracting effort shall be subject to enforcement actions under D.C. Official Code § 2-218.63.
- (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. If the certified business enterprise member of the certified joint venture prime contractor performs less than 50% of the contracting effort, the certified joint venture shall be subject to enforcement actions under D.C. Official Code § 2-218.63.
- (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 [Intentionally Deleted]

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 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 to the Contracting Officer, project manager, and the Director of the Department of Small and Local Business Development (at 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 upon the initiation and completion of a project.
- H.3.9 Within 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), the Contracting Officer, and the project manager 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, and the project manager 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) [Intentionally Deleted]
 - (c) The Contracting Officer will provide written notice of the waiver determination to the Beneficiary 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 additional 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. Official 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.3.16 Notice of Approved Waiver

A waiver has been approved by the Director of the Department of Small and Local Business Development for the base period of this contract. Therefore, Section H.3.3, requirement to submit a subcontracting plan, **IS NOT** applicable. However, the certified business enterprise subcontracting requirements of Section H.3 **IS** applicable to option periods, if exercised, for Beneficiaries of all non-construction contracts for government-assisted projects in excess of \$250,000, unless a waiver for said option period has been approved in advance by the Director of the Department of Small and Local Business Development.

H.4 WARRANTIES

- H.4.1 The Contractor warrants and agrees that it is lawfully organized and constituted under all federal, state and local laws, ordinances and other authorities of its domicile and is otherwise in full compliance with all legal requirements of its domicile.
- H.4.2 The Contractor warrants and agrees that it is of legal authority and capacity to enter into and perform under the Contract, and that it has the financial ability to perform its obligations under such Contract.
- H.4.3 The Contractor warrants and agrees that it has been duly authorized to operate and do business in all places where it will be required to do business under the Contract that it has obtained or will obtain all necessary licenses and permits required in connection with such Contract; and that it will fully comply with all laws, decrees, labor standards and regulations of its domicile and wherever performance occurs during the term of such Contract.
- H.4.4 The Contractor warrants and agrees that it has no present interest and shall not acquire any interest which would conflict in any manner with its duties and obligations under the Contract.
- H.4.5 The Contractor warrants and agrees that all systems analysis, systems design and programming pursuant to the Contract or for use in its performance there under has been and shall be prepared or done in a high quality, professional and competent manner using only qualified personnel.
- H.4.6 The Contractor further represents and warrants that all programs implemented in its performance under the contract shall meet the performance standards required there under and shall correctly and accurately perform their intended functions on the equipment supplied by the District or Contractor.
- H.4.7 The Contractor warrants and agrees that all services provided by it under the Contract shall be performed in a prompt, high quality, professional and competent manner using only qualified personnel.
- H.4.8 The Contractor warrants and agrees that it will not take any action inconsistent with any of the terms, conditions, agreements, or covenants set forth in this Contract without the express written consent of the District.
- H.4.9 The Contractor warrants and agrees that, to the extent it has access to District equipment, it shall keep all such equipment in good condition and repair and shall not permit anything to be done that may materially impair the value thereof. The Contractor shall use such equipment only in the ordinary course of its performance under the Contract and shall not permit such equipment to be used in violation of any applicable law, regulation or policy of insurance. The Contractor agrees to develop a maintenance and replacement schedule subject to approval by the District and agrees to comply with that schedule.
- H.4.10 The Contractor warrants and agrees that it shall not sell, assign, lease, transfer, pledge, hypothecate, or otherwise dispose of any component of any goods, system proposed in the

Contract or any interest therein, or permit any of it to become a fixture or accession to other goods or property without the prior written consent of the District.

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 fifteen (15) days of its occurrence. In the event of any such threatened or pending litigation, the Contractor shall be required to file with the District comprehensive monthly 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

The Contractor recognizes that the services provided under this contract are vital to the District of Columbia and must be continued without interruption and that, upon contract expiration or termination, a successor, either the District Government or another Contractor, at the District's option, may continue to provide these services. If another Contractor is awarded a future contract for performance of the required services, the original Contractor shall cooperate fully with the District and the new Contractor in any transition activities that the Contracting Officer deems necessary during the term of the contract. To that end, the Contractor agrees to exercise its commercially reasonable efforts and cooperation to affect an orderly and efficient transition to a successor.

H.7 BACKGROUND INVESTIGATIONS AND OTHER INTEGRITY REQUIREMENTS

- H.7.1 The District may initiate investigations into the backgrounds of any of the Contractor's officers, principals, investors, owners, employees, vendors, subcontractors, or subcontractors' officers, principals, owners, employees or vendors, or any other associates of the Contractor(s) it deems appropriate. Such background investigations may include the completion of certain documents, and fingerprint identification by appropriate law enforcement agencies.
- H.7.2 The Contractor agrees that, during the term of the Contract and any renewal thereof, it shall be obligated to provide such information about its officers, directors, employees and owners, as well as all information about its subcontractors' officers, directors, employees and owners, as the District may prescribe. The Contractor also agrees that the District may conduct background investigations of such persons.
- H.7.3 The District may also require that contractors (1) fully cooperate with official inquiries by responding to questions truthfully and under oath when required, whether orally or in writing,

(2) provide documents and other information of official interest, and (3) attend integrity training.

H.7.4 To advise Contractor individuals of the high expectation of integrity, in addition to **Attachment J.1, Doing Business with Integrity**, all Contractor personnel, including direct or indirect employees and any employed by a subcontractor, assigned to the Contract shall be subject to annually attend the OCFO/OIO Integrity and Ethics Training at the District's direction. The training may be in-person and last up to four hours or may be web-based and last up to two hours.

H.8 DIVERSION, REASSIGNMENT AND REPLACEMENT OF KEY PERSONNEL

The key personnel specified in the contract are considered to be essential to the work being performed hereunder. If commercially reasonable, prior to diverting any of the specified key personnel for any reason, the Contractor shall notify the CO at least thirty (30) calendar days in advance and shall submit justification, including proposed substitutions, in sufficient detail to permit evaluation of the impact upon the contract. The Contractor shall obtain written approval of the CO for any proposed substitution of key personnel.

H.9 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.

H.10 OCFO/OCIO CYBERSECURITY AWARENESS TRAINING

In the OCFO's ongoing effort to protect OCFO data, networks and computers against cyber attackers all Contractor personnel, including direct or indirect employees and any employed by a subcontractor, assigned to the Contract shall take and must pass the OCFO/OCIO Cybersecurity Awareness Training at the District's direction. The training is web-based, designed to heighten cybersecurity awareness so that the OCFO is less likely to become a victim of cybercrimes. The training is typically completed in one to two hours. The training shall be taken and must be passed annually by all Contractor personnel, during the term of the Contract.

[End of Section H]

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

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 <https://does.dc.gov/service/office-wage-hour-compliance-0> or contact the Department of Employment Services at (202) 724-7000.

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 The Contractor agrees to defend, indemnify and hold harmless the District, its officers, agencies, departments, agents, and employees (collectively the “District”) from and against any and all claims, losses, liabilities, penalties, fines, forfeitures, demands, causes of action, suits, costs and expenses incidental thereto (including cost of defense and attorneys’ fees), resulting from, or arising out of, activities or work performed by the Contractor, Contractor’s officers, employees, agents, servants, subcontractors, or any other person acting for or by permission of the Contractor in performance of this Contract. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed in performance of this Contract. The Contractor shall also repair or replace any District property that is damaged by the Contractor, Contractor’s officers, employees, agents, servants, subcontractors, or any other person acting for or by permission of the Contractor while performing work hereunder.
- I.3.2 The indemnification obligation under this section 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. The District agrees to give Contractor written notice of any claim of indemnity under this section. Additionally, Contractor shall have the right and sole authority to control the defense or settlement of such claim, provided that no contribution or action by the District is required in connection with the settlement. Monies due or to become due the Contractor under the contract may be retained by the District as necessary to satisfy any outstanding claim which the District may have against the Contractor.

I.4 TRANSFER

No contract or any interest therein shall be transferred by the parties to whom the award is made; such transfer will be null and void and will be cause to annul the contract. Notwithstanding the foregoing, and subject to the requirements of Title 27 DCMR §1212, Contractor may assign this Contract in the context of a merger, acquisition, or sale of all or substantially all its stock or assets. This Contract shall inure to the benefit of, be binding upon, and be enforceable against, each of the Parties hereto and Contractor’s permitted successors and assigns.

I.5 TAXES

- (a) 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:
- (i) 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, make changes in the contract within the general scope hereof. If such change causes an increase or decrease in the cost of performance of the contract, or in the time required for performance, an equitable adjustment shall be made. Any claim for adjustment for a change within the general scope must be asserted within ten (10) days from the date the change is ordered; provided, however, that the CO, if he or she determines that the facts justify such action, may receive, consider, and adjust any such claim asserted at any time prior to the date of final settlement of the contract. If the parties fail to agree upon the adjustment to be made, the dispute shall be determined as provided in **Section I.7 Disputes**.
- (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) The Contractor shall include in its subcontracts a clause that requires the Contractor to:
- (1) Within five (5) business days of its receipt of notice of the approved additional funding, provide the subcontractor with notice of the amount to be paid to the subcontractor for the additional work to be performed by the subcontractor;
 - (2) Pay the subcontractor any undisputed amount to which the subcontractor is entitled for the additional work within ten (10) days of receipt of payment from the District; and
 - (3) Notify the subcontractor and CO in writing of the reason(s) the Contractor withholds any payment from a subcontractor for the additional work.
- (d) Neither the District, Contractor, nor any subcontractor may declare another party to be in default, or assess, claim, or pursue damages for delays 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 make delivery of the supplies or 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. In the event the District terminates this contract in whole or part as provided in paragraph A. above, the District may procure, upon such terms and in such manner as the Contracting Officer may deem appropriate, supplies or service similar to those so terminated; and the Contractor shall be liable to the District for any excess costs for similar supplies or services. Provided, that the Contractor shall continue the performance of this contract to the extent not terminated under provisions of this clause. The Contractor shall work with any subsequent contractor to ensure a smooth transfer of information for a period of thirty (30) days.
- 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 subcontractor 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 this clause, 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. Payment for completed supplies delivered to and accepted by the District shall be at the contract price. Payment for manufacturing materials delivered to and agreed upon by the Contractor and Contracting Officer; failure to agree to such amount shall be a dispute concerning a question of fact. The District may withhold from amounts otherwise due the Contractor for such completed supplies or manufacturing materials such sums as the Contracting Office determines to be necessary to protect the District against loss because of outstanding liens or claims of former lien holders.
- 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.
- H. Contractor may terminate this Contract if the District commits a material breach of its obligations under this Contract and fails to remedy such material breach within thirty (30) days after receiving written notice of the breach from the Contractor.

I.10 TERMINATION FOR CONVENIENCE

- (a) The District may terminate performance of work under this contract in whole or, from time to time, in part, in either case without refund of any fees paid by District to Contractor for work to be terminated, 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.
- (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 to the work terminated.
 - (4) Assign to the District, as directed by the Contracting Officer, all rights, title and interest of the Contractor under the subcontracts terminated, in which case the District will have the right to settle or pay any termination settlement proposal arising out of those terminations.
 - (5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts. The approval or ratification will be final for purposes of this clause.
 - (6) As directed by the Contracting Officer, transfer title and deliver to the District (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other materials produced or acquired for the work terminated, and (ii) the completed or partially completed plans, drawings, information, and other property that, if the contract has been completed, would be required to be furnished to the District.

- (7) Complete performance of the work not terminated.
 - (8) Take any action that may be necessary, or that the Contracting Officer may 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.
 - (9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (6) above; provided, however, that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the District under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.
- (c) After the expiration of ninety (90) days (or such longer period as may be agreed to) after receipt by the Contracting Officer of acceptable inventory schedules, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality of termination inventory not previously disposed of excluding items authorized for disposition by the Contracting Officer. The Contractor may request the District to remove those items or enter into an agreement for their storage. Within fifteen (15) days, the District will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within forty-five (45) days from submission of the list, and shall correct the list, as necessary, before final settlement.
- (d) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than one year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this one-year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after one year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due to the Contractor because of the termination and shall pay the amount determined.
- (e) Subject to paragraph (d) above, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (e) or paragraph (f) below, exclusive of costs shown in subparagraph (f)(3) below, may not exceed the total contract price as reduced by (1) the amount of payment previously made and (2) the contract price of work not terminated. The contract shall be amended, and the Contractor paid the agreed amount. Paragraph (f) below shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.
- (f) If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid because of the termination work, the Contracting Officer shall pay the Contractor the

amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed on under paragraph (e) above:

- (1) The contract price for completed supplies or services accepted by the District (or sold or acquired under subparagraph (b)(9) above) not previously paid for, adjusted for any saving of freight and other charges.
- (2) The total of :
 - (i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to supplies or services paid or to be paid under subparagraph (f)(1) above;
 - (ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subparagraph (f)(1) above; and
 - (iii) A sum, as profit on subparagraph f(1) above, determined by the Contracting Officer to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subparagraph (iii) and shall reduce the settlement to reflect the indicated rate of loss.
- (3) The reasonable cost of settlement of the work terminated, including-
 - (i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;
 - (ii) The termination and settlement of subcontractors (excluding the amounts of such settlements); and
 - (iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.
- (g) Except for normal spoilage, and except to the extent that the District expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (f) above, the fair value as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the District or to a buyer.
- (h) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraphs (d), (f) or (j), except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (d) or (j), and failed to request a time extension, there is no right of appeal. If the Contracting Officer has made a determination of the amount due under paragraph (d), (f) or (j), the District will pay the Contractor (1) the amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken, or (2) the amount finally determined on an appeal.

- (i) In arriving at the amount due the Contractor under this clause, there shall be deducted:
- (1) All unliquidated advances or other payments to the Contractor under the termination portion of the contract;
 - (2) Any claim which the District has against the Contractor under this contract; and
 - (3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the District.
- (j) If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within ninety (90) days from the effective date of termination unless extended in writing by the Contracting Officer.
- (k) (1) The District may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor shall be entitled.
- (2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the District upon demand together with interest computed at the rate of 10 percent (10%) per year. Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess payment is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.
- (l) 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 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 his 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 RESERVED

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

- A. The Contractor shall maintain as confidential and shall not disclose to third parties without the District's prior written consent, any District information including, but not limited to, the District's business activities, practices, systems, conditions, products, services, public information and education plans and related materials, and game and marketing plans.
- B. 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 statement, or issue any material, for publication through any medium of communication, bearing on the work performed or data collected under this contract.
- C. No information regarding the Contractor's performance of the contract shall be disclosed by the Contractor to anyone other than District Government officials unless written approval is obtained in advance from the Contracting Officer.
- D. The District shall ensure that its personnel do not disclose to any non-District person or organization information concerning the process the Contractor uses to provide services under the awarded contract.

- E. During the term of this Contract and for a period of three (3) years thereafter, each Party shall keep confidential and not disclose any Confidential Information (as defined below) it receives from the other Party. Each Party shall limit access to such Confidential Information only to those of its employees, agents, and subcontractors who need to have access to such information for the purposes of this Agreement and are under an obligation to keep confidential and not to disclose any such Confidential Information. “**Confidential Information**” means any information supplied in any form, including orally, by one Party to the other, or at the direction of a Party, that is:
- (a) clearly identified as confidential at the time of its disclosure by an appropriate legend indicating that the information is deemed proprietary; or
 - (b) should reasonably be understood by the receiving Party, because of legends or other markings, the circumstances of disclosure, or the nature of the information itself, to be proprietary and confidential, regardless of whether such information is marked “Confidential” or “Proprietary”; and
 - (c) any copies, excerpts, summaries, analyses, notes or other documents generated by the receiving Party that incorporate any of the foregoing.
- F. Confidential Information does not include information that is:
- (a) previously known to a Party without obligation of confidence; or
 - (b) independently developed by or for a Party; or
 - (c) acquired by the Party from a third party which is not, to the Party’s knowledge, under an obligation of confidence with respect to such information; or
 - (d) which is or becomes publicly available through no breach of this Agreement.
- G. If the receiving Party or any of its representatives are requested pursuant to, or required by, applicable law or regulation or by legal or administrative process (including by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process) to disclose any Confidential Information, then (to the extent permitted by applicable law) the receiving Party shall provide the disclosing Party with reasonably prompt written notice of such request or requirement, so that the disclosing Party, at its sole cost and expense, may seek an appropriate protective order or other remedy or waive compliance with the terms of this Agreement. In the event that such protective order or other remedy is not obtained, or the disclosing Party waives compliance, in whole or in part, with the terms of this Agreement, Receiving Party or its Representatives, as the case may be, shall be free to disclose that portion of the Confidential Information that is legally required to be disclosed.

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**A. [Intentionally Deleted]****B. Title to Project Deliverables**

1. Ownership of Pre-Existing Materials. Each Party will retain all rights in: (i) any proprietary information or intellectual property owned or licensed by such Party as of the date of this Contract; and (ii) any proprietary information or intellectual property created after the Contract Effective Date and independent of the rights and obligations of this Contract, including all improvements thereto (each Party's "**Pre-Existing Materials**"). Neither Party has any rights in the other Party's Pre-Existing Materials except as provided in this Section I.18.
2. License to Use District Pre-Existing Materials. District hereby grants to Contractor a non-exclusive, non-transferable, royalty-free license to use any District Pre-Existing Materials provided to Contractor to the extent necessary to perform the services outlined in Sections B and C of this Contract ("Services). District represents and warrants to Contractor that District has the authority to: (a) provide any District Pre-Existing Materials provided by it to Contractor; and (b) authorize Contractor to use such District Pre-Existing Materials as contemplated by this Contract. This license shall terminate automatically upon termination or expiration of this Contract, or, if earlier, when the relevant materials cease to be required to fulfill Contractor's obligations under this Contract.
3. License to Use Contractor Content.
 - 3.1. Unless otherwise set forth in an SOW, Contractor hereby grants to District a limited, non-exclusive, non-sublicensable, non-transferable right to use any training, educational, or other content provided by Contractor related to the Services specified in this Contract ("**Contractor Content**") as necessary for District to obtain the full benefit of the Services as reasonably intended by the Parties. For clarity, Contractor Content may only be used by District's authorized users for District's internal business purposes.
 - 3.2. None of District, its subsidiaries and affiliates or their employees, officers, agents, etc., may, unless otherwise permitted by Contractor, copy, sell, lease, license, sublicense, distribute, publish, give, lend, transfer, or otherwise disclose, modify, translate, reverse engineer, or create derivative works from Contractor Content.
 - 3.3. For Contractor Content that is made available to District via a subscription, District may use such Contractor Content only during such subscription period.
4. Rights in District Materials. To the extent this Contract provides for Contractor to originally develop any customized deliverables (other than updates to or standard modifications of Contractor Content) ("**District Materials**") then, upon final payment required by the Contract, District shall own all title and right to the District Materials. After expiration or termination of this Contract, District may, upon written request and at their own expense, retain copies of District Materials in a format approved by Contractor in writing.

5. SaaS Access. Subject to District's compliance with the obligations of this Contract, including the End User License Agreement, excluding Sections 4, 5, 7, 8, 11, and 19, ("EULA"), available at <http://www.mavericksolutions.com/EULA> and hereby incorporated by reference, or other additional terms, Contractor hereby grants to District a non-exclusive, revocable, non-transferable, non-sublicensable, limited license to access and use the ENGAGE training cloud application (the "Application") during the term of this Contract. Without limiting the foregoing, Customer shall not at any time, directly or indirectly: (i) copy, modify, or create derivative works of the Application, in whole or in part; (ii) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Application; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the source code of the Application, in whole or in part; (iv) remove any proprietary notices from the Application; or (v) use the Application in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law. Contractor reserves all rights not expressly granted to District in this Contract. Except for the limited rights and licenses expressly granted under this Contract, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to District or any third party any intellectual property rights or other right, title, or interest in or to the Application.
6. Remedies. District acknowledges that remedies at law may be inadequate to protect Contractor against any breach of this Section I.18. In the event of any breach of this Section I.18, Contractor will be entitled to equitable relief, including the granting of an injunction and specific performance, without proof of actual damages, in addition to all other remedies available to Contractor at law or in equity. District further acknowledges that a breach by District of the obligation under this Section I.18 will be deemed a material breach of this Contract and Contractor will have the right to terminate Contract under Section I.9. If there is any breach of this Section I.18, Contractor may, in addition to any of its other available remedies, demand District return all Contractor Content (and copies or versions thereof) in District's possession, at District's expense, and without any refund.
7. Suggestions. Any feedback, comments, ideas, improvements, or suggestions (collectively, "**Suggestions**") provided by District to Contractor with respect to the Application shall remain the sole and exclusive property of Contractor. The Contractor shall be free to use, copy, modify, publish, or redistribute the Suggestions for any purpose and in any way without any credit or any compensation to District.

C. Transfers or Assignments of Existing or Custom Products by the District

The District may not transfer the licenses hereunder to another District agency. Nothing herein shall preclude the Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed under a project or work plan in the course of Contractor's business.

D. Subcontractor Rights

Whenever any data, including computer software, are to be obtained from a subcontractor under the contract, the Contractor shall use this clause, **Rights in Data**, in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the District's or the Contractor's rights in that subcontractor data or computer software which is required for the District.

E. [Intentionally Deleted]**F. Indemnification and Limitation of Liability**

1. The Contractor shall indemnify and save and hold harmless the District, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this contract, or (ii) based upon any data furnished under this contract, or based upon libelous or other unlawful matter contained in such data.
2. Subject to the limitations in Section I.18.F, Contractor shall indemnify, defend, and hold harmless District against any claim that the Services infringe the intellectual property rights of any third party (“**Claim of Infringement**”). To qualify for such defense and payment (i) District must notify Contractor of the claim, in writing and within three (3) business days of receiving notice of the claim; (ii) Contractor shall have sole control of the settlement or defense of any action to which this indemnity relates; and (iii) District must cooperate with Contractor in every reasonable way to facilitate such defense or settlement.
3. Contractor will have no obligation to indemnify, defend or hold harmless District (or procure, modify or replace the Services as set forth in Section I.18.F.4 below), to the extent the Claim of Infringement relates to any of the following:
 - (a) material changes or modifications made by or on behalf of District to the Services or other materials provided by or on behalf of Contractor without the prior written consent of Contractor; or
 - (b) the inclusion or incorporation of any material provided by or on behalf of District into the Services or other materials provided by or on behalf of Contractor; or
 - (c) District's failure to use the Services materially in accordance with this Contract or the EULA.
4. If the Services become or, in the sole opinion of Contractor, are likely to become the subject of a Claim of Infringement, Contractor shall procure for District the right to continue using the program or modify or replace it to make it non-infringing. If none of the foregoing alternatives is reasonably available to the Contractor, then Contractor may terminate the Contract.

5. Limitation of Liability. EXCEPT FOR THE INDEMNIFICATION OBLIGATIONS IN SECTION F, AND EITHER PARTY'S OBLIGATIONS UNDER CONFIDENTIALITY IN SECTION I.16 AND INTELLECTUAL PROPERTY IN SECTION I.18, A PARTY'S MAXIMUM LIABILITY IN CONTRACT, TORT OR OTHERWISE UNDER THIS CONTRACT HEREUNDER SHALL NOT EXCEED THE AMOUNT OF THE TOTAL FEES PAID OR DUE TO CONTRACTOR BY DISTRICT UNDER THE CONTRACT DURING THE TWELVE (12) MONTHS IMMEDIATELY PRIOR TO THE EVENT GIVING RISE TO SUCH LIABILITY. IN NO EVENT SHALL A PARTY BE LIABLE, WHATEVER THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR OTHERWISE, FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES OR FOR LOST PROFITS, LOSS OF USE, OR ANY CLAIM OR DEMAND AGAINST THE OTHER PARTY OR BY ANY OTHER PARTY. UNLESS OTHERWISE DETERMINED BY A CLAUSE HEREIN, THIS SECTION I.18.F.6 STATES THE PARTIES' SOLE REMEDY FOR DAMAGES UNDER THIS CONTRACT.

I.19 PATENTS

The Contractor shall hold and save the District, its officers, agents, servants, and employees harmless from liability of any nature or kind, including costs, expenses, for or on account of any patented or unpatented invention, article, process, or appliance, manufactured or use in the performance of this contract, including their use by the District, unless otherwise specifically stipulated in this contract.

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 MULTIYEAR CONTRACT

If funds are not appropriated or otherwise made available for the continued performance in a subsequent year of a multiyear contract, the contract for the subsequent year shall be terminated, either automatically or in accordance with the termination clause of this contract. Unless otherwise provided for in this contract, the effect of termination is to discharge both the District and the Contractor from future performance of the Contract, but not from their existing obligations. The Contractor shall be reimbursed for the reasonable value of any nonrecurring

costs incurred, but not amortized in the price of the supplies or services delivered under the Contract.

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. The ADA makes it unlawful to discriminate in employment against a qualified individual with a disability. See 42 U.S.C. § 12101 et seq.

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 at its sole expense 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- / VII or higher. The Contractor shall require all of its subcontractors to carry the same insurance required herein.

All required policies shall contain a waiver of subrogation provision in favor of the Government of the District of Columbia.

The Government of the District of Columbia shall be included in all policies required hereunder to be maintained by the Contractor and its subcontractors (except for workers' compensation, professional liability and crime) as an additional insureds for claims against The Government of the District of Columbia relating to this contract, with the understanding that any affirmative obligation imposed upon the insured Contractor or its subcontractors (including without limitation the liability to pay premiums) shall be the sole obligation of the Contractor or its subcontractors, and not the additional insured. The additional insured status under the Contractor's and its subcontractors' Commercial General Liability insurance policies shall be effected using the ISO Additional Insured Endorsement form CG 20 10 11 85 (or CG 20 10 07 04 **and** CG 20 37 07 04) or such other endorsement or combination of endorsements providing coverage at least as broad and approved by the CO in writing. The Contractor and its subcontractors' liability policies (except for workers' compensation, professional liability, and crime) shall be endorsed using ISO form CG 20 01 04 13 or its equivalent so as to indicate that such policies provide primary coverage (without any right of contribution by any other insurance, reinsurance or self-insurance, including any deductible or retention, maintained by an Additional Insured) for all claims against the additional insured arising out of the performance of this Statement of Work by the Contractor or its subcontractors, or anyone for whom the Contractor or its subcontractors may be liable. These policies shall include a separation of insureds clause applicable to the additional insured.

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.

1. Commercial General Liability Insurance ("CGL") - The Contractor shall provide evidence satisfactory to the CO with respect to the services performed that it carries a CGL policy, written on an occurrence (not claims-made) basis, on Insurance Services Office, Inc. ("ISO") form CG 00 01 04 13 (or another occurrence-based form with coverage at least as broad and approved by the CO in writing), covering liability for all ongoing and completed operations of the Contractor, including ongoing and completed operations under all subcontracts, and covering claims for bodily injury, including without limitation sickness, disease or death of any persons, injury to or destruction of property, including loss of use resulting therefrom, personal and advertising injury, and including coverage for liability arising out of an Insured Contract (including the tort

liability of another assumed in a contract) and acts of terrorism (whether caused by a foreign or domestic source). Such coverage shall have limits of liability of not less than \$1,000,000 each occurrence, a \$2,000,000 general aggregate (including a per location or per project aggregate limit endorsement, if applicable) limit, a \$1,000,000 personal and advertising injury limit, and a \$2,000,000 products-completed operations aggregate limit.

2. Automobile Liability Insurance - The Contractor shall provide evidence satisfactory to the CO of commercial (business) automobile liability insurance written on ISO form CA 00 01 10 13 (or another form with coverage at least as broad and approved by the CO in writing) including coverage for all owned (if applicable), hired, borrowed and non-owned vehicles and equipment used by the Contractor, with minimum per accident limits equal to the greater of (i) the limits set forth in the Contractor's commercial automobile liability policy or (ii) \$1,000,000 per occurrence combined single limit for bodily injury and property damage.
3. i) Workers' Compensation Insurance - The Contractor shall provide evidence satisfactory to the CO of Workers' Compensation insurance in accordance with the statutory mandates of the State of North Carolina.

ii) Employer's Liability Insurance - The Contractor shall provide evidence satisfactory to the CO of 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.

iii) All insurance required by this paragraph 3 shall include a waiver of subrogation endorsement for the benefit of Government of the District of Columbia.
4. [Intentionally Deleted]
5. Cyber Liability Insurance - The Contractor shall provide evidence satisfactory to the Contracting Officer of Cyber Liability Insurance, with limits not less than \$5,000,000 per occurrence or claim, \$5,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement and shall include, but not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. This insurance requirement will be considered met if the general liability insurance includes an affirmative cyber endorsement for the required amounts and coverages. Shared limits with the Professional Liability coverage will be acceptable.
6. [Intentionally Deleted]
7. [Intentionally Deleted]

8. Professional Liability Insurance (Errors & Omissions) - The Contractor shall provide Professional Liability Insurance (Errors and Omissions) to cover liability resulting from any error or omission in the performance of professional services under this Contract. The policy shall provide limits of \$5,000,000 per claim or per occurrence for each wrongful act and \$5,000,000 annual aggregate. The Contractor warrants that any applicable retroactive date precedes the date the Contractor first performed any professional services for the Government of the District of Columbia and that continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least ten years after the completion of the professional services. Shared limits with the Cyber Liability coverage will be acceptable.
 9. Commercial Umbrella or Excess Liability - The Contractor shall provide evidence satisfactory to the CO of commercial umbrella or excess liability insurance with minimum limits equal to the greater of (i) the limits set forth in the Contractor's umbrella or excess liability policy or (ii) \$5,000,000 per occurrence and \$5,000,000 in the annual aggregate, following the form and in excess of all liability policies. **All** liability coverages must be scheduled under the umbrella and/or excess policy, with the exception of those liability coverages set forth in paragraph 5. The insurance required under this paragraph shall be written in a form that annually reinstates all required limits. Coverage shall be primary to any insurance, self-insurance or reinsurance maintained by the District and the "other insurance" provision must be amended in accordance with this requirement and principles of vertical exhaustion.
- B. **PRIMARY AND NONCONTRIBUTORY INSURANCE.** The insurance required herein shall be primary to and will not seek contribution from any other insurance, reinsurance or self-insurance including any deductible or retention, maintained by the Government of the District of Columbia.
- 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 ten years for construction projects following final acceptance of the work performed under this contract and two years for non-construction related contracts.
- 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.** Contractors 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 ensure that all policies provide that the CO shall be given 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 should its 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. Certificates of insurance must reference the corresponding contract number. Evidence of insurance shall be submitted to:

The Government of the District of Columbia

And a copy sent via email to:

Office of Management and Administration

Office of Contracts

Attn: Sharon Guilford

Sharon.Guilford@dc.gov

The CO may request, and the Contractor shall promptly deliver updated certificates of insurance, endorsements indicating the required coverages, and/or other evidence of the insurance policies. If the insurance initially obtained by the Contractor expires prior to completion of the contract, renewal certificates of insurance and additional insured and other endorsements shall be furnished to the CO prior to the date of expiration of all such initial insurance. For all coverage required to be maintained after completion, an additional certificate of insurance evidencing such coverage shall be submitted to the CO on an annual basis as the coverage is renewed (or replaced).

- 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.
- J. CARRIER RATINGS. All Contractor's and its subcontractors' insurance required in connection with this contract shall be written by insurance companies with an A.M. Best Insurance Guide rating of at least A- VII (or the equivalent by any other rating agency) and licensed in the in the District.

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.31.11 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 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
- (2) Contract Attachments
- (3) Contractor Training Proposal dated April 19, 2023
- (4) End User License Agreement

I.37 SEVERABILITY

If any term, provision, covenant or restriction of this Contract is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no

way be affected, impaired or invalidated, and the Parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the Parties that they would have executed the remaining terms, provisions, covenants, and restrictions without including any of such that may be hereafter declared invalid, illegal, void, or unenforceable.

I.38 NOTICES

Any notice to be given pursuant to or concerning this Agreement shall be in writing and may be given by personal service, registered mail, or email, to the respective Party at its address set forth above, or at such other address as may be given in writing by either Party to the other, to the attention of each Party's signatory. Any notices given by Client to Maverick by email may be sent to legal@mavericksolutions.net.

I.39 ENTIRE AGREEMENT; AMENDMENT

This Contract, along with the EULA, together with any and all change orders, and attachments sets forth the entire agreement and understanding of the Parties relating to the subject matter hereof and supersedes any and all prior oral and written agreements, understandings, and quotations relating thereto. If either Party issues a purchase order, memorandum, invoice, or other instrument relating to the Services, then any terms therein that are additional to or inconsistent with this Contract will be of no force and effect. No alteration, modification, or cancellation of any of the provisions of this Contract shall be binding unless made in writing and signed by the Parties.

I.40 SURVIVAL

All provisions of this Contract intended to survive termination shall survive termination as the context requires.

[End of Section I]

SECTION J
ATTACHMENTS

The following Attachments are hereby incorporated:

- J.1 Doing Business with Integrity
- J.2 End User License Agreement (November 11, 2022)

[End of Section J]

SECTION K

REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS

K.1 AUTHORIZED OFFICERS

The Contractor shall list the names of persons authorized to negotiate on the Contractor’s behalf in connection with this solicitation (list names, titles, and telephone numbers of the authorized negotiators):

Fred Von Canon, President (fred@mavericksolutions.net); Diana Harney, EVP (dharney@mavericksolutions.net); David Alley, VP (dalley@mavericksolutions.net); Ben Brittain, Sr. Contracts Manager (bbrittain@mavericksolutions.net); Joey Hart, Sr. Sales Executive (jhart@mavericksolutions.net)

K.2 PENDING LEGAL CLAIMS AGAINST THE DISTRICT

The Offeror must disclose any pending legal claims against the District. Pending legal claims includes, but is not limited to, Federal and District court litigation, administrative actions such as contract appeals or protests, claims for money damages from the District, and any other type of action (court or administrative) against the District. Offerors with pending legal claims against the District are not automatically precluded from contract award. If Offerors does not have any pending legal claims against the District, please indicate this below.

The Offeror does not have any pending legal claims against the District.

The Contractor hereby certifies that the information provided above is true, correct and complete.



Nov 21, 2023

President

Signature

Date

Title

K.3 TERMS AND CONDITIONS CERTIFICATION

The Contractor hereby certifies that it has read, understands, acknowledges and agrees to comply with the terms and conditions as set forth in this solicitation/contract/resultant contract, *without exception*.



Nov 21, 2023

President

Signature

Date

Title

[End of Section K]



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

DOING BUSINESS WITH INTEGRITY

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. 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. 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 4th 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. 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.

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.

EULA

END-USER LICENSE AGREEMENT

Last updated: November 11, 2022

1. Introduction

1.1. Please read this End-User License Agreement (“EULA”) carefully. By choosing to Use the cloud application training, ENGAGE (“Application”), you are agreeing to be bound by the terms and conditions of this EULA.

1.2. This EULA is a legal agreement between you (either an individual or a single entity) and Maverick Solutions (“Maverick”) and it governs your Use of the Application made available to you by Maverick.

1.3. If you do not agree to the terms of this EULA, do not Use the Application or related training materials.

1.4. Under this EULA, “Use” shall mean gaining access to the Application, regardless of what, or to what extent, content is accessed, if any, in the Application.

1.5. The Application is licensed, not sold, to you by Maverick for Use strictly in accordance with the terms of this EULA.

2. Term and Termination

2.1. This EULA shall remain in effect until terminated by you or Maverick. Maverick may, in its sole discretion, at any time and for any or no reason, suspend or terminate this EULA by providing thirty (30) days’ prior notice.

2.2. This EULA will terminate immediately, without prior notice from Maverick, in the event that you fail to comply with any provision of this EULA.

2.3. You may also terminate this EULA by ceasing to Use and deleting the Application and the information, content, materials or products, and all copies, in any form, thereof.

2.4. Upon termination of this EULA, you shall cease all Use of the



Application and delete all copies of the Application, and any outputs of the Application.

2.5. Termination of this EULA will not limit any of the parties' rights or remedies at law or in equity in case of breach by the other party (during the term of this EULA) of any of such other party's obligations under this EULA.

3. License

Maverick grants you, as an identified named user, a revocable, non-exclusive, nontransferable, limited license to Use the Application solely for purposes strictly in accordance with the terms of this EULA.

4. Restrictions

4.1. You agree not to, and you will not permit others to:

(a) License, sell, rent, lease, assign, distribute, transmit, host, outsource, disclose or otherwise commercially exploit the Application, or any output of the Application, or make the Application available to any non-authorized user or any third party.

(b) Copy or Use the Application for any purpose other than as permitted under the above section "License."

(c) Modify, make derivative works of, disassemble, decrypt, reverse compile or reverse engineer any part of the Application.

(d) Remove, alter, or obscure any proprietary notice (including any notice of copyright or trademark) of Maverick or its affiliates, partners, suppliers or the licensors of the Application.

5. Confidential Information

5.1. During your Use of the Application, and for a period of three (3) years thereafter, each party shall keep confidential and not disclose any Confidential Information (as defined below) it receives from the other party. Each party shall limit access to such Confidential Information only to those of its employees, agents, and subcontractors who need to have access to such information for the purposes of this EULA and are under an obligation to keep confidential and not to disclose any such Confidential Information. "Confidential Information" means:



(a) any information supplied in any form, including orally, by one party to the other, or at the direction of, a party that is:

- i.** clearly identified as confidential at the time of its disclosure by an appropriate legend indicating that the information is deemed proprietary; or
- ii.** should reasonably be understood by the receiving party, because of legends or other markings, the circumstances of disclosure, or the nature of the information itself, to be proprietary and confidential, regardless of whether such information is marked “Confidential” or “Proprietary”

(b) any copies, excerpts, summaries, analyses, notes or other documents generated by the receiving party that incorporate anything listed in Section 5.1(a).

5.2. Confidential Information does not include information that:

- (a)** is previously known to a party without obligation of confidence;
- (b)** is independently developed by or for a party;
- (c)** is acquired by the party from a third party which is not, to the party’s knowledge, under an obligation of confidentiality with respect to such information; or
- (d)** is or becomes publicly available through no breach of this EULA.

5.3. If either party receives a subpoena or other validly issued administrative or judicial process requesting Confidential Information of the other party, it shall provide notice to the other party within three (3) business days to the other of such receipt and make a commercially reasonable effort to obtain a protective order as permitted. The party receiving the subpoena may thereafter comply with such subpoena or other process.

6. Data Privacy and Security

6.1. Maverick shall employ physical, administrative, and technical controls, screening, and security procedures designed to protect against any



unauthorized access to, use of, or distribution of any of your data, which may include Personal Data.

6.2. As used herein, “Personal Data” shall mean information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with an identifiable individual.

6.3. To the extent that Maverick collects or processes any such Personal Data, Maverick shall not use such Personal Data for any purposes other than as necessary for the performance of its obligations under this EULA.

6.4. Each party shall comply with applicable privacy and data protection laws in connection with processing your data, including Personal Data included therein. To the extent your data includes Personal Data governed by the European General Data Protection Regulation (“GDPR”) or UK General Data Protection Regulation, the parties also agree to process Personal Data in accordance with the terms of the Data Processing Agreement which is available at www.mavericksolutions.com/DPA.

6.5. You shall provide any required notices or disclosures, obtain any legally required consents or authorizations, or take any other required actions as necessary to permit the lawful transfer of Personal Data to or access, use, disclosure, or other processing of Personal Data by Maverick, as required for Maverick to perform its obligations under this EULA.

7. Intellectual Property

7.1. Ownership of Pre-Existing Materials and Derivative Works

Thereof. Each Party will retain all rights in any intellectual property owned or licensed by a Party as of the date of this agreement or any intellectual property created independent of this Agreement, including all improvements thereto (“Pre-Existing Materials”). Each Party will own any improvements to any derivative works of its Pre-Existing Materials created under this Agreement and such improvements also will be considered Pre-Existing Materials. Should a derivative work created under this agreement include Confidential Information or Pre-Existing Materials of the other Party, then the Party to whom the Confidential Information or Pre-Existing Material belongs shall retain all rights in such Confidential Information or Pre-Existing Material. Neither Party has any rights in the other Party’s Pre-Existing Materials except as provided in this Section 7 or a Statement of Work (“SOW”).

7.2. License to Use Your Materials. Unless otherwise set forth in an SOW Client hereby grants to Maverick for the Term of this Agreement, a non-exclusive, non-transferable, royalty free license to use any materials

provided by Client to Maverick to the extent necessary to perform the Services. Client represents and warrants to Maverick that Client has the authority to: (a) provide any materials provided by it to Maverick; and (b) authorize Maverick to use such materials as contemplated by this Agreement. This license shall terminate automatically upon termination or expiration of this Agreement, or, if earlier, when the relevant materials cease to be required to fulfill Maverick's obligations under this Agreement or any SOW(s) hereunder.

7.3. License to Use Maverick Materials.

7.3.1. Unless otherwise set forth in an SOW, Maverick hereby grants to each user licensed by Maverick under an SOW a limited, perpetual, non-exclusive, nontransferable right to use the Maverick Pre-Existing Materials ("Maverick Materials") specified in one or more SOWs as necessary for such participant to obtain the full benefit of the licensed material as reasonably intended by the Parties. For clarity, Maverick Materials may only be used by Client's authorized users for Client's internal business purposes.

7.3.2. None of Client, its subsidiaries and affiliates or their employees, officers, agents, etc., may copy, sell, lease, license, sublicense, distribute, publish, give, lend, transfer, or otherwise disclose, modify, translate, reverse engineer, or create derivative works from Maverick Materials, without limitation to the EULA.

7.3.3. If an SOW provides for Maverick Materials to be delivered to Client by Maverick via a subscription, then Client may use the Maverick Materials only during such subscription period.

7.3.4. In regard to Maverick Materials, you, nor your subsidiaries and affiliates or your employees, officers, agents, subcontractors, or third-party users, either licensed or not licensed to use the Application, may copy, download, sell, lease, license, sublicense, distribute, publish, give, lend, transfer, or otherwise disclose, modify, translate, reverse engineer or create derivative works thereof, without Maverick's prior written consent.

7.4. Rights in New Materials. If an SOW provides for Maverick to originally develop any deliverables (other than derivative works of Maverick Materials) ("New Materials") then, upon final payment required by the SOW, Client shall own the New Materials. After subscription period ends, or terminates in accordance with Section 11, Client may, upon written request and at their own expense, retain copies of New Materials in a format approved by Maverick in writing.

7.5. Your Suggestions. Any feedback, comments, ideas, improvements, or

suggestions(collectively, "Suggestions") provided by you to Maverick with respect to the Application shall remain the sole and exclusive property of Maverick. Maverick shall be free to use, copy, modify, publish, or redistribute the Suggestions for any purpose and in any way without any credit or any compensation to you.

7.6. Remedies. You acknowledge that remedies at law may be inadequate to protect Maverick against any breach of this Section 7. In the event of any breach of this Section 7, Maverick will be entitled to seek equitable relief, including the granting of an injunction and specific performance, without proof of actual damages, in addition to all other remedies available to Maverick at law or in equity. You further acknowledge that a breach by you of the obligation under this Section 7 will be deemed a material breach of this EULA and Maverick will have the right to terminate this EULA. If there is any breach of this Intellectual Property Section, Maverick may, in addition to any of its other available remedies, demand you return all Maverick Materials (and copies or versions thereof) in your possession, at your expense, and without any refund.

8. Privacy Policy

Maverick collects, stores, maintains, and shares information about you in accordance with its Privacy Policy, which is available at www.mavericksolutions.com/engageprivacypolicy. By accepting this EULA, you acknowledge that you hereby agree and consent to the terms and conditions of Maverick's Privacy Policy for Engage.

9. Updates to Application

9.1. Maverick may from time to time provide enhancements or improvements to the features/functionality of the Application, which may include patches, bug fixes, updates, upgrades and other modifications ("Updates").

9.2. Updates may modify or delete certain features and/or functionalities of the Application. You agree that Maverick has no obligation to:

(a) provide any Updates, or

(b) continue to provide or enable any particular features and/or functionalities of the Application to you.

9.3. You further agree that all Updates will be:



- (a) deemed to constitute an integral part of the Application, and
- (b) subject to the terms and conditions of this EULA.

9.4. In conjunction with Updates, you consent for Maverick to contact you regarding the nature of the Updates through the Application and/or through the e-mail address you use to access the Application.

10. Third-Party Services

10.1. The Application may display, include, or make available third-party content (including data, information, applications, and other products services) or provide links to thirdparty websites or services (“Third-Party Services”).

10.2. You acknowledge and agree that Maverick shall not be responsible for any Third-Party Services, including their accuracy, completeness, timeliness, validity, copyright compliance, legality, decency, quality or any other aspect thereof. Maverick does not assume and shall not have any liability or responsibility to you or any other person or entity for any Third-Party Services.

10.3. Third-Party Services and links thereto are provided solely as a convenience to you and you access and use them entirely at your own risk and subject to such third parties’ terms and conditions.

11. Indemnification

You agree to indemnify and hold Maverick and its parents, subsidiaries, affiliates, officers, employees, agents, partners, and licensors (if any) harmless from any claim or demand, including reasonable attorneys’ fees, due to or arising out of your:

- (a) misuse of the Application;
- (b) violation of this EULA or any applicable law or regulation; or
- (c) violation of any applicable right of a third party.

12. No Warranties

12.1. While Maverick strives to provide a streamlined user experience and products go through extensive quality testing, the Application is provided to you “AS IS” and “AS AVAILABLE” and with all faults and defects without



warranty of any kind. To the maximum extent permitted under applicable law, Maverick, on its own behalf and on behalf of its affiliates and its and their respective licensors and service providers, expressly disclaims all warranties, whether express, implied, statutory or otherwise, with respect to the Application, including all implied warranties of merchantability, fitness for a particular purpose, title and non-infringement, and warranties that may arise out of course of dealing, course of performance, usage or trade practice.

12.2. Without limitation to the foregoing, Maverick provides no warranty or undertaking, and makes no representation of any kind that the Application will meet your requirements, achieve any intended results, be compatible or work with any other software, applications, systems or services, operate without interruption, meet any performance or reliability standards, be error free or that any errors or defects can or will be corrected.

12.3. Without limiting the foregoing, Maverick makes no representation or warranty of any kind, express or implied:

(a) as to the operation or availability of the Application, or the information, content, and materials or products included thereon;

(b) that the Application will be uninterrupted or error-free;

(c) as to the accuracy, reliability, or currency of any information or content provided through the Application; or

(d) that the Application, its servers, the content, or e-mails sent from or on behalf of Maverick are free of viruses, scripts, trojan horses, worms, malware, timebombs or other harmful components.

13. Limitation of Liability

13.1. The entire liability of Maverick and any of its suppliers under any provision of this EULA and your exclusive remedy for all the foregoing shall be limited to the amount actually paid by you for the Application.

13.2. To the maximum extent permitted by applicable law, in no event shall Maverick or its suppliers be liable for any special, incidental, indirect, or consequential damages whatsoever (including, but not limited to, damages for loss of profits, for loss of data or other information, for business interruption, for personal injury, for loss of privacy arising out of or in any way related to the Use of or inability to Use the Application, third-party software and/or third-party hardware used with the Application, or otherwise in connection with any provision of this EULA), even if Maverick

or any supplier has been advised of the possibility of such damages and even if the remedy fails of its essential purpose.

14. Severability

If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

15. Waiver

The failure to exercise a right or to require performance of an obligation under this EULA shall not affect a party's ability to exercise such right or require such performance at anytime thereafter, nor shall the waiver of a breach constitute waiver of any subsequent breach.

16. For U.S. Government End Users

The Application and related documentation are "Commercial Items", as that term is defined under 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are used under 48 C.F.R. §12.212 or 48C.F.R. §227.7202, as applicable. In accordance with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a)only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein.

17. Export Compliance

17.1. You may not export or re-export the Application. In particular, but without limitation, the Application may not be exported or re-exported (a)



into or to a nation or a resident of any U.S. embargoed countries or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List.

17.2. By installing or using any component of the Application, you represent and warrant that you are not located in, under control of, or a national or resident of any such country or on any such list.

18. Amendments to this EULA

18.1. Maverick reserves the right, at its sole discretion, to modify or replace this EULA at any time.

18.2. If a modification is material or if this EULA is replaced, Maverick will provide at least thirty (30) days' notice prior to any modifications or the replacement taking effect.

18.2.1. What constitutes a material modification will be determined at Maverick's sole discretion.

18.3. By Using the Application after any modifications or replacements become effective, you agree to be bound by the revised terms. If you do not agree to the new terms, you are no longer authorized to Use the Application.

19. Governing Law

19.1. The laws of North Carolina, United States, excluding its conflicts of law rules, shall govern this EULA and your Use of the Application. Your Use of the Application may also be subject to other local, state, national, or international laws.

19.2. This EULA shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods.

Contact Information

If you have any questions about this EULA, please contact:

legal@mavericksolutions.net



[LinkedIn](#)

[Facebook](#)

CHAT LIVE



3150 Rogers Rd #200, Wake Forest, NC 27587



919-844-2000



Monday – Friday
9:00 AM – 5:00 PM

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