

## TEAMING AGREEMENT

THIS AGREEMENT, made and entered into as of **DATE** ("Effective Date"), by and between ABC Corporation, LLC ("ABC Corporation"), a Virginia Limited Liability Corporation with its principal office located at 1235 Old Smith Road Suite 222, Vienna, VA, and **COMPANY** (hereinafter referred to as "Team Member"), a **CORPORATION TYPE/LOCATION** with its principal office located at **ADDRESS**

## WITNESSETH

WHEREAS, ABC Corporation has identified a certain opportunity with **ORGANIZATION: CUSTOMER/OPPORTUNITY NAME** (hereafter called the "Project"); and

WHEREAS, each of the Parties hereto, having carefully assessed the qualifications and interest of the other, has concluded that a teaming arrangement would be advantageous; and

WHEREAS, ABC Corporation intends to respond to such Project as the prime contractor, and to include Team Member in its proposal, as appropriate, as a subcontractor; and

WHEREAS, ABC Corporation and Team Member desire to define their mutual rights and obligations in connection with the efforts to be undertaken in response to the Project.

NOW, THEREFORE, in consideration of the promises and mutual obligations undertaken herein, the Parties, intending to be legally bound, hereby agree as follows:

1.0 Term. The term of this Agreement shall commence on the Effective Date and continue for a period of one year, unless extended by the parties in writing. However, if the proposal for this effort has been submitted and the customer has not awarded the resulting contract, this Agreement shall remain in effect unless otherwise terminated pursuant to the terms set forth in Section 5.

### 2.0 Procurement Activities.

2.1 ABC Corporation, as the prime contractor, shall retain exclusive control over all prime proposal activities in response to the Project, as well as the negotiation of any resultant prime contract. As appropriate, and if time permits, ABC Corporation will consult with Team Member on proposal decisions affecting data and material submitted by Team Member, provided, however, that ABC Corporation alone shall determine the final form and content of the proposal.

ABC Corporation shall retain control of all post-award Project activities as prime contractor, including but not limited to, project management, technical direction, systems engineering and integration, Government liaison, and contact with all other subcontractors to ABC Corporation.

The Proposal submitted to the Sponsor shall contain and identify Subcontractor's contribution to the Proposal and shall also indicate that Prime Contractor intends to award a subcontract to Subcontractor for the work identified in Subcontractor's Proposal as set forth in Exhibit A hereto. Nothing contained in this Agreement shall preclude or affect the Sponsor's ability to procure directly from either Team Member its respective portion of the Proposal: provided, however, that nothing contained herein shall obligate Subcontractor to provide such work or any materials to Sponsor directly.

2.2 Team Member shall participate in and support the prime proposal effort in the areas of its responsibility as set forth in Exhibit A hereto. Team Member shall furnish personnel, information and materials as necessary, and shall devote best efforts to assist ABC Corporation in developing and preparing sections of the prime proposal and any modifications thereto relating to Team Member's proposed scope of work set forth at Exhibit A. This includes appropriate senior management and technical personnel to assist ABC Corporation in its discussions, presentations and negotiations with Customer, as requested. Team Member will provide to ABC Corporation in a timely manner all pricing information, technical, management, schedule data, information, resumes, and materials as ABC Corporation deems necessary for the submission of a successful proposal for the Project. The cost format and work breakdown structure in the Team Member's proposal shall be as specified by ABC Corporation.

If detailed cost and pricing data are required so as to enable the Prime Contractor to comply fully with its reporting requirements under the RFP, the Subcontractor agrees to submit that data to the Government in a sealed package. Notwithstanding any provision in this Agreement to the contrary, nothing herein shall grant to the Prime the right to examine or audit the financial books or records of the Subcontractor, or the right to receive, inspect or examine any disclosure statement of the Subcontractor.

2.3 The parties acknowledge that the scope of work in Exhibit A may be subject to modification in the event the Customer revises the solicitation package for the Project. The parties agree to negotiate in good faith to accommodate these changes. It is further understood that the Customer may direct that ABC Corporation use another source for the work intended for Team Member or direct that the work be bid on a competitive basis. ABC Corporation, at its discretion, may seek reversal of this direction from Customer. Team Member shall provide to ABC Corporation assistance, as requested, in support of any effort to reverse said direction. If ABC Corporation does not pursue reversal or same is rejected, then ABC Corporation shall

comply with the Customer direction and proceed accordingly. In such case, the parties shall have no further obligations to each other under this Agreement, except for the obligations specified in Section 4.0 herein regarding protection of proprietary data.

2.4 All communications with the Government pertaining to the Project and any subsequent contact will be made solely by ABC Corporation, unless otherwise expressly authorized in writing by the ABC Corporation representative designated in Section 7.0 herein. In the event the Government contacts the Team Member concerning the proposal, Team Member shall promptly notify ABC Corporation thereof. It is understood that ABC Corporation will not be bound by any unauthorized communications with or commitments to the Government by the Team Member.

2.5 Unless Terminated as set forth in Section 5.0, ABC Corporation and Team Member agree that, in consideration of the fact that proprietary data will be exchanged, Team Member agrees not to participate with any other party as a subcontractor, participate as part of a separate legal entity, or establish a separate team with itself in the role of Prime Contractor, in response to the subject opportunity without ABC Corporation's prior written consent; provided, however, that if, after completion of the applicable protest period, ABC Corporation is not awarded a prime contract for the program, either party shall be free to work with the successful contractor thereunder; and provided further that Team Member shall not be precluded from making standard products or services developed by it available to any other customers, including any customer who might be a prospective bidder on the subject program.

### 3.0 Award of Subcontract.

3.1 If, during the term of this Agreement, a prime contract is awarded to ABC Corporation that includes Team Member's areas of support as set forth at Exhibit A, the parties will enter into good faith negotiations for the award of a Subcontract. Any resulting Subcontract shall include ABC Corporation's standard terms and conditions, any required specifications and/or appropriate flow-down clauses and other terms and conditions from the Prime Contract. Subcontract, or portion of work thereunder, may be terminated for the convenience of the Prime only to the extent the Prime contract, or Subcontractor's portion of work thereunder, is terminated for convenience by the Government. Termination shall have no effect on Prime's obligation to pay Subcontractor for professional services prior to the effective date of termination.

3.2 The award of the subcontract contemplated under this Agreement is subject to all the following conditions:

- (1) Award of a prime contract to ABC Corporation for the work contemplated by this Agreement; and
- (2) Furnishing by Team Member to ABC Corporation of all certifications, representations, and non-proprietary cost or pricing data, or basis for exemptions

as required by applicable federal laws or regulations, or contained in the prime contract awarded to ABC Corporation. Cost or pricing data deemed proprietary by Team Member shall be furnished by Team Member to the Government directly as directed and coordinated by ABC Corporation; and

- (3) The Government's specific approval of Team Member as a subcontractor if required; and
- (4) Execution by the parties of a mutually agreeable subcontract within 90 days of award of the prime contract.

4.0 Proprietary Information. During the term of this Agreement, ABC Corporation and Team Member may exchange such technical data and other information to the extent the information is required to pursue the subject Project.

#### 5.0 Term and Termination.

5.1 All rights and obligations of the parties shall terminate, except as otherwise specified herein, upon the occurrence of any of the following:

- (1) Mutual agreement of the Parties as evidenced in writing; or
- (2) Cancellation of the Project by the Government; or
- (3) The Project is substantially modified or amended and the Parties mutually agree and reasonably determine that the Team Member cannot meet the new and/or revised requirements; or
- (4) After completion of the protest period, ABC Corporation does not receive award of a prime contract for the required effort; or
- (5) Disapproval by the Government of Team Member or any proposed subcontract between the Parties for all or substantially all of the work contemplated for Team Member by ABC Corporation' proposal, despite ABC Corporation' efforts in its discretion to convince the Government otherwise; or
- (6) Execution of a subcontract by the Parties as contemplated herein; or
- (7) Failure of the Parties to reach agreement on the terms and conditions of a subcontract within a reasonable time not to exceed ninety (90) days from the award of the prime contract; or
- (8) The Parties mutually agree and reasonably determine that Team Member's product(s) or service(s) specified in the attached Exhibit A are not capable of performing the functions as contemplated by this Agreement, whether such reasoning is based on the cost effectiveness or technological capability of the product(s) or service(s) offered; or
- (9) The filing by or against Team Member in any court of competent jurisdiction of a petition in bankruptcy or insolvency, or for reorganization, or the appointment of a receiver or trustee, or the making of an assignment for the benefit of creditors; or

- (10) ABC Corporation may, in its sole discretion, terminate this Agreement in the event a successor in interest acquires all, or substantially all, of Team Member's assets through an asset sale or stock purchase agreement; or
- (11) The expiration of the Term of this Agreement, unless extended by the Parties in writing; or
- (12) Either Party's breach of a material term of this Agreement after written notice by either party; or
- (13) The suspension, debarment of the either Party or the criminal indictment or conviction of any member of its respective executive team; or
- (14) ABC Corporation, for whatever reason, decides not to pursue the Project, in which case, this Agreement shall terminate upon ABC Corporation' written notice to Team Member.

6.0 Rules and Regulations. The Team Member shall adhere to ABC Corporation' rules and regulations while on ABC Corporation premises, including those relating to the safeguarding of classified information.

7.0 Notices. Any notice, consent, demand, or request required or permitted by this Agreement shall be in writing, and shall be deemed to have been sufficiently given when personally delivered or transmitted by certified or registered United States Mail, or overnight delivery service to the address shown below. Additionally, Notices sent by any other means (i.e., facsimile, courier, electronic mail and the like) are acceptable subject to written confirmation of receipt by the receiving party.

For ABC Corporation:  
Mickey Mouse, CEO  
ABC Corporation, LLC  
1234 Old Smith Rd.  
Suite 502  
Vienna, VA 22182  
Phone: 571.234.5039  
Email: Mickey@ABCCorp.com

For COMPANY:  
NAME, TITLE  
OFFICIAL COMPANY NAME  
ADDRESS 1  
ADDRESS 2  
CITY, STATE ZIP  
PHONE  
EMAIL

## 8.0 Limits of Agreement.

8.1 It is understood that the terms and conditions contained herein are particular to this Agreement only and may not be inferred or used as the basis of discussions for other projects, contractual arrangements, business activities, or as to any other procurements.

8.2 This Agreement does not constitute, create or otherwise give rise to or recognize a partnership, joint venture, limited liability corporation, or any other form of business association or agreement other than a teaming arrangement between independent contractors, and the rights and obligations of the parties shall be only those expressly set forth herein. Neither Party is the agent of the other and except as expressly provided in this Agreement, neither may bind the other. No profits, losses or costs relating to the proposal effort will be shared by the Parties

under any provision of this Agreement. It is also understood that no division of markets is attempted by this Agreement. Each Party shall bear its own costs, expenses, risks, and liabilities incurred by it arising out of or relating to its obligations, efforts or performance under this Agreement.

8.3 Nothing in this Agreement shall, by express grant, implication, estoppel or otherwise, create in either party any right, title, interest, or license in or to the inventions, patents, computer software or software documentation or other intellectual property of the other party.

9.0 Limitation of Liability. Except for liability arising out of a breach of Section 4.0 of this Agreement, the liability of either party to the other for any claims, liabilities, actions or damages arising out of or relating to this Agreement, howsoever caused and regardless of the legal theory asserted, including breach of contract or warranty, tort, strict liability, statutory liability or otherwise, shall not, in the aggregate, exceed the amount of out-of-pocket costs incurred by either party. Except in cases of breach of Section 4.0 of this Agreement, in no event shall either Party be liable for special, consequential, indirect, or punitive damages (including, but not limited to, lost profits, lost revenues, lost business opportunities, loss of use or equipment down time, and loss of or corruption to data) arising out of or relating to this Agreement, regardless of the legal theory under which such damages are sought, and even if the Parties have been advised of the possibility of such damages or loss.

10.0 Work Product. The parties agree that rights in work product will be negotiated in the resulting Subcontract Agreement, provided that Team Member hereby agrees to provide all rights to the Government that are required under the Prime Contract. Notwithstanding the foregoing, pre-existing tools, techniques and other intellectual property that Team Member owns and/or uses in providing services under a resulting subcontract ("pre-existing work") will not be considered work for hire under this clause and will continue to be owned exclusively by Team Member or its licensor, as the case may be, provided that Team Member clearly marks all such pre-existing works as required by the applicable FAR and/or DFARS clauses. Team Member must notify ABC Corporation in writing of all such pre-existing works prior to execution of a subcontract, or if pre-existing works cannot be identified at that time, then promptly upon identification. Team Member acknowledges that pre-existing work and all work product will be subject to the FAR and/or DFARS clauses incorporated by reference into the subcontract.

11.0 Employees. Unless otherwise agreed to in writing, the Parties hereto agree that during the term of this Agreement and for a period of one (1) year after the expiration or termination of this Agreement, neither Party shall knowingly solicit for employment any person employed by the other learned of or met under the Agreement. Nothing in this clause shall be construed to prohibit individual employees from responding to public employment advertisements, postings or job fairs of either party, provided such response is not prompted by a party intentionally circumventing the restriction of this clause.

12.0 Right to Review Software Process. In the event that the proposed Team Member proposes to have end-item software development responsibility, ABC Corporation reserves the right to assess the Team Member's software process according to processes required for compliance with contract or task order requirements. Based upon ABC Corporation' findings, ABC Corporation may make changes to or terminate proposed Team Member work assignments. ABC Corporation also reserves the right to terminate this Agreement based on the finding of the audit.

13.0 Amendments/Waiver. This Agreement shall not be amended, changed or altered without the written consent of both parties. The failure by either party to insist upon strict performance of any clause of this Agreement, or to exercise any right or remedy set forth herein, shall not be deemed a waiver unless in writing signed by an authorized representative of the waiving party.

14.0 Publicity. Publicity, advertising, or other form of public announcement relating to this Agreement shall not be released without the prior written approval of ABC Corporation.

15.0 Entire Agreement. This Agreement, including any and all Attachments and Exhibits hereto which are incorporated by reference, constitutes the entire agreement between the Parties, and supersedes any prior understanding, commitments, or agreements, oral or written, with respect to the subject Project. The Parties have negotiated this Agreement at arm's length, and agree that neither Party shall be deemed to be the drafter of any provision of this Agreement for purposes of contract interpretation or construction.

16.0 Severability. In the event any provision, or any part or portion of any provision of this Agreement shall become or be declared unlawful, invalid, void or otherwise unenforceable, for any reason by a court of competent jurisdiction, the remaining portions of this Agreement shall remain in full force and effect.

17.0 Governing Law; Jurisdiction. The validity, construction, scope, and performance of this Agreement shall be governed by the laws of the Commonwealth of Virginia, excluding its principles of choice of laws, except as to any provisions hereof which are governed by the laws of the United States of America, as to which provisions such laws of the United States shall govern. Except for actions for injunctive relief, which may be brought at any time, the parties shall make a good faith effort to amicably settle by mutual agreement any dispute that may arise between them under this Agreement. If not resolved within thirty (30) days after the Parties have submitted to their respective senior management, the dispute will then be finally and conclusively settled by arbitration in accordance with the Rules of the American Arbitration Association then in effect, and judgment upon the award rendered by the arbitrators may be entered into any court having jurisdiction thereof. Any such arbitration shall be conducted in Virginia. The arbitrators will have no authority to make any ruling, finding or award that does not strictly conform to the terms and conditions of this Agreement. Neither party nor the arbitrators may disclose the existence or results of any arbitration hereunder without the prior written consent of both parties. Notwithstanding the foregoing, ABC Corporation may keep the

Government fully apprised of the status of and disposition of any claims, disputes or controversies under this Section. Pending the final disposition of any arbitration proceeding instituted pursuant to this Section, Team Member shall, if directed by ABC Corporation, proceed diligently with the performance of this Agreement.

18.0 Assignment. Neither this Agreement nor any duty or right hereunder shall be novated, delegated or assigned by Team Member to another party without the prior written consent of ABC Corporation. This restriction applies to any and all transfers, delegations and/or assignments, including but not limited to stock ownership changes, mergers, reorganizations and consolidations. Any such novation, delegation or assignment not conducted in accordance with this clause shall be deemed a material breach of this Agreement and serve as grounds for termination of this Agreement by the non-breaching party, in addition to any other remedies available to the non-breaching party.

19.0 Survival. The rights and obligations stated in Sections 4.0, 8.0, 9.0, 10.0, 11.0, 12.0 and 17.0 shall survive any termination of this Agreement.

IN WITNESS WHEREOF, each of the Parties hereto has caused this Agreement to be executed by its duly authorized representatives as of the date and year above written.

ABC CORPORATION, LLC

FORMAL COMPANY NAME

BY: \_\_\_\_\_

BY: \_\_\_\_\_

Mickey Mouse

REPRESENTATIVE

CEO / Owner

TITLE

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_



**EXHIBIT A**  
**STATEMENT OF WORK**

**OPPORTUNITY NAME:** \_\_\_\_\_

**Background**

**Contract Scope, Teaming Relationship and Work Share**

**Proposal Participation**