**PRIME ORGANIZATION
TEAMING AGREEMENT WITH**

**TEAMING ORGANIZATION** **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

THIS AGREEMENT, effective as of [date], is between TEAMING ORGANIZATION with offices at ADDRESS (hereinafter “Team Member”) and PRIME ORGANIZATION, a STATE corporation (hereinafter “PRIME SHORT NAME”) having its place of business at ADDRESS, referred to individually as “Party” and collectively the “Parties”. This Agreement confirms the joint intent and the establishment of a working relationship between the Parties to support the *XXXXXX PROJECT*(hereinafter the “Project”), for submittal of a proposal to FUNDERS (“FUNDER”) on behalf of the CUSTOMER (“CUSTOMER”) (hereinafter the “Customer”), *Request for Proposals XXXXXX (RFP).*

WHEREAS, Team Member and PRIME SHORT NAME, possess certain complementary technical capabilities, skill sets and resources needed to be the most effective and successful bidding team in response to the RFP identified above; and

WHEREAS, each Party desires to utilize certain unique capabilities of the other in a joint effort to develop a successful and effective written Proposal to the Customer for participation in the Project; and

WHEREAS, the Parties believe that neither alone possesses the total skill-sets and resources needed to be the most effective and successful bidders without the support of the other Party and that together they believe they can be both effective and successful bidders; and

WHEREAS, the Project which is the subject matter of this Agreement may require the Parties to exchange information which is confidential and proprietary; and

WHEREAS, the Parties desire to define and establish their respective rights and responsibilities in the joint proposal effort consistent with Federal and State laws governing restraint of trade or competition;

NOW, THEREFORE, in consideration of the mutual undertakings contained herein the Parties do hereby agree as follows:

As the proposed prime contractor, PRIME SHORT NAME shall have overall responsibility for the preparation and submission of the Proposal. Team Member shall be named a prospective subcontractor and will submit a cost and technical proposal in support of the Project Proposal (the “Proposal”) on the PRIME SHORT NAME Proposal schedule and satisfying the requirements for the areas for which it is responsible.

PRIME SHORT NAME and Team Member have prepared a Statement of Work, Exhibit A that is attached to this Agreement specifying the areas of work on the Project that will be Team Member’s responsibility.

The Proposal will be prepared at the PRIME SHORT NAME facility. Team Member shall supply the necessary expertise and other support to draft and write the agreed portion of the proposal (including any subsequent revisions thereto) within its areas of responsibility. Each Party shall bear its own expenses and responsibilities for its portion of the Proposal it prepares and all commitments and representations that it makes.

PRIME SHORT NAME will provide Team Member with a reasonable opportunity to review and approve its applicable technical portions of the Proposal and recommend and approve changes prior to its submittal to the Customer.

Each Party will keep the other informed concerning all significant aspects of proposal preparation, submittal and the timing and status of prime contract negotiations. If PRIME SHORT NAME is selected, or is a candidate, for award of the proposed prime contract, Team Member shall support any prime contract negotiations relative to work for which it will be responsible as a subcontractor under the prime contract and as otherwise reasonably requested by PRIME SHORT NAME.

If the prime contract is awarded to PRIME SHORT NAME, and PRIME SHORT NAME executes a prime contract resulting from this Proposal, PRIME SHORT NAME intends to award a subcontract to Team Member for the specific areas of responsibility set forth in the Statement of Work, Exhibit A, attached to this Agreement, to the extent they are included in PRIME SHORT NAME’s contract with the Customer, provided, however, that the award of such subcontract by PRIME SHORT NAME will be subject to the approval of the Customer, if required, and to the negotiation of price, risk sharing, and other mutually acceptable terms and conditions between the Parties. Notwithstanding any language or section to the contrary, the Parties agree that the executed subcontract shall incorporate any required or appropriate flow-down provisions of the contemplated prime contract between PRIME SHORT NAME and Customer, including but not limited to any indemnification provisions, liability clauses, service level penalties, liquidated damages, termination, warranty and other applicable provisions.

It is agreed that if the prime contract is awarded to PRIME SHORT NAME, Team Member and PRIME SHORT NAME, together with any other PRIME SHORT NAME subcontractors, will act as an integrated team to accomplish the effort required. Changes to the prime contract which increase or decrease the scope of services outlined in the Statement of Work, Exhibit A, attached to this Agreement will be negotiated in good faith by both Parties.

On this proposal, the Team members shall act so as to avoid any conflict of interest between them that could cause another bidder to protest an award on this Project to the Parties, or to cause the Customer to find the Parties non-responsive to the RFP requirements, and shall not solicit the business or personnel of the other with respect to the Customer’s Request For Proposal or any subsequent contract awarded as a result of any resulting Proposals.

During the course of this Agreement, the Parties may desire to and exchange or disclose to one another information and data which is considered proprietary by one of the Parties (“Proprietary Information”). If such information is marked by the transmitting Party as “Proprietary” or the like by an appropriate stamp or legend, or is disclosed in such a fashion so as to give reasonable notice as to its proprietary nature, the recipient Party agrees that it will use the same only in connection with the Project proposal activity contemplated by this Agreement. Both Parties agree that each will not disclose the same to third parties without the written consent of the transmitting Party, provided, however, that the recipient Party shall not be liable for any disclosure of such information to others under the following conditions:

After three (3) years from the effective date of this Agreement, provided the recipient Party has not improperly retained Proprietary Information of the transmitting party;

If the information is within, or later falls within, the public domain through no fault of recipient;

If the information is already lawfully known by the recipient prior to its disclosure by the transmitting Party;

If the information is legally obtainable without restriction from another source;

If the information has been or later is disclosed by the transmitting Party to others on a nonrestrictive basis;

If the recipient independently develops the information, or

If information is approved for release or use by written authorization of the transmitting Party.

Each Party agrees that all Proprietary Information received in accordance with this Agreement: (1) shall be disclosed only to employees and other authorized personnel of the recipient Party having a “need to know” in connection with the Project proposal effort (2) if reproduced in whole or in part the information will carry a proprietary notice similar to that applied by the disclosing Party, and (3) shall be returned in its entirety by the recipient Party to the transmitting Party, or destroyed per the direction of the transmitting party, after the need for it has expired or upon written request of the transmitting Party, and in any event upon termination of this Agreement.

Except as provided herein, information developed for the purpose of the Project shall be the sole property of its developer. Neither this Agreement nor any disclosure of information hereunder shall be construed to grant either Party any rights, license, or immunity, directly, by implication, estoppel or otherwise, in the Proprietary Information of the other Party.

In recognition of the considerable amount of Proprietary Information expected to be exchanged by the Parties, both Parties agree that any person who has participated in any way on the proposal that is the subject of this Agreement shall not participate in any way on another proposal for this Project. Further, both Parties agree that, unless as otherwise agreed to in writing, the joint work product resulting from the combined efforts of the Parties, which is unique to the proposal contemplated by this Agreement, be considered “Proprietary” information of PRIME SHORT NAME without the necessity of further notice or marking.

This Agreement shall not constitute, create or give effect to or otherwise imply a joint venture, partnership or any form of formal business association of any kind. Each Party to this Agreement shall act as an independent contractor. Except to the extent specifically provided and set forth herein, neither Party to this Agreement shall have any authority or control over the other, nor shall either Party have the power to bind the other Party. Nothing contained in this Agreement shall be construed as providing for the sharing of profits or losses arising from the efforts of either or both of the Parties hereto, and each party shall be responsible to bear all of the costs, fees, etc. incurred by it.

This Agreement shall remain in effect until the first of the following shall occur:

A subcontract is awarded to Team Member by PRIME SHORT NAME in accordance with the terms of this Agreement. Once awarded, the relationships between the Parties shall then be determined by that subcontract. The form and content of the subcontract shall incorporate the terms and conditions of the mandatory flow-down provisions from the Customer, and other mutually acceptable terms and conditions. Award of the subcontract to Team Member shall be contingent upon the award of the prime contract to PRIME SHORT NAME.

The expiration of twelve months from the effective date of this Agreement in the event Customer has not awarded a prime contract to PRIME SHORT NAME or any other person.

The award of a prime contract for the Project to a person/entity other than PRIME SHORT NAME.

The Customer withdraws the RFP.

Disapproval by the Customer of the award of a subcontract to Team Member.

Failure of the Parties to agree on the subcontract price, risk sharing, and other terms and conditions prior to the date by which the Customer requires training to begin.

Arbitration.

(a) Except in the case of a breach of a Party’s intellectual property or confidentiality obligations, all disputes, controversies, and claims (hereinafter “Disputes”), which cannot be resolved through negotiations between the Parties, shall be resolved solely and exclusively through a confidential arbitration proceeding in CITY, STATE utilizing the Commercial Arbitration Rules of the American Arbitration Association (AAA). The Parties shall attempt to agree on a single arbitrator. In the event the Parties cannot agree on a single arbitrator within thirty (30) calendar days, the arbitrator shall be chosen by the AAA utilizing its rules, provided such arbitrator shall be either (i) a retired judge or (ii) an attorney who has practiced in the area of state or local procurement law for at least three years.

(b) The arbitrator shall give effect to statutes of limitation in determining any Dispute. Any Dispute concerning whether an issue is arbitrable shall be determined by the arbitrator. The arbitrator shall follow the law in reaching a decision. The decision of the arbitrator shall be in writing, shall include the findings of fact, conclusions of law, and rationale for the decision, and shall be final and binding and enforceable in any court of competent jurisdiction.

(c) Each party shall be responsible for all of its own costs in preparing for and conducting the arbitration. The fees and costs of the arbitrator shall be shared by the parties on a 50/50 basis.

(d) No provision shall limit the right of a Party to this Agreement to obtain provisional or ancillary equitable remedies from a court of competent jurisdiction before, after, or during the pendency of any arbitration.

Neither Party may assign or transfer its interest herein without the prior written consent of the other Party, provided that either Party may delegate its obligations hereunder to any of its Affiliates, Parent, or Successor in Interest, provided that such entity has capabilities equal to or better than the Assigning Party. Any attempted assignment in contravention of this provision shall be null and void.

No license, expressed or implied, shall inure to the benefit of either Party as affects any intellectual property rights developed outside this Agreement by one of the Parties.

Except for breach of a Party’s intellectual property or confidentiality obligations, neither Party shall be liable to the other for any special, indirect, consequential, or punitive damages, including, but not limited to, lost profits or lost revenues, even if the Parties have knowledge or been advised of the possibility of such damages.

 Any and all media releases, public announcements and public disclosures by the Team Member referring to the name or logo of PRIME SHORT NAME, including, without limitation, promotional or marketing material, but not including any public disclosure required by law shall be coordinated with and approved as to form and substance by PRIME SHORT NAME’s media relation department in writing prior to the release thereof.

This Agreement shall be construed and the rights of the Parties shall be determined in accordance with the laws of the State of Texas without regard to its choice of law rules. In the event that any provision of this Agreement is held to be unenforceable, the validity of the remaining portions or provisions hereof shall not be affected without regard to its choice of law rules.

While this Agreement is in effect, neither Party shall engage in any work, discussions or consultations or enter into any agreement, oral or written, with any other person covering all or any part of the subject matter of this Agreement. In particular, and without limitation, Team Member shall not submit any proposal relating to the Project in cooperation or jointly with any other person or entity, and PRIME SHORT NAME shall not prepare or submit any part of any proposal to the Customer relating to the subject matter listed in the Statement of Work, Exhibit A, in conjunction with, on behalf of or jointly with any other person or entity.

All notices, pursuant to this Agreement shall be in writing and be addressed as follows:

If to PRIME SHORT NAME: and if to Team Member

|  |  |
| --- | --- |
| PRIME SHORT NAME LLC | TEAMING ORGANIZATION  |
| STREET | STREET |
| CITY, STATE ZIP | CITY, STATE ZIP |
|  |  |
| Attention:  | Attention:  |
| Phone Number:  | Phone Number:  |
|  |  |
| With a copy to: | With a copy to: |
|  |  |
| PRIME SHORT NAME LLC | TEAMING ORGANIZATION  |
| STREET | STREET |
| CITY, STATE ZIP | CITY, STATE ZIP |
|  |  |
| Attention:  | Attention:  |

This Agreement and all Exhibits hereto are the entire agreement between the Parties and supersede any or all prior negotiations or agreements, written or oral, related to this subject, and any course of dealing, course of performance, or usage of trade.

THIS AGREEMENT has been duly executed and accepted on behalf of:

**PRIME ORGANIZATION TEAMING ORGANIZATION**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
Signature Signature

Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**EXHIBIT A
STATEMENT OF WORK**

**Sample: TBD**

TEAMING ORGANIZATION will be an allied subcontract partner for PRIME SHORT NAME, with regards to the RFP XXXXXX for the CUSTOMER.

1. TEAMING ORGANIZATION will offer \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as needed during the course of this agreement.
	1. Proposed all-inclusive (XXX will cover any flights & hotels) price per day for Training will be:
		1. $ \_\_\_\_\_\_\_\_\_\_ per day
2. TEAMING ORGANIZATION will offer \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
	1. Proposed Cost per project of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ will be:
		1. $ \_\_\_\_\_\_\_\_\_\_