

## NON-DISCLOSURE AND INTELLECTUAL PROPERTY AGREEMENT

This NON-DISCLOSURE AND INTELLECTUAL PROPERTY AGREEMENT (“Agreement”) is by and between \_\_\_\_\_ (“COMPANY”), and the undersigned employee (“Employee”). As a result of his/her employment by Company, Employee has had or will have access to, and has or will become acquainted with, various trade secrets and other proprietary and confidential information and property of COMPANY, the disclosure or use of which for any purpose other than in COMPANY’s business would unreasonably and unfairly damage COMPANY. Accordingly, as a condition of, and in consideration of COMPANY’s employment or continuation of employment of Employee, it is agreed as follows:

1. **NO CONFLICT OBLIGATIONS.** Employee represents, warrants and covenants that: (i) Employee’s work for COMPANY will not conflict with, or result in a breach or violation of, any obligation or agreement he/she may have with any former employer or other entity; (ii) Employee has not used, disclosed or revealed to COMPANY, its employees or agents, and will not during his or her employment use, disclose or reveal to COMPANY, its employees or agents, any confidential information or trade secrets of any other company; (iii) Employee has fully disclosed to COMPANY any and all non-competition and non-solicitation agreements with any former employer or other company to which he/she may be subject; and (iv) Employee has returned to all former employers and clients all documents, materials, electronic data, drives and diskettes containing confidential information or trade secrets belonging to them.
2. **CONFIDENTIAL INFORMATION.** Employee acknowledges and agrees that, as an employee of COMPANY, he/she has had, and will have, access to Confidential Information.

For purposes of this Agreement, “Confidential Information” means all oral, written and/or tangible technical, financial, business and/or other information of whatever kind, including electronically stored information of any nature, which is confidential, proprietary and/or not generally available outside of COMPANY, including, without limitation, the following: (i) COMPANY financial information, including, but not limited to, direct labor rates, indirect rates, overhead rates, general & administrative rates, fringe benefit rates, fees, margins, and all costs related to the same, as well as COMPANY’s financial statements, tax returns, audits and audit reports, past, present and future; (ii) COMPANY’s strategies, marketing plans and concepts, pricing, volume estimates, financial data, market testing information, research and development plans and results, specifications, configurations, designs, drawings, apparatus, sketches, software and hardware; (iii) COMPANY’s proposals and bids, bid strategies and other pricing strategies and information relating to COMPANY’s participation in the competitive procurement process; (iv) the identities and contact information of COMPANY’s actual and prospective customers, clients, subcontractors, teaming partners, vendors and suppliers, as well as the nature of the business relationship or prospective business relationship between COMPANY and each party; (v) COMPANY’s employee lists, employee capabilities and employee contact information; (vi) COMPANY employees’ salaries, salary levels, payroll data, hourly labor rates, and/or invoice rates, including labor rates; (vii) any information identified as “Confidential,” “Proprietary,” “Sensitive,” “Trade Secret,” “Company Private” or the like; and (viii) thirdparty information in the possession of COMPANY with respect to which COMPANY is obligated to maintain confidentiality, including, without limitation, information of the types described in this paragraph, as well as all Government Data (defined below). Notwithstanding the foregoing, “Confidential Information” shall not include any information or knowledge which: (i) is in the public domain through no fault of Employee or other COMPANY employee; or (ii) is disclosed to the Employee lawfully by a third party who is not under any obligation of confidentiality.

- (a) Employee covenants and agrees that, except as expressly required by Employee’s employment with COMPANY, he/she will not at any time, whether during his/her employment by COMPANY, or within the five-(5) year period following termination thereof, directly or indirectly, use or permit others to use for any purpose, or disclose or communicate to any person or entity, any Confidential Information without the prior written consent of an executive officer of COMPANY in each particular case.
- (b) Employee covenants and agrees that, immediately upon the termination of his/her employment with COMPANY, he/she will: (i) return all documents, materials and files containing or reflecting Confidential Information that is in his/her possession, custody or control; and (ii) return all electronically stored Confidential Information, and all diskettes, thumb drives, and electronic devices containing -stored information in his/her possession, custody or control, or destroy and/or delete such Information, to the extent requested by COMPANY.

3. **GOVERNMENT DATA.** Employee understands that during the course of his/her employment with COMPANY, in connection with Government contracts, he/she has acquired or been given access to, and/or may acquire or be given access to, Government data that is sensitive and/or proprietary to the U.S. Government (“Government Data”). Employee covenants and agrees that he/she will not, directly or indirectly: (i) use Government Data for any purpose other than performance of the subject contract and for the express purpose for which it was furnished to Employee in his/her position as a COMPANY employee; or (ii) disclose Government Data to any unauthorized party without the prior written consent of an executive officer of COMPANY, who as a condition of providing such consent, shall obtain permission from the Government, if required. Employee further agrees: (i) to return Government Data upon request of an authorized representative of the United States Government or upon conclusion of the contract support; and (ii) to return Government Data to COMPANY upon termination of Employee’s employment or upon request of COMPANY at any time. The foregoing obligation shall continue following termination of contract support and/or termination of Employee’s employment with COMPANY.

4. **NON-SOLICITATION OF EMPLOYEES.** Employee hereby covenants and agrees that during his/her employment with COMPANY and during the two- (2) year period immediately following the termination thereof, regardless of the reason for termination, Employee will not, either on his/her own behalf, or on behalf of any other person or entity, solicit or attempt to solicit, hire or attempt to hire, or retain or attempt to retain, any individual or contractor who was employed with or retained by COMPANY at any time during the one- (1) year period immediately preceding the termination of Employee’s employment with COMPANY.

5. **NON-COMPETITION AND NON-SOLICITATION OF BUSINESS.** Employee acknowledges and agrees that his/her services will be of special, unique, and extraordinary value to COMPANY and that COMPANY’s ability to accomplish its purposes, pursue its business plans and compete in the marketplace depends substantially on his/her skill and services. Employee further acknowledges that during his/her employment with COMPANY, he/she will have access to and develop relationships with customers of COMPANY and learn valuable information, processes, and business operations of COMPANY. Therefore, Employee hereby covenants and agrees that at no time during his/her employment with COMPANY, or during the one- (1) year period immediately following the termination of his/her employment with COMPANY, regardless of the reason for termination (“Applicable Period”), will he/she engage in the activities described below, each of which shall be deemed a separate and distinct covenant:

(a) During the Applicable Period, Employee will not, either on his/her own behalf, or on behalf of any other contractor, subcontractor, person or entity, solicit, attempt to solicit, or perform work for: (i) any Government Customer of COMPANY with respect to which Employee performed services or had contact for the purpose of providing services while employed with COMPANY; or (ii) any prospective Government Customer of COMPANY with respect to which Employee participated in marketing activities, or in preparing and/or reviewing a bid or proposal, while employed with COMPANY. For purposes of this Agreement, the term “Government Customer” shall mean the applicable program office of the state or federal agency for which COMPANY provides or has provided services, and its successor offices.

(b) During the Applicable Period, Employee will not, either on his/her own behalf, or on behalf of any other person or entity, compete for, divert, or attempt to divert or take away: (i) any federal contract, task order, subcontract or teaming agreement of COMPANY, with respect to which Employee performed services or had contact for the purpose of providing services while employed with COMPANY; or (ii) any follow-on contracting opportunity for the same or similar work with the same Government Customer. COMPANY may from time to time provide Employee with a list of such federal contracts, task orders, subcontracts and teaming agreements.

For purposes of this Section, permitting an employer, prospective employer or other entity to use Employee’s name or resume as part of a bid or proposal submission for an opportunity encompassed by this Section shall be deemed to be in violation of the restrictions set forth herein.

COMPANY may, in its sole discretion, waive any restriction set forth herein; provided, however, that such waiver shall be set forth in writing and signed by an authorized representative of COMPANY.

The foregoing covenants are not intended to restrict Employee from performing work or engaging in activities in a manner that does not compete with COMPANY. Employee acknowledges and agrees that the covenants and agreements contained in this Section are reasonable with respect to subject matter, length of time and geographic scope for the protection of the

legitimate business interests of Company. Employee further acknowledges and agrees that the covenants and agreements in this Section constitute a material inducement to Company to enter this Agreement and to employ or continue to employ Employee's services, and are necessary in order to secure for Company the benefits for which it has contracted. The terms of this Agreement shall be enforced notwithstanding any breach by the Company. If any term or provision in this Section is deemed invalid or unenforceable by reason of its scope or extent, the court may reduce such scope or extent so that such term or provision is valid and enforceable to the fullest extent of the law. If any term or provision of this Agreement is deemed invalid or unenforceable in its entirety, such term or provision shall be severed from the Agreement and the remaining provisions shall remain in full force and effect.

**6. PROPERTY.** Employee agrees that he/she will not make or retain any originals, copies or reproductions of or excerpts from any Confidential Information for his/her own use or the use of others, and immediately upon request by COMPANY at anytime and/or immediately upon termination of Employee's employment with COMPANY, Employee will deliver to COMPANY all tangible property, laptops, media, devices, diskettes, thumb drives, external drives, documents and materials that constitute, contain or embody any Confidential Information, whether prepared or developed by or with the assistance of the Employee or otherwise coming into his/her possession, control or knowledge.

**7. INVENTIONS, ETC.** Employee agrees that he/she will promptly and fully disclose to COMPANY all inventions, designs, creations, processes, technical or other developments, copyrightable works, improvements, ideas and discoveries, whether patentable or not, that were or are conceived, originated, made, developed or reduced to practice by Employee, alone or with others, within the scope of his or her employment with COMPANY and/or using COMPANY resources (collectively, "Creations"). All Creations are and shall remain the exclusive property of COMPANY as "works for hire." In the event any such Creation is not deemed a "work for hire," Employee hereby assigns to COMPANY all of Employee's right, title and interest in and to all such Creations.

**8. GOVERNING LAW AND JURISDICTION.** This Agreement shall be governed by the laws of the State of Utah, excluding choice-of-law rules thereof. Any judicial proceedings brought by either party against the other and arising out of this Agreement shall be brought in a state or federal court of competent jurisdiction in the State of Utah. Employee understands and agrees that by execution and delivery of this Agreement, Employee generally and unconditionally submits to the exclusive jurisdiction of the aforesaid courts, waives any defense of forum non conveniens and irrevocably agrees to be bound by any judgment rendered thereby in connection with this Agreement, in each respect to the maximum extent permitted by law. If suit is brought by COMPANY to enforce or interpret this Agreement and it prevails in such action, it shall be entitled to recover from Employee, as an element of costs of suit, and not as damages, reasonable attorneys' fees and expenses, all expert witnesses' fees and expenses incurred, as well as interest on any amounts due from the Employee at the rate of five percent (5%) per annum.

**9. INJUNCTIVE RELIEF.** Employee acknowledges and agrees that his/her failure to perform any of his/her covenants in this Agreement would cause irreparable injury to COMPANY and cause damages to COMPANY that would be difficult or impossible to ascertain or quantify. Accordingly, without limiting any remedies that may be available with respect to any breach of this Agreement, Employee consents to the entry of an injunction to restrain any breach of this Agreement.

**10. REMEDIES.** Any breach of Employee's obligations hereunder shall entitle COMPANY to pursue all available legal and equitable remedies, including, without limitation, those set forth in Section 9, above.

**11. OTHER.** The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision hereof. This Agreement contains the entire agreement of COMPANY and Employee with respect to the subject matter hereof and supersedes all prior or contemporaneous negotiations, correspondence, understandings and agreements, whether written or oral, between them, regarding the same. All agreements, representations, warranties and acknowledgements herein shall survive any termination of Employee's employment with COMPANY for any reason. This Agreement may be enforced by COMPANY, its successors and assigns, and all references to "COMPANY" in this Agreement shall include COMPANY, its successors and assigns.

Employee hereby acknowledges and agrees that: (i) he/she has carefully read and understands all of the provisions of this Agreement; (ii) he/she has had the opportunity to review its meaning and consequences with independent counsel; (iii) the terms of this Agreement are fair and reasonable; and (iv) any violation of this Agreement will entitle COMPANY to the remedies set forth herein and under applicable law.

**COMPANY**

**EMPLOYEE**

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

\_\_\_\_\_

\_\_\_\_\_  
Name Printed/Title

\_\_\_\_\_  
Name printed

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date