

Professional Services Terms - Addendum

This Professional Services Terms - Addendum applies whenever Contractor provides IT and related professional services (“**Services**”), whether alone or in connection with other Products. Capitalized terms used but not defined below in this Professional Services Addendum will have the same meanings given to them in the Standard IT Terms and Conditions.

1. SERVICES.

- (a) Contractor will perform the Services in conformity with each applicable SOW, subject to the terms and conditions of the Contract. Consultant will devote such time, efforts and resources to the performance of the Services as are reasonably necessary to accomplish the tasks specified in each SOW. Each SOW shall identify the following:
 - i. The nature and objectives of the Services, the Services to be performed and the obligations to be discharged by Contractor;
 - ii. The “**Deliverables**” to be provided by Contractor to WMATA in connection with the Services;
 - iii. Functional and/or technical specifications (standards or guidelines) for the Deliverables (the “**Specifications**”);
 - iv. A time schedule for performance of Services by Contractor and a related task plan;
 - v. The specific resources to be provided by Contractor and the project roles of Contractor’s Personnel; and
 - vi. The payments to be made to Contractor for Services under the SOW.
- (b) Services performed under the Contract may include installation, integration, implementation, customization, technical support, consulting, development, or other information technology related professional services, and will be performed in the manner and within the timeframe agreed, and at all times in accordance with the applicable terms of the Contract, including without limitation the following principles:
 - i. Contractor shall work with WMATA to minimize any unnecessary disruption to WMATA’s operations, and if disruptions are necessary, the Contractor shall mitigate such disruptions and notify WMATA reasonably in advance of any disruption that could be expected to affect WMATA’s normal business operations. Contractor shall use industry standard practices in connection with its work and shall not access or modify a WMATA site except as necessary in order to perform the Services and when and to the extent agreed by WMATA. If Contractor modifies a WMATA site without permission (or damages a site or any property located there), Contractor promptly will at WMATA’s discretion repair or restore the affected portions of the site, and replace or restore all damaged property at its cost, except to the extent any such repairs or damage are solely attributable to a pre-existing condition at the site or negligence or misconduct of WMATA.
 - ii. Contractor shall perform the Services: (i) in compliance with all applicable security policies and obligations that are provided to Contractor in advance with respect to the applicable premises; (ii) in a manner that will not impose any material risk, cost or obligation (other than those specified in this Contract) on WMATA; and (iii) in a manner designed to minimize any financial, technical or

operational burden on WMATA. Contractor shall, and ensure that all of its Personnel, comply with, all WMATA policies and procedures relating to local and remote network access and connectivity.

2. CONTRACTOR PERSONNEL

- (a) Credentials of Contractor Personnel. Upon WMATA's written request, Contractor will submit resumes and adequate credentials of all proposed individuals for WMATA's consideration and proof of compliance with WMATA's background screening procedures. WMATA reserves the right to request alternate individuals for any proposed individual(s) who do not, in WMATA's reasonable judgment, have the appropriate credentials to perform the Services, or for whom Contractor has not performed the applicable background screening procedures
- (b) Replacement Personnel. The term of assignment for all Contractor Personnel shall be specified in the applicable SOW and may be extended or amended in writing from time to time by the parties. If WMATA is dissatisfied with the performance of any individual assigned by Contractor, WMATA shall have the right to request the replacement of such individual by means of written notice to Contractor. Contractor shall use commercially reasonable efforts to replace such individual (within a period not to exceed thirty (30) days in the aggregate) with an individual whose skill and experience meet the requirements and performance standards for the Services to be provided by Contractor under the applicable SOW. Unless specified otherwise in the applicable SOW, WMATA reserves the right to require Contractor to reassign any Contractor Personnel from the WMATA account on any lawful grounds.
- (c) Personnel Qualifications. Contractor represents that it employs, and shall continue to employ, Personnel having requisite skills, experience and qualifications in areas of interest in which Services are being provided pursuant to an applicable SOW, and such Personnel are and shall remain qualified to provide Services to WMATA under such SOW.
- (d) Independent Contractor. Contractor acknowledges and agrees that its employees and any permitted subcontractors are not eligible for any compensation or other employee benefits from WMATA, including, but not limited to: holiday, vacation or sick pay, social security, Medicare, unemployment or disability insurance, worker's compensation, health and welfare benefits, profit sharing, 401(k), or any employee stock option or stock purchase plans (collectively, "**Employee Benefits**"). Contractor is solely responsible for all matters relating to the payment of its employees, including without limitation, providing its employees and any permitted subcontractors with Employee Benefits and compliance with all other federal, state and local laws, rules and regulations governing such matters. Contractor understands and agrees that Contractor alone shall be responsible for withholding and paying employment-related taxes for employees of Contractor. Contractor further agrees to and shall indemnify and hold harmless WMATA for any failure to make said payments. Contractor understands and agrees that it is responsible for making the appropriate deductions and payments to the State Unemployment Insurance Agency and to the State Workers' Compensation Agency. Contractor further understands that Consultant alone is responsible for obtaining Workers' Compensation Insurance. WMATA retains the right to require Contractor to produce proof of its compliance with state and federal laws concerning required payroll deductions from earnings.
- (e) Use of Subcontractors. Contractor will not subcontract the Services, or any portion of the Services, nor will it engage independent contractors to perform the Services or any portion of the Services, without WMATA's prior approval. With respect to any Services that are subcontracted to or provided by any third party: (i) Contractor expressly assumes

all liability and responsibility for such subcontractors' and third parties' compliance with, or breach of, the terms of this Contract, including the terms of each Annex, any applicable Addendum, and under any applicable SOW; and (ii) Contractor will include a provision in all of its agreements with subcontractors stating that such subcontractors will look to Contractor for payment of all fees and costs related to any Services provided under the Contract and will under no circumstances look to any other party, including WMATA, for payment. Contractor acknowledges and agrees that any project manager(s) that WMATA may designate in a SOW shall be available to Contractor for consultation and advice only (and will not be responsible for supervision of Contractor Personnel) and shall have reasonable access to observe the work in progress.

3. SAFETY REQUIREMENTS (IF PERFORMING WORK ON WMATA PROPERTY)

- (a) The Contractor shall be responsible for ensuring compliance with the most stringent provisions of the applicable statutes and regulations of the District of Columbia, State of Maryland, Commonwealth of Virginia or political subdivision where the work is being performed, as well as the U.S. Department of Labor OSHA standards pertaining to the safe performance of the work. In the absence of a specific industry standard, the Contractor is required to comply with either an established OSHA General Industry Standard, National Institute for Occupational Safety and Health (NIOSH) guidelines, American Conference of Governmental Industrial Hygienists (ACGIH) guidelines, American National Standards Institute (ANSI) guidelines, as well as the WMATA System Safety Program Plan or policies of WMATA's Office of Safety (SAFE). In the event of a conflict between these guidelines and applicable Federal, State or local health and safety laws, regulations or standards, the more stringent standard shall apply.
- (b) The Contractor shall immediately provide to the Contracting Officer ("CO"), a copy of all citations and/or warnings of safety violations received from any Federal, State or local jurisdiction or agency thereof, and/or all notifications of safety violations from insurance companies. The Contractor shall also provide to the CO, copies of any and all subpoenas, complaints or other documents relating to any lawsuit alleging safety violations.

4. INSPECTION OF SERVICES

- (a) The Contractor shall maintain an inspection system acceptable to WMATA covering the Services under this Contract. The Contractor shall maintain complete records of all work it performs and make them available to WMATA during Contract performance in the manner and in accordance with the time periods set forth in Section 13 (Audit and Inspection of Records) of the Standard IT Terms and Conditions.
- (b) WMATA has the right to inspect and test all Services provided under this Contract, at all times and places reasonably practicable. WMATA shall perform inspections and tests in a manner that will not unduly delay Contractor's performance under this Contract.
- (c) If any of the Services performed do not conform to the Contract's requirements, WMATA may require the Contractor to perform them again in conformity with the Contract's requirements, without additional cost. When the defects in performance cannot reasonably be corrected by such further performance, WMATA may:
 - i. Direct the Contractor to take necessary action to ensure that future performance conforms to this Contract's requirements; and/or
 - ii. Reduce the Contract price to reflect the reduced value of the Services performed and any Deliverables provided.

- (d) If the Contractor fails to comply with the provisions of subsection (c), WMATA may:
 - i. By contract or otherwise, perform the Services and charge to the Contractor any cost incurred by WMATA; and/or
 - ii. In the event that the CO deems such failure to comply a material breach, terminate the Contract for default.
- (e) Nothing contained herein shall be deemed to preclude the CO from reducing the Contract price due to the reduced value of nonconforming Services or Deliverables provided to WMATA.

5. QUALITY ASSURANCE/QUALITY CONTROL

- (a) The Contractor shall be responsible for quality assurance and for assuring that the work conforms to the requirements of this Contract and any policies of WMATA's Office of Quality Assurance, Internal Compliance and Oversight.
- (b) The Contractor shall maintain an effective and economical quality control program planned and developed in conjunction with other Contractor functions necessary to satisfy this Contract's requirements. The quality control program shall establish and implement procedures to ensure that only acceptable supplies or services are tendered to WMATA for acceptance and shall demonstrate both recognition of the Contract's quality requirements and an organized approach to satisfying them. The program shall ensure that quality requirements are satisfied throughout all phases of Contract performance, including, as applicable, design development, purchasing, programming, processing, inspection, testing, packaging, delivery, and storage and shall provide for the early detection of actual or potential deficiencies, trends, or conditions that could result in unsatisfactory quality.

6. ACCEPTANCE TESTING

- (a) Contractor shall, at its own expense, conduct appropriate tests in accordance with Contractor's standard practices to establish that each Deliverable meets all applicable Specifications. Contractor shall provide the test results promptly to WMATA in writing, in a form and manner to be agreed upon by the parties.
- (b) If Contractor's tests establish that the Deliverables do not meet the Specifications, or WMATA reports to Contractor prior to acceptance or deemed acceptance thereof that they do not meet all applicable Specifications, Contractor shall promptly commence and diligently and continuously pursue efforts to bring them into compliance with the Specifications. Upon completion of these efforts, Contractor shall tender the Deliverables to WMATA, which will remain subjected to the acceptance procedures set forth in this Section 6. Billing for any Deliverables shall not commence until the Deliverables are accepted by WMATA in accordance with the procedure described herein.
- (c) When Contractor notifies WMATA in writing that the Deliverables are ready for delivery, WMATA shall have at least three (3) weeks from such delivery to test the Deliverables in a production representative environment to determine whether they meet the Specifications. Upon completion of WMATA's testing, WMATA shall notify Contractor of its acceptance or, if it has identified any noncompliance with the Specifications, its rejection of the Deliverables. If WMATA rejects any Deliverable, WMATA shall provide a written list of items that must be corrected. On receipt of WMATA's notice, Contractor shall promptly commence, at its own cost and expense, all reasonable efforts to complete, as quickly as possible and in any event within five (5) business days from receipt of WMATA's notice (or such other period as may be agreed upon by the parties in

writing), such necessary corrections, repairs, and modifications to the Deliverable to bring it into full compliance with the Specifications. If any further corrective measures are required, upon its completion of all such measures, Contractor shall notify WMATA in writing and the process set forth herein shall be repeated. If WMATA determines that the Deliverable, as corrected, repaired or modified, still does not comply with the Specifications, WMATA, in addition to any other rights and remedies it has under this Contract, at law or in equity, shall have the right:

- i. To direct the Contractor, at no increase in Contract price, to correct, repair or modify the defective or nonconforming Deliverable in accordance with a reasonable delivery schedule as may be agreed upon between the parties. The CO may reduce the Contract price if the Contractor fails to meet such delivery schedule; or
- ii. Within a reasonable time after the Contractor's receipt of a notice of defects or nonconformance, the CO may in lieu of correction of the Deliverable reduce the Contract price, as is equitable under the circumstances or terminate this Contract with no liability, obligation or penalty.

7. PERFORMANCE WARRANTIES

- (a) In addition to any representations and warranties set out in the Standard IT Terms and Conditions, Contractor represents (including, to the extent relevant to any Profession Services or Deliverables under the Contract, under the Artificial Intelligence (AI) Terms – Annex), warrants and covenants as follows:
 - i. All Services shall be performed in a professional and workmanlike manner, and in conformance with the requirements and description for such Services set forth in the applicable SOW, if any. Further, in any case where detailed requirements for a professional Service are not mutually agreed upon (for example and without limitation, training Services), such Services shall be fit and sufficient for the purposes expressed in, or reasonably to be inferred from this Contract or the applicable SOW, as the case may be.
 - ii. At the time of delivery, each Deliverable furnished under the Contract will meet all Specifications and other requirements for such Deliverable as provided for in the applicable SOW.
 - iii. All Deliverables shall be free from any material programming or other errors or defects for a period of one hundred eighty (180) days from the date of acceptance of each Deliverable by WMATA.
 - iv. No portion of any Deliverable containing any Software will contain any "back door," "time bomb," "worm," "drop dead device," "Trojan Horse," "virus" or other computer software routines or harmful code designed to permit access to or use of such software or WMATA's computer systems by unauthorized parties, disable, damage or erase any software or data processed therewith, or otherwise interfere with WMATA's rights hereunder.
 - v. No portion of any Deliverable containing any Software will include any item of software that requires or that conditions any rights granted in such license upon:
 - (a) the disclosure, distribution or licensing of any other software (other than such item of software as provided by a third party in its unmodified form);
 - (b) a requirement that any disclosure, distribution or licensing of any other software (other than such item of software in its unmodified form) be at no charge;
 - (c) a requirement that any other licensee of the software be permitted to access the

source code of, modify, make derivative works of, or reverse-engineer any such other software; (d) a requirement that such other software be redistributable by other licensees; or (e) the grant of any patent rights (other than patent rights in such item of software), including non-assertion or patent license obligations (other than patent obligations relating to the use of such item of software).

- vi. All Deliverables shall for a period of twelve (12) months following acceptance by WMATA remain compatible and interoperable with all Equipment provided, recommended, or otherwise approved by Contractor hereunder, and Contractor shall ensure that the Deliverables supplied to WMATA remain compatible at all times with WMATA's cybersecurity and network data security standards.
- (b) The Contractor must promptly replace materials or correct workmanship not conforming to this Contract's requirements at no additional cost to WMATA. In addition, the Contractor is subject to any liquidated damages specified in this Contract or actual damages that WMATA incurs. If the Contractor fails to timely correct deficiencies, the CO, may take specific action as follows:
- i. Replace or correct the item or work at the Contractor's expense. This may be accomplished by award of a new contract or by use of WMATA's own resources.
 - ii. Accept the items with a reduction in price by formal modification to this Contract. The reduced price will be based upon the item's reasonable value considering the possible cost of correcting it.
 - iii. Terminate this Contract for default. If the item or work must be re- procured, the Contractor is normally liable for excess costs that WMATA incurs in accordance with the "Termination for Default" clause of the Standard IT Terms and Conditions.
- (c) EXCEPT AS OTHERWISE STATED IN THIS CONTRACT, CONTRACTOR MAKES NO WARRANTIES (EXPRESS OR IMPLIED) WITH RESPECT TO THE PERFORMANCE OF THE SERVICES, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

8. OWNERSHIP

- (a) Rights to Vest in WMATA. Unless otherwise set forth in the applicable SOW, as between the parties, WMATA shall own all right, title and interest, including all intellectual property rights, in and to all Deliverables developed by Contractor Personnel for the benefit of WMATA under this Contract, including each SOW hereunder; provided, however, that Deliverables shall not include Contractor Materials, Third-Party Materials, or any materials or methods identified as general use in the applicable SOW. (For avoidance of doubt, any AI Inputs and AI Outputs (as those terms are defined in the Artificial Intelligence (AI) Terms – Annex) shall be considered Deliverables for purposes of this Addendum.) Contractor agrees, and shall obligate its Personnel to agree, that each copyrightable element of each Deliverable will be a "work made for hire" within the meaning of the United States Copyright Act, 17 U.S.C. § 101 et. seq, as amended (the "**Copyright Act**"). Without limiting the generality of the foregoing, in the event any custom Software code is developed by Contractor, WMATA will own all resulting intellectual property rights, unless otherwise set forth in the applicable SOW.
- (b) Assignment. Whether or not any Deliverable or part thereof is copyrightable or constitutes a "work made for hire" under the Copyright Act, Contractor and its Personnel hereby irrevocably assign to WMATA all right, title and interest, including all intellectual property rights, throughout the world and without further consideration, in and to such

Deliverables. Without limiting the foregoing, Contractor will not submit patent applications, copyright registrations or otherwise seek to file for, claim, or obtain intellectual property rights protection with respect to or based upon any Deliverables without WMATA's prior written consent, which may be withheld at the sole discretion of WMATA.

- (c) Assignment of Rights to Pre-Existing Work Product. Contractor hereby conveys, transfers and assigns to WMATA all right, title and interest throughout the world, without further consideration, in and to any work product that Contractor (or any of its affiliates or related parties) may have ever created for WMATA ("**Pre-Existing Work Product**") and all intellectual property rights therein, which Contractor may have now or in the future acquire.
- (d) Delivery. Upon termination of the Contract or any SOW hereunder, or earlier upon WMATA's request, Contractor shall deliver to WMATA all Deliverables, whether or not completed, and all records, notes, data, memoranda, copies or tangible information of any kind created by or provided to its Personnel under the Contract or under the applicable SOW in connection with the Services, and Contractor shall ensure each Contractor Personnel is in compliance with this requirement.
- (e) Contractor Materials. In its performance hereunder, Contractor may use certain Contractor Materials. "**Contractor Materials**," as used herein, shall mean all products, devices, software, computer programs, techniques, know-how, algorithms, source code, data and procedures, whether tangible or intangible, that have been created, or otherwise acquired by Contractor independently of this Contract or prior to the Effective Date (except where assignable as Pre-Existing Work Product pursuant to subsection 8(c) above). All Contractor Materials, as between the parties, shall be and remain the exclusive property of Contractor. To the extent any Contractor Materials are embedded in any Deliverables, or any Deliverable is a modification or derivative of such Contractor Materials, Contractor hereby grants WMATA a perpetual, non-exclusive, royalty-free, irrevocable and fully-sublicensable license to use, distribute, modify, copy, adapt and otherwise exploit the Contractor Materials solely in connection with the use and exploitation of the Deliverables provided hereunder. Contractor shall provide WMATA with a copy of all such Contractor Materials in such media as requested by WMATA, together with object code, source code, and then available documentation. Contractor shall also offer to WMATA the right to receive maintenance (including all enhancements and upgrades) and support with respect to those Contractor Materials for which Contractor commercially offers such maintenance and support (if any), for so long as WMATA requires it, at no charge for the first two (2) years following the termination or expiration of the Contract, and, thereafter, at reasonable commercial rates and terms comparable to those that Contractor is offering to other major customers for services of a similar nature and scope, unless otherwise agreed to by the parties in writing.

9. WMATA FURNISHED PROPERTY

- (a) WMATA retains title to all WMATA-furnished property, including all products, devices, software, computer programs, techniques, know-how, algorithms, source code, data, procedures and any and all other items, information, documents or materials supplied by WMATA to Contractor in connection with the performance of Services under an applicable SOW. The Contractor shall use WMATA's property, furnished under this Contract, only for performing Services under the applicable SOW, unless the CO approves in writing otherwise. Modifications or alterations of WMATA property are prohibited, unless they are (i) reasonable and necessary due to the Specifications for the relevant Deliverable; (ii) required for normal maintenance; or (iii) the CO authorizes it, in writing.

- (b) Risk of loss is on the Contractor for WMATA-furnished property, i.e., the Contractor is liable for loss, theft, damage or destruction to WMATA's property while it is in the Contractor's possession or control. The Contractor shall take all reasonable actions necessary to protect WMATA's property from loss, theft, misappropriation, damage or destruction. The Contractor shall do nothing to prejudice WMATA's rights to recover against third parties for any loss, theft, misappropriation, damage or destruction to WMATA's property. Contractor will immediately notify WMATA in the event that any WMATA-furnished property is lost, stolen, damaged, destroyed or otherwise compromised and will fully cooperate with WMATA to investigate and remediate any such incident.

10. DISENTANGLEMENT

- (a) Disentanglement Period. For a period determined by WMATA, not to exceed twelve (12) months (unless otherwise agreed by the parties) commencing on the earlier of: (i) thirty (30) days prior to the end of any applicable SOW for Services; or (ii) the date on which a written notice of termination for any Service is delivered (the "**Disentanglement Period**"), Contractor shall, as and to the extent reasonably required by WMATA, take all actions necessary to accomplish a complete transition of responsibility for the Services being terminated from Contractor to WMATA, or to any replacement provider designated by WMATA, with no material interruption of or adverse impact on the Services (collectively, a "**Disentanglement**"). During the Disentanglement Period, Contractor shall not transfer or reassign any key Contractor Personnel or fifty percent (50%) of the rest of Contractor's Personnel specifically assigned to WMATA in a SOW without WMATA's prior, written consent, which shall not be unreasonably withheld. Contractor shall be required to perform Disentanglement Services on a reasonably expedited basis in the event WMATA terminates the then-remaining term of the Contract.
- (b) Disentanglement Obligations. Contractor shall use its best efforts to cooperate with WMATA and any new service provider and WMATA's other service providers to ensure a smooth transition at the time of Disentanglement, with no interruption of or adverse impact on Services, WMATA's activities, or any related services provided by third parties, and otherwise promptly take all steps required to assist WMATA in effecting a complete Disentanglement, including (i) providing all information regarding the Services or as otherwise needed for Disentanglement; (ii) providing for the prompt and orderly conclusion of all work, as WMATA may reasonably direct, including completion or partial completion of some projects, documentation of work in process, and other measures; and (iii) if specified in the applicable SOW, at WMATA's request, conveying to WMATA such assets as WMATA may (but shall not be required to) select, if any, from among those assets then being held by Contractor for the provision of Services to WMATA ("**Reserved Assets**"), at a the lower of net book or fair market value (provided that Reserved Assets shall not include any WMATA equipment co-located at a Contractor facility) or using best efforts to obtain favorable pricing and terms for WMATA with applicable third-party providers if WMATA elects to acquire replacements for non-Reserved Assets and promptly removing any unacquired assets from WMATA's premises; and (iv) at no additional charge to WMATA, delivering to WMATA or its designee, at WMATA's request, all documentation and data related to WMATA held by Contractor, except for legally privileged Contractor documents and data, and destroying all undelivered copies.
- (c) Disentanglement Process. Contractor's obligation to provide Disentanglement services shall not cease until Disentanglement has been completed to WMATA's reasonable satisfaction. It is the parties' intent that all Disentanglement services shall be performed at the rates set forth in the applicable SOW; however, if the Disentanglement services require expertise not available from Contractor's Personnel or which exceed the scope of services set forth in the applicable SOW, Contractor shall have the right to charge WMATA for such expertise at Contractor's usual and customary rates for such

professional services, including all applicable WMATA discounts. In the event WMATA elects to terminate any Service (but not all Services in the aggregate) pursuant to the terms hereof, Contractor shall perform its Disentanglement obligations hereunder to the extent applicable to the Services being terminated. To ensure continuity of Services during Disentanglement, the Disentanglement Period shall be coordinated with the Transition Period (as defined in Section 20 of the Standard IT Terms and Conditions). At WMATA's election, the Contractor shall provide Services during the Transition Period, at the rates and terms specified therein, to support the Disentanglement obligations set forth in this Section 10. The Transition Period shall run concurrently with a portion of the Disentanglement Period, as determined by WMATA, provided that the Transition Period shall not exceed one (1) year from the expiration or termination of the Contract.

11. SURVIVAL

Each party's obligations under this Addendum which are not, by the express terms of this Addendum, fully to be performed during the term of the Contract (including, without limitation, Performance Warranties; Ownership; WMATA Furnished Property; Disentanglement), shall survive the expiration or termination of the Contract for any reason.