**Consultant Confidentiality and Disclosure Agreement**

This Agreement is entered into by and between Insert Legal Name of Consultant, a corporation with its principal place of business at Click here to enter text.(herein after referred to as “Consultant”), and the Insert Name of Issuing Entity, an entity of the State of Georgia with its principal place of business at Insert address of issuing Entity (herein after referred to as “Issuing Entity”) (collectively, the “parties”).

**Whereas,** Consultant will be participating in the procurement process for the procurement of Insert description of procurement; and

**Whereas**, the parties hereto desire to outline the duties and obligations of the parties with respect to disclosure of conflicts of interest and confidentiality; and

**Whereas,** such obligations shall be in addition to any imposed under any other contract between Consultant and Issuing Entity;

Now therefore, the parties agree as follows:

1. Participation in the Procurement Process: Consultant agrees that as a condition of participation in the procurement process, including but not limited to drafting a solicitation in whole or in part, evaluation of responses to a solicitation, and/or participating in the negotiation of a contract resulting from a solicitation, and as a condition of entering into a contract to provide such services, it will abide by the following terms and conditions:
	1. Consultant shall avoid any appearance of impropriety and shall follow all policies and procedures of the Georgia Department of Administrative Services and the Issuing Entity including but not limited to those regarding conflicts of interest and confidentiality.
	2. Consultant shall immediately disclose to the Issuing Officer of the solicitation any material transaction or relationship (including but not limited to that of Consultant, consultant’s employees, or Consultant’s agents or subsidiaries) that reasonably could be expected to give rise to a conflict of interest, including but not limited to past, present or prospective engagements, involvement in litigation, or other dispute, client relationships, and/or other business or financial interest. By signing this Agreement, the Consultant agrees that any such material transaction or relationship has been disclosed to the Issuing Officer of the solicitation and that any material transaction or relationship subsequently discovered will be immediately reported by the individual to the Issuing Officer of the solicitation for appropriate action which may include disqualification of the Consultant from further participation in the procurement process.
	3. Consultant shall use best efforts to avoid a conflict of interest and that any funds paid to Consultant prior to discovery of a conflict of interest that is unable to be mitigated to the reasonable satisfaction of the Agency shall be returned to the Agency.
	4. Consultant agrees that it will not submit a bid/proposal in response to any solicitation in which it has developed or drafted specifications or requirements thereof, and shall not otherwise perform work on any contract or subcontract directly resulting from that particular solicitation document, unless the State Purchasing Division Deputy Commissioner expressly waives this restriction in writing. Any request for such a waiver must be submitted to the State Purchasing Division in writing via e-mail at processimprovement@doas.ga.gov. Consultant agrees that a designated representative of the Issuing Entity of any solicitation for which Consultant is providing services may interview Consultant’s employees who will be participating in the solicitation development and/or evaluation and/or negotiation process in order to ensure that no impermissible conflicts of interest exist.
2. Confidential or Proprietary Information:
	1. Throughout the evaluation/negotiation process, the Consultant agrees to maintain the confidentiality of the process as well as the information contained in suppliers’ responses. The Consultant shall not transmit, communicate, or otherwise convey preliminary conclusions or results concerning the supplier responses or the likely outcome of the evaluation/negotiation process. The Consultant agrees that ALL internal workings of the evaluation/negotiation process will be kept confidential until the results of the solicitation process have been officially announced by the State.
	2. In the course of participating in the procurement process, the Consultant may have access to "Protected Information." "Protected Information" means all proprietary and/or confidential information provided by the State or the supplier(s), including (i)information relating to the State or its business, products or employees that becomes available to the Consultant due to the Consultant's access to State Entity’s property, products, or employees, (ii) information that has been or is created, developed, conceived, reduced to practice or discovered by the Consultant (alone or jointly with others) using any Protected Information or any property or materials supplied to the Consultant by the State or the supplier(s); and (iii) information that was or is created, conceived, reduced to practice, discovered, developed by, or made known to the Consultant (alone or jointly with others) during the period of Consultant’s assignment with the State. For purposes of illustration, such Protected Information shall include, without limitation: inventions, discoveries, developments, improvements, trade secrets, know-how, ideas, techniques, technology, designs, processes, formulae, data and software programs or subroutines, source or object code, algorithms; plans for research and development, new products, marketing and selling; budgeting and financial information; production and sales information including prices, costs, quantities and information about suppliers and customers; information about business relationships; and information about skills and compensation of state employees, consultants or other state personnel. The Consultant agrees to hold the Protected Information in strictest confidence and shall ensure that its employees who have access to such Protected Information have signed a non-use and nondisclosure agreement in content similar to the provisions hereof, prior to any disclosure of Protected Information to such employees; not disclose Protected Information to any third party without the written consent of the State's representatives authorized to grant such consent (except as required by law); take all reasonable steps to safeguard Protected Information, taking at least those measures that it takes to protect its own most highly confidential information; and not use Protected Information for any purpose other than for purposes of completing the Consultant's duties as part of the procurement process. Consultant shall not take, copy, or retain any Protected Information in any written, electronic, or physical form whatsoever without the written permission of the Issuing Entity, and shall return all Protected Information to the Issuing Officer upon conclusion of negotiations of the solicitation or upon request of the Issuing Officer. In the event that the State determines that Consultant’s participation warrants the execution of a separate nondisclosure agreement, Consultant will enter into such agreement and shall ensure that its employees enter into such agreement.
3. Contact with Suppliers Restricted upon Issuance of the Solicitation:

In addition to maintaining the confidentiality of the evaluation/negotiation process, upon issuance of the solicitation by the Issuing Entity, the Consultant is strictly prohibited from participating in any contact with suppliers participating in the solicitation process except through the Issuing Officer. Contact includes but is not limited to any interaction with such suppliers such as telephonic communications, emails, faxes, letters, or personal meetings, such as lunch, entertainment, or otherwise. Any questions from suppliers or anyone else must be referred to the Issuing Officer conducting the solicitation. If the Consultant anticipates having contact with a potential supplier during the procurement process after issuance of the solicitation, this potential conflict shall immediately be disclosed to the Issuing Entity for appropriate action in accordance with the conflicts of interest provisions of this agreement. If Consultant is contacted for any reason by a supplier potentially interested in the solicitation (including but not limited to potential future employment or other personal or financial interest in the supplier), Consultant shall promptly report the information to the Issuing Officer for the solicitation. The Issuing Entity may consider removing individuals who have received such contact from any further participation in the solicitation/evaluation process.

1. Disclosure of Working Documents

In the course of participating in the evaluation/negotiation process, the Consultant acknowledges that Consultant may develop working documents, including but not limited to those which capture thoughts, questions, or discussions of the suppliers’ responses. The Consultant agrees that ALL working documents are state entity records and state property and must be submitted to the Issuing Officer at the end of the evaluation/negotiation process. As state entity records, the working documents are subject to public inspection through the Georgia Open Records Act.

1. Term. The obligations of the parties with respect to Paragraph 1 (a) (b) and (c) shall survive until a contract award has been made or until the procurement has been abandoned by the Issuing Entity. The obligations of the parties with respect to Paragraph 1 (d) shall survive expiration or termination of this Agreement. The obligations of the parties with respect to Paragraph 2 shall survive until such time as all Confidential Information disclosed hereunder becomes publicly known and made generally available through no action or inaction of the receiving party. The obligations of the parties with respect to Paragraph 3 shall survive until final contract award. The obligations of the parties with respect to Paragraph 4 shall survive until the time that those records are no longer required to be maintained pursuant to the State’s Records Retention policies and procedures.
2. Remedies. Consultant agrees that any violation or threatened violation of this Agreement may cause irreparable injury to the State of Georgia, entitling the State of Georgia to seek injunctive relief in addition to all legal remedies.
3. Miscellaneous. This Agreement shall bind and inure to the benefit of the parties hereto and their successors and assigns. This Agreement shall be governed by the laws of the State of Georgia, without reference to conflict of laws principles. This document contains the entire agreement between the parties with respect to the subject matter hereof, and neither party shall have any obligation, express or implied by law, with respect to trade secret or proprietary information of the other party except as set forth herein. Any failure to enforce any provision of this Agreement shall not constitute a waiver thereof or of any other provision. Each of the persons executing this Agreement represents and warrants that he/she is authorized to execute on behalf of, and to therefore bind, the entity, if any, indicated below. This Agreement may not be amended, nor any obligation waived, except by writing signed by both parties hereto.

**IN WITNESS WHEREOF,** the parties signify their acceptance of these terms and conditions by their signatures below:

**Issuing State Entity:**

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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**Consultant:**

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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