



## Enterprise Information Services, Inc. Non-Disclosure Agreement

This is a Non-Disclosure Agreement (the “Agreement”), effective as of \_\_\_\_\_ (“Effective Date”), between Enterprise Information Services, Inc. (hereinafter referred to as "EIS") and «Company» (hereinafter referred to as “«AKA»”). It is recognized that it may be necessary or desirable to exchange information between EIS and «AKA» for the purpose of discussing the possibility of creating a teaming relationship for the GSA Alliant 2 Unrestricted GWAC opportunity (hereinafter referred to as “Purpose”).

WHEREAS, each Party represents that it possesses or may in the future possess certain technical, business, financial or other information which it considers confidential or proprietary to it (hereinafter called "Confidential Information");

WHEREAS, each Party shall be a “Disclosing Party” with respect to Confidential Information provided to the other and each Party shall be a “Receiving Party” with respect to the disclosure of Confidential Information from the other; and

WHEREAS, during the term of this Agreement the Receiving party understands and agrees that it may not disclose to anyone Confidential Information except in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of these premises, and of the mutual promises contained herein, the Parties hereto agree as follows:

- (1) **DEFINITION OF CONFIDENTIAL INFORMATION.** “Confidential Information” shall include, but not be limited to, performance, sales, financial, contractual and special marketing information, ideas, technical data, computer software, concepts and processes originated by the Disclosing Party, not previously published or otherwise disclosed to the general public, not previously available without restriction to the Receiving Party or others, nor normally furnished to others without adequate protection or compensation, and which the Disclosing Party desires to protect against unrestricted disclosure or use, and which is furnished pursuant to this Agreement and appropriately identified as being confidential, proprietary, privileged or a trade secret when furnished.
- (2) **IDENTIFICATION OF CONFIDENTIAL INFORMATION.** In order for Confidential Information disclosed by one Party to the other to be protected in accordance with this Agreement, it must be: (a) in writing; (b) clearly identified as Confidential Information at the time of its disclosure by each page thereof being marked with an appropriate legend indicating that the information is deemed to be Confidential Information by the Disclosing Party; and (c) delivered to the individual designated in Paragraph 4 below, or his designee. Where the Confidential Information has not been or cannot be reduced to written form at the time of disclosure and such disclosure is made orally and with an assertion of proprietary rights therein, such orally disclosed proprietary information shall only be protected in accordance with this Agreement provided that complete written summaries of all proprietary aspects of any such oral disclosures shall have been delivered to the individual identified in Paragraph 4 below, within 20 calendar days of said oral disclosures. Neither Party shall identify information as Confidential Information which is not in good faith believed to be confidential, proprietary, privileged, a trade secret, or otherwise entitled to such markings or proprietary claims.
- (3) **DUTY TO PROTECT CONFIDENTIAL INFORMATION.** The Receiving Party agrees to protect Confidential Information received under this Agreement for the term of this Agreement which shall be for a period of one (1) year after the Effective Date thereof, and for a period of (3)



three years from the expiration date or termination date of this Agreement. This Agreement may be terminated at any time by either Party by giving the other (30) thirty days written notice to their designee in Paragraph 4 below. Termination shall not impact either parties obligations with regard to protecting Confidential Information. The Receiving Party shall further restrict disclosure of such Confidential Information to only those employees, representatives, or contractors who (a) have a "need to know", (b) who have been advised of the restrictions on disclosure and use and (c) who are contractually bound to Receiving Party to restrict the disclosure and use Confidential Information by provisions that are no less restrictive than the terms of this Agreement. The Receiving Party shall be deemed to have discharged its entire obligation hereunder if the Receiving Party exercises the same degree of care to preserve and safeguard the Disclosing Party’s Confidential Information as it uses to preserve and safeguard its own Confidential Information of similar character, provided such standard of care shall at all times be at least reasonable.

- (4) **NOTICES.** In order for either Party’s Confidential Information to be protected as described herein, it must be submitted in written form as set forth in Paragraph (2) above to the individuals identified below:

Enterprise Information Services, Inc \_\_\_\_\_ «Company» \_\_\_\_\_
Name: Brian Fogarty \_\_\_\_\_ Name: «Contact» \_\_\_\_\_
Title: Sr. Contracts Administrator \_\_\_\_\_ Title: «Title» \_\_\_\_\_
Address: 1945 Old Gallows Road, Suite 500 \_\_\_\_\_ Address: «Street» \_\_\_\_\_
Vienna, VA 22182 \_\_\_\_\_ «City» \_\_\_\_\_
Tel. No.: (703) 752-5585 \_\_\_\_\_ Tel. No.: «Phone» \_\_\_\_\_
Fax No.: (703) 749-0009 \_\_\_\_\_ Fax No.: «FAX» \_\_\_\_\_
E-Mail: bfogarty@GoEIS.com \_\_\_\_\_ E-Mail: «EMail» \_\_\_\_\_

- (5) **EXCEPTIONS FROM CONFIDENTIAL INFORMATION.** Each Party covenants and agrees that it will, notwithstanding that this Agreement may have terminated or expired, keep in confidence, and prevent the use or disclosure to any person or persons inside and outside its organization or to any unauthorized person or persons, any and all information which is received from the other under this Agreement and has been protected in accordance with this Agreement; provided however, that a Receiving Party shall not be liable for disclosure of any such information if the same:
A. Was in the public domain at the time it was disclosed, or
B. Becomes part of the public domain without breach of this Agreement, or
C. Is disclosed to the Receiving Party without restriction
D. Was known to Receiving Party at the time of disclosure without restriction on its use or independently developed by the Receiving Party with documentation to support the condition, or

As between the Parties hereto, the provisions of this Paragraph 5 shall supersede the provisions of any inconsistent legend that may be affixed to said data by the Disclosing Party, and the inconsistent provisions of any such legend shall be without any force or effect.

Any protected information provided by one Party to the other shall be used only in furtherance of the Purpose described in this Agreement, and shall be, upon written request at any time, returned to the



Disclosing Party or destroyed, in which cases certification of the destruction by the Receiving Party will be provided to the Disclosing Party upon request. The Receiving Party shall notify the Disclosing Party in writing immediately upon the occurrence of any unauthorized release of Confidential Information or the loss of any Confidential Information, whether inadvertent or otherwise, and shall use reasonable efforts to prevent, or limit any further dissemination of such Confidential Information and retrieve any improperly disclosed or lost information.

The Receiving Party shall not have any liability for the disclosure of such Confidential Information which is disclosed as required by law or regulation pursuant to the order of any court or government agency having competent jurisdiction; provided, however, that in that event, the Receiving Party will (i) notify the Disclosing Party of the obligation to make such disclosure sufficiently in advance of the disclosure; and (ii) assert the confidentiality of such Confidential Information as provided for in clause 10 below.

- (6) **DEGREE OF CARE**. In addition to the duties imposed by criminal and civil statutes, including applicable state trade secrets laws, federal patent and copyright law, and the Economic Espionage Act, the Receiving Party shall exercise all reasonable care to preserve and protect the Disclosing Party's Confidential Information from any unauthorized use, disclosure, or theft. In any event, the Receiving Party shall be non-negligent in handling the Disclosing Party's Confidential Information. The Receiving Party shall restrict access to the Disclosing Party's Confidential Information to only those of its personnel who have a "need to know" and will be directly participating in the activities covered by this Agreement
- (7) **LIMITS ON DUPLICATION**. Neither Party shall make any copies of Confidential Information disclosed by the other Party, except as necessary in accordance with the Purpose, and any copies which are made shall be identified and deemed to be Confidential Information in the same manner as the original.
- (8) **REMEDIES**. Each Party acknowledges that if the Receiving Party breaches its nondisclosure obligations under this Agreement, the Disclosing Party will not have an adequate remedy at law and that any such breach will result in irreparable harm to the Disclosing Party. Therefore, the Disclosing Party shall be entitled to seek an immediate injunction against an alleged breach or anticipated breach of this Agreement from any court of competent jurisdiction. The right to seek and obtain injunctive relief shall not limit the Disclosing Party's right to pursue equitable relief in addition to other remedies. All remedies available to either Party for breach of this Agreement by the other Party are and shall be deemed cumulative and may be exercised separately or concurrently. The exercise of a remedy shall not be an election of that remedy to the exclusion of other remedies available at law or in equity.
- (9) **SUBPOENA**. If a subpoena or other legal process concerning any Confidential Information is served upon a Receiving party, the Receiving Party shall notify, in writing, the disclosing party immediately upon receipt of the subpoena or other legal process. The Receiving Party shall cooperate with any lawful effort by the Disclosing Party to contest the validity of the subpoena, to seek a protective order, or to pursue other legal process to protect the Confidential Information. The Receiving party shall at all times limit the disclosure of Confidential Information to the minimum necessary required by law or legal process.
- (10) **INCLUSION OF CONFIDENTIAL INFORMATION IN PROPOSALS**. If an expressly stated purpose of this Agreement is for the Receiving Party to submit a proposal to the U.S. Government, the Receiving Party may disclose Confidential Information of the Disclosing Party to the U.S. Government on a confidential basis provided that such Confidential Information contains a restrictive legend in accordance with Federal Acquisition Regulation (FAR) 52.215-1(e) which clearly states



that such Confidential Information is submitted in confidence and shall not be disclosed under the Freedom of Information Act (5 U.S.C. 552(b)). If the Confidential Information includes technical data, the Receiving Party should contact the Disclosing Party before submission to the Government to determine the appropriate restrictive or limited rights legend in accordance with FAR Part 27 and Subpart 52.227.

- (11) **ITAR COMPLIANCE**. Both Parties to this Agreement shall comply with the requirements of the U.S. Department of State International Traffic in Arms Regulations (Title 22, CFR Parts 120-130), the U.S. Department of Commerce Export Administration Regulations (Title 15, CFR 730-774), and any other U.S. Government regulation applicable to the export/ import, re-export, or disclosure of controlled technical data to Foreign Nationals.
- (12) **PROCUREMENT INTEGRITY**. Both Parties acknowledge that the requirements of the Procurement Integrity Act (41 U.S.C. § 423) and of Federal Acquisition Regulation (“FAR”) Subpart 9.5, related to Organizational Conflicts of Interest, apply to the exchange of Confidential Information under this Agreement. Both Parties agree that they will not disclose to the other Party any information that could be construed as a violation of the Procurement Integrity Act or the receipt of which would create an organizational conflict of interest pursuant to FAR Subpart 9.5.
- (13) **NO REPRESENTATIONS**. In providing any information hereunder, each Disclosing Party makes no representations, either express or implied, as to the information’s adequacy, sufficiency, or freedom from defect of any kind, including freedom from any patent infringement that may result from the use of such information.
- (14) **COSTS**. Each Party shall bear all costs and expenses incurred by it under or in connection with this Agreement.
- (15) **LIMITATIONS**. This Agreement shall not be construed as a teaming, joint venture or other such arrangement; rather the Parties hereto expressly agree that this Agreement is for the purpose of protecting Confidential Information only.
- (16) **SURVIVAL**. Termination of this Agreement shall not, however, affect the rights and obligations contained herein with respect to Confidential Information supplied hereunder prior to termination.
- (17) **ENTIRE AGREEMENT**. This Agreement contains the entire agreement relative to the protection of information to be exchanged hereunder, and supersedes all prior or contemporaneous oral or written understandings and agreements regarding this issue. No waiver or modification of this Agreement will be binding upon either Party unless made in writing and signed by a duly authorized representative of such Party, and no failure or delay in enforcing any right will be deemed a waiver.
- (18) **ASSIGNMENT**. Neither Party may assign or otherwise transfer this Agreement or any of its rights and obligations hereunder to any third party (except to a legally recognized successor in interest to all or substantially all of the Party’s assets) without the prior consent in writing from the other Party, which consent shall not be unreasonably withheld.
- (19) **SEVERABILITY**. In the event that any of the provisions of the Agreement shall be held by a court or other tribunal of competent jurisdiction to be unenforceable, that portion shall be severed and a new enforceable provision shall be negotiated by the Parties and substituted therefore to accomplish the intent of the severed provision as nearly as practicable. The remaining provisions of the Agreement shall remain in full force and effect.
- (20) **INVENTIONS/PATENTS**. Nothing contained 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, technical data, computer software, or software documentation of the other Party.



- (21) **COMMITMENTS.** Nothing contained in this Agreement shall grant to either Party the right to make commitments of any kind for or on behalf of any other Party without the prior written consent of that other Party.
- (22) **NO DISCLOSURE.** The existence and terms of this Agreement shall not be disclosed by either party without the prior express written consent of the other Party.
- (23) **EFFECTIVE DATE.** This Agreement shall be in effect as of the Effective Date stipulated at the beginning of this Agreement.
- (24) **GOVERNING LAW.** This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Virginia notwithstanding its conflict of law provisions.

IN WITNESS WHEREOF, the Parties represent and warrant that this Agreement is executed by duly authorized representatives of each Party as set forth below on the date first stated above.

Enterprise Information Services, Inc.

«Company»

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

Name: Brian Fogarty

Name: «Contact»

Title: Sr. Contracts Administrator

Title: «Title»