

**AGREEMENT FOR CONTRACTOR SERVICES
BETWEEN
ENTERPRISE FLORIDA, INC.
AND
SPARK BRANDING HOUSE INC.**

THIS AGREEMENT ("Agreement") is entered into this 29th day of October 2020 by and between ENTERPRISE FLORIDA, INC., a Florida not-for-profit corporation ("EFI") and SPARK BRANDING HOUSE, INC. ("SPARK"), ("Contractor") (also herein individually as "Party" and collectively as "Parties").

RECITALS

WHEREAS, EFI is the principal economic development organization for the State of Florida and has the responsibility to provide leadership for business development in Florida by establishing a unified approach to Florida's efforts of international trade and reverse investment, by marketing Florida as a pro-business location for potential new investment, and by assisting in the creation, retention, and expansion of existing businesses; and

WHEREAS, EFI recognizes that to effectively promote the state of Florida as a top business destination, the ability to market the state's strengths and key assets is important; and

WHEREAS, EFI recognizes that marketing is essential in ensuring that businesses and site selectors choose Florida locations on a prospect list of possible sites to locate/expand their business; and

WHEREAS, EFI issued a competitive procurement seeking the services of a creative and marketing firm to assist in developing deliverables to promote Florida as a premier business state and highlight the services EFI provides, including a new look and feel, navigation, and offer a simplified access to the information that each of our distinct target audiences require; and

WHEREAS, Contractor, represents that it possesses the requisite skills, knowledge qualifications and other specific skills required to complete the Scope of Services described in Attachment A, a copy of which is attached and incorporated herein ("Services"); and

WHEREAS, the Parties desire to enter into an Agreement setting forth the terms and conditions in which services are to be provided.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **TERM:**

The term of this Agreement shall commence on November 1, 2020 and shall remain in effect for twelve (12) months; or unless earlier terminated as provided herein. This Agreement may be renewable at the absolute discretion of EFI, it being acknowledged that EFI's decision to renew this Agreement shall be based primarily, but not exclusively, on Contractor's fulfillment of its obligations under this Agreement. Any extensions and renewals shall be agreed to by both Parties in writing and authorized by amendments to this Agreement as stated in Paragraph 9.

2. **SERVICES:**

As described in Attachment A – Services, which along with its terms is incorporated herein, Contractor will provide creative and marketing services to Enterprise Florida, Inc.

3. CONSIDERATION:

In consideration for the performance by the Contractor of the Services, subject to the conditions of this Agreement and timely completion of the Services and approval by EFI, EFI shall pay Contractor a total of two hundred sixty thousand dollars (\$260,000.00) as outlined in Attachment A.

Pursuant to its contract with the Department of Economic Opportunity (DEO), EFI's obligation to pay under this Agreement is contingent upon funds being appropriated by the Florida Legislature, as referenced in EFI's attached Standard Contract Terms and Agreements.

4. AGREEMENT MANAGER:

EFI's Director of Compliance, Contracts and Grants, Michelle Boylan, or an assigned successor shall act as the Agreement Manager to ensure compliance by Contractor with all of the terms and provisions herein. The Parties and their respective addresses for the purpose of this Agreement are:

EFI: Michelle Boylan, Director, Grants, Contracts & Compliance
Enterprise Florida, Inc.
800 N. Magnolia Ave., Suite 1100
Orlando, FL 32803
Phone: 407-956-5636/Fax: 407-956-5599
mboylan@enterpriseflorida.com

Contractor: Dulani Porter
Partner/EVP
Spark Branding House, Inc.
2309 W. Platt St
Tampa, FL 33609
Phone: 813-253-0300
dulani@spark.us

5. NOTICES:

All notices between the Parties provided for herein shall be by either confirmed e-mail, confirmed Fax, confirmed business mail service or certified mail, return receipt requested, delivered to the address of the Parties as set forth in Paragraph 4 above.

6. CONFLICTS OF INTEREST:

Contractor acknowledges that EFI represents the interests of Florida businesses and that it is important to EFI that conflicts of interest be avoided. In the event that Contractor engages in activities which could constitute a conflict of interest to EFI or a particular business interest in Florida, EFI has the right to instruct Contractor to discontinue such efforts. In such event, if Contractor fails to do so, then EFI shall have the right to immediately terminate this Agreement.

7. INDEPENDENT CONTRACTOR:

Contractor is acting as an independent contractor and not as EFI's employee in the performance of the Services. Contractor acknowledges that EFI is not responsible for withholding or filing national or state taxes or other payroll withholdings on behalf of Contractor. Contractor further acknowledges that neither Contractor nor the employees of Contractor will participate in or receive any employee benefits, including health insurance, retirement benefits, 401(k) plan, or worker's compensation benefits provided through EFI.

8. NON-EXCLUSIVE RELATIONSHIP:

The relationship between the Parties is a non-exclusive one, which allows the Contractor to engage in other activities, provided that all of the terms and conditions under this Agreement are strictly observed, including the avoidance of conflicts of interests.

9. AMENDMENT/MODIFICATION/NOTIFICATIONS:

This Agreement may not be altered, modified, amended, or changed in any manner, except pursuant to a written agreement executed and delivered by each of the Parties. Additionally, any such modification, amendment or change shall be effective on the date of delivery or such later date as the Parties may agree therein.

Modification of this Agreement or any notices permitted or required under this Agreement may be made by facsimile or electronic transmission. Receipt of the facsimile transmission shall for the purposes of this Agreement be deemed to be an original, including signatures.

10. PURPOSE- pursuant to section 288.904(6)(b), Florida Statutes:

- a. The purpose of this Agreement is found in the Recitals.
- b. Specific performance standards and responsibilities for each entity are included in Attachment A.
- c. A detailed contract budget is found in Attachment A.
- d. The value of the services provided is found in paragraph 3.
- e. There are no projected travel and entertainment expenses for employees and board members of EFI.

11. EFI CONTRACT TERMS AND CONDITIONS:

A copy of EFI's Standard Contract Terms and Agreements are attached as Attachment B and incorporated herein.

12. COUNTERPARTS:

This Agreement may be executed in counterparts, with all pages initialed by the signing Party, and shall be of the same force and effect as if all Parties had executed one copy of the Agreement. In addition, to facilitate completion and execution of the Agreement, faxed, scanned, or PDF contract versions with initials and signatures shall be of the same force and effect as original signatures.

13. WORKS FOR HIRE:

Contractor agrees and shall instruct Contractor's employees and subcontractors, if any, that all deliverables, services, records, documents, papers, reports, descriptive and pictorial material, printed or written technical information, drawings, reproductions thereof, samples, and models produced by Contractor, in whatever form and in whatever stage of development whatsoever, including all intellectual property rights therein, during the performance of the Services under this Agreement shall be considered "works made for hire," as defined in

Section 101 of the Copyright Act of 1976 and that upon payment in full to contractor for all works, EFI is and will be the sole and exclusive owner of all right, title, and interest in the same, the nature and contents of which shall not be disclosed to others without the prior written permission of the EFI.

To the extent any Work Product does not qualify as “works made for hire”:

(i) Contractor shall, and hereby does, immediately on its creation, assign, transfer, and otherwise convey to EFI, irrevocably and in perpetuity, throughout the universe, all right, title, and interest in and to such Work Product, including all intellectual property rights therein.

(ii) Contractor shall, and hereby does, irrevocably waive, and shall cause Contractor’s employees and subcontractors to irrevocably waive any and all claims such Contractor employees and subcontractors may now or hereafter have in any jurisdiction to so-called "moral rights" or rights of droit moral with respect to the Work Product.

Contractor shall, and shall cause all Contractor’s employees and subcontractors to, take all appropriate action and execute and deliver all documents, necessary or reasonably requested by EFI to effectuate any of the foregoing provisions of this paragraph, or otherwise as may be necessary for EFI to prosecute, register, perfect, or record its rights in or to any Work Product or any intellectual property right therein. Contractor hereby appoints EFI as Contractor's attorney-in-fact with full irrevocable power and authority to take any such actions and execute any such documents if Contractor refuses or, within a period deemed reasonable by EFI, otherwise fails to do so.

14. EFI MATERIALS:

EFI and its licensors are, and will remain, the sole and exclusive owners of all right, title, and interest in all Content and all other information in any form or media, including but not limited to documents, data, know-how, ideas, specifications, software code, and other materials provided to Contractor by or on behalf of EFI whether or not owned by EFI, a third party, or in the public domain or qualify for or are protected by any intellectual property rights (“EFI Materials”), including all intellectual property rights therein. Contractor has no right or license to use any EFI Materials except solely during the Term of the Agreement to the extent necessary to provide the Services to EFI. All other rights in and to the EFI Materials are expressly reserved by EFI.

EFI hereby grants to Contractor the limited, royalty-free, non-exclusive right and license to the EFI Materials solely as necessary to incorporate the EFI Materials into the Deliverables as described in the Services. The term of such license shall commence upon EFI's delivery of the EFI Materials to Contractor, and shall terminate upon EFI's acceptance or rejection of the Deliverables incorporating such EFI Materials. Subject to the foregoing license, EFI reserves all rights in the EFI Materials.

15. CONTRACTOR WARRANTIES:

Contractor warrants to EFI that:

(a) it will perform the Services using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with commercially reasonable industry standards for similar services and will devote adequate resources to meet its obligations under this Agreement;

- (b) the Work Product, including the Website and all Deliverables (excluding EFI Materials), as delivered by Contractor: (i) will not infringe, misappropriate, or otherwise violate any intellectual property rights or other rights of any third party; and (ii) will comply with all applicable laws; and
- (c) in performing the Services hereunder, Contractor will comply with all applicable laws.

16. INDEMNIFICATION:

Contractor shall indemnify, defend, and hold harmless EFI and EFI's officers, directors, employees, agents, successors, and assigns (each, a "EFI Indemnitee") from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, appellate attorneys' fees, the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers, that are incurred by a EFI Indemnitee, arising out of or resulting from any claim, suit, action, or proceeding (each, an "Action") alleging:

(a) Contractor's breach of any representation, warranty, covenant, or obligation of Contractor (including any action or failure to act by any Permitted Subcontractor that, if taken or not taken by Contractor would constitute such a breach by Contractor) under this Agreement; or

(b) any action or failure to take a required action by Contractor or any Permitted Subcontractor in connection with performing Services under this Agreement.

17. INDEMNIFICATION PROCEDURE:

EFI will promptly notify Contractor in writing of any Action for which it is entitled to be indemnified pursuant to paragraph 16 and cooperate with Contractor at Contractor's sole cost and expense. Contractor shall immediately take control of the defense and investigation of such Action and shall employ counsel reasonably acceptable to EFI to handle and defend the same, at Contractor's sole cost and expense. Contractor shall not settle any Action in a manner that adversely affects the rights of EFI without EFI's prior written consent, which shall not be unreasonably withheld or delayed. EFI's failure to perform any obligations under this paragraph will not relieve Contractor of its obligations under this paragraph except to the extent that Contractor can demonstrate that it has been materially prejudiced as a result of such failure. EFI may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing.

18. PUBLIC ANNOUNCEMENTS:

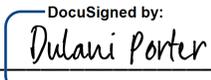
Neither Party shall issue or release any announcement, statement, press release, or other publicity or marketing materials relating to this Agreement or, unless expressly permitted under this Agreement, otherwise use the other Party's trademarks, service marks, trade names, logos, domain names, or other indicia of source, affiliation, or sponsorship, in each case, without the prior written consent of the other Party.

19. ENTIRE AGREEMENT:

This Agreement constitutes the entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, whether written or oral, with respect to such subject matter.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed the day and year first above written.

**FOR: SPARK BRANDING HOUSE, INC.
("Contractor")**

Signature: 
Printed Name: Dulani Porter
Title: EVP/Partner
Date: 10/29/2020

**FOR: ENTERPRISE FLORIDA, INC.,
a Florida not for-profit corporation ("EFI")**

Jamal Sowell, President/CEO
Date: _____

-OR-

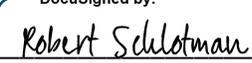
[Designee]
Signature: 
Printed Name: Robert Schlotman
Title: COO
Date: 11/2/2020



EXHIBIT A

SERVICES

DISCOVERY AND ON-BOARDING

During this phase, we will hold a discovery meeting with your team to hear more about your vision and priorities for Enterprise Florida. It will include an in-depth Q&A informed by the discovery materials provided beforehand, as well as an evaluation of our proposed creative concepts for feedback prior to refinement. In addition, we'll focused on on-boarding both teams to processes that will be required to foster a productive working relationship.

We will also hold interviews with key stakeholders within the organization to ensure alignment and understanding of priorities, take a closer look at the competitive landscape and conduct an audit to learn how competitors are positioning themselves in the market across everything from their website to their marketing efforts. This helps us identify whitespace opportunities, and develop positioning concepts that will allow Enterprise Florida to rise above the noise. And finally, we'll use this time to meeting and engage with your website team to ensure we understand the progress of the work done to date and how we can plan to integrate the new creative direction into the site prior to launch in February.

Deliverables:

- Discovery Takeaways Documentation

Activities:

- 1 Creative Feedback Session on Clients
- Account & Client Teams Meet & Greet/Process Review
- 1 Discovery Priority Session with Key Client Team
- Competitive Audit
- 2-4 Stakeholder Meetings (as needed)
- Meet & Greet with Web Agency Team

STRATEGIC POSITIONING & MESSAGING CONCEPTS

After our comprehensive dive into the industry, your organizations priorities and the competitive audit, we will have enough of an understanding of the market opportunity to determine how we can best position Florida in the mind of business leaders to create a shift in perception about our ability to help organizations succeed. This exercise is about working with you to define the market position that we want to own and identify prioritization of our key selling points to create a clear and concise story.

In this process, we identify the own able white space for Florida and explore multiple options on how we articulate our positioning. We vet each option through the lens of industry priorities to create confidence that this is the platform for our messaging that will carry us through both immediate and long-term (2-5 years) communications needs.

Deliverables:

- Positioning Development
- Positioning Refinement
- Messaging Priority Matrix

Activities:

- Develop positioning options
- Collaborate and refine positioning directions
- Develop messaging priority matrix (master story + industry-specific)
- Refine & finalize messaging priority matrix

CREATIVE CAMPAIGN CONCEPT REFINEMENT, PROOF OF CONCEPT & PRODUCTION PLANNING

Based on the feedback provided during the creative feedback session and our finalized positioning, we will refine the creative directions to ensure we are creating a compelling story for Florida. By leveraging the existing concepts from the pitch process, we will refine the existing directions and potentially explore new ones that will position Florida effectively as a destination for businesses to start, relocate or expand. By also informing ourselves about our competitive set, we ensure that we can stand out in a crowded marketplace and present a compelling case for the state of Florida.

In addition, during this stage we will pressure test the concept to ensure it is applicable across all of Florida's key industry and business types. The Proof of Concept stage enables us to apply the creative to each of our key categories and ensure the message is clear and relevant to each of our diverse audience types. This process will ensure longevity of the creative concepts for a minimum of a 2-5 year period.

Deliverables:

- Concept Refine
- Proof of Concept
- Production Plan

**Activities:**

- Concept refinement and new concept exploration (2 rounds)
- Industry messaging priority work session
- Proof of Concept Development
- Proof of Concept Refinement
- Media Asset List confirmation
- Production Plan & Estimate Development

PRODUCTION BUDGET MANAGEMENT

As we begin the execution phase of the campaign, SPARK will develop a comprehensive recommendation on how to maximize Enterprise Florida's production budget. In addition to the campaign asset development, we will identify opportunities on how to maximize the budget to develop a library of campaign assets that include templates, photography and video that is used on the campaign and can be repurposed for any communications needs as they arise. In this process, we will provide production estimates for each need for approval by Enterprise Florida. The totality of the production budget that we will manage will be inclusive of the \$100,000 outlined in our RFP response.

Deliverables:

- Production estimates for approval by Enterprise Florida

TERMS

PAYMENT & PROJECT

PROJECT TERMS

As your partners, we are fully committed to the timely completion and quality delivery of each project element outlined as part of the scope. With that in mind, we believe in providing transparency on our process, payment terms and client-side expectations up front. We do this so that we can be the most efficient and effective with our collective time and project budgets in order to create the most value we can. The following section outlines details and terms of our project process.

PROJECT PHASES

Each project phase is limited to a total of 2 rounds, unless otherwise noted. We find that this format encourages more collaboration in the early stage of each phase and enables the exploration of all ideas. With more participation and strategic discussion up front, we are able to streamline the executional phases to deliver more speed and accuracy. Any additional rounds requested by the client, and not due to errors on SPARK's side, will result in additional fees:

- Round 1: Initial Concept, Design or Strategy Presentations, Client provides collective team feedback
- Round 2: Refined Presentation, final collective feedback received from Client
- Final approval: Final approval received from Client, final document(s) sent to Client upon receipt of payment

PROJECT TIMING

A formal project timeline will be provided to the client upon contract approval and start of the project. Ideal turnaround times for feedback are outlined below but specific deadlines will be outlined in the project timeline. Any shifts to the timeline expectations (due to early or late feedback, holidays, scheduling conflicts, etc.) will result in a shift of the overall project timeline to accommodate for changes:

- Round 1 feedback: 3 business days
- Round 2 feedback: 2 business days
- Final approval: 1 business day

CHANGE IN SCOPE/DELIVERABLES

Specific deliverables have been identified as part of the recommended project scope. Once deliverables have been approved, any changes or additions to the scope will require additional cost approval and payment prior to completion. In these cases, a formal estimate will always be provided to the client.

TRAVEL

All travel and accommodation fees associated with any phase of the project will be billed to the client separately after securing prior approval for the expenditures. No travel and accommodation fees in excess of the per diem limits in section 112.061, Florida Statutes, shall be reimbursed. This includes but is not limited to flights, hotel accommodations, rental car, dining, etc.

PAYMENT TERMS

Our recommended structure for this scope is a phased billing approach, as outlined below. Any and all production fees will be outlined in separate estimates with billing terms outlined for each scope.

Discovery and On-Boarding (\$30,000)

50% of fees (\$15,000) due upon contract approval and prior to start of work
50% of fees (\$15,000) prior to delivery of final discovery takeaways document

Strategic Positioning & Messaging Concepts (\$35,000)

50% of fees (\$17,500) due prior to start of phase
50% of fees (\$17,500) prior to delivery of final positioning document & messaging matrix

Creative Messaging Concepts, Proof of Concept & Production Planning (\$95,000)

50% of fees (\$47,500) due prior to start of phase
50% of fees (\$47,500) prior to delivery of final refined concepts and production plan

Campaign Production (\$100,000)

Estimates will be provided for approval with billing terms related to specific production needs.

Attachment B

Enterprise Florida Standard Contract Terms & Agreements 2020-2021

1. This Agreement may not be assigned. This Agreement shall bind the heirs, successors, and permitted assigns of the parties. Upon being provided written notice from EFI, Contractor shall not object to any of EFI's assignment, or transfer of its rights, duties, or obligations under this Agreement to a governmental agency in the State of Florida.

2. EFI may terminate this Agreement with or without cause at any time by providing written notice to Contractor. A termination for cause may occur due to (i) Contractor's willful misconduct or gross negligence; or (ii) Contractor's conscious disregard of its obligations hereunder or of any other duties mutually agreed upon; or (iii) intentional failure to timely produce required deliverables; or (iv) any other reason provided herein.

3. In the event of termination, EFI's sole obligation and liability to Contractor, if any, shall be to pay Contractor that portion of the expenses allowed under this Agreement that were incurred prior to the effective date of termination and unable to be reasonably cancelled.

4. The acceptance of final payment under this Agreement, or the acceptance of final payment upon early termination hereof, shall constitute full and complete release of EFI by Contractor from any and all claims, demands, and courses of action whatsoever which Contractor may have against EFI.

5. Contractor shall abide by all federal, state, and local laws, including but not limited to, the requirements of section 215.971, Florida Statutes, if Contractor is a subrecipient of state financial assistance as defined in section 215.97, Florida Statutes.

6. Contractor shall (i) comply with all relevant federal, state and local laws designed to prevent discrimination so that Contractor does not discriminate against any person who performs work hereunder because of age, race, religion, color, sex, physical handicap, marital status, national origin, or ancestry unrelated to such person's ability to engage in this work; (ii) include in all solicitations or advertisements for employees the phrase "Equal Opportunity Employer"; (iii) if applicable, comply with any and all federal, state or local reporting requirements; and (iv) be declared in default of this Agreement if it fails to comply with any such reporting requirements of (iii) above or if Contractor is found guilty of any violation of any of the foregoing laws.

7. Contractor shall comply with all necessary laws and Governor Ron DeSantis' Executive Order 19-11 readopting Executive Order 17-319 preventing sexual harassment in state agencies. Contractor shall ensure a harassment-free workplace, with any allegation of harassment given priority attention and action by management.

8. To the extent required by section 287.134(3)(a), Florida Statutes, and EFI's contract with the Florida Department of Economic Opportunity (DEO), Contractor acknowledges notice of the requirements of section 287.134(2)(a), Florida Statutes, relating to the discriminatory vendor list. An entity or affiliate placed on the discriminatory vendor list pursuant to section 287.134, F.S., may not: (1) submit a bid, proposal, or reply on a contract or agreement to provide any goods or services to a public entity; (2) submit a bid, proposal, or reply on a contract or agreement with a public entity for the construction or repair of a public building or public work; (3) submit bids, proposals, or replies on leases of real property to a public entity; (4) be awarded or perform work as a contractor, subcontractor, grantee, supplier, sub-grantee, or consultant under a contract or agreement with any public entity; or (5) transact business with any public entity. Contractor affirms that it is aware of the provisions of section 287.134(2)(a), F.S., and that at no time has Contractor or its affiliates been placed on the Discriminatory Vendor List.

9. To the extent required by Florida Statutes 287.133(3)(a), and EFI's contract with DEO, the Contractor affirms that it is aware of the provisions of section 287.133(2)(a), Florida Statutes. Contractor affirms that at no time

has it been convicted of a Public Entity Crime and agrees that any such conviction during the term of this Agreement may result in termination of this Agreement in accordance with section 287.133(4), Florida Statutes. Contractor shall disclose to EFI if any of its affiliates, as defined in section 287.133(1)(a), Florida Statutes, is on the convicted vendor list. A person or affiliate placed on the convicted vendor list following a conviction for a public entity crime is prohibited from performing under this Agreement for a period of 36 months from the date of being placed on the convicted vendor list.

10. Contractor shall retain and maintain all records and make such records available for an audit as may be requested. Such records shall be retained by Contractor for a minimum period of seven (7) years after termination of this Agreement. The records shall be subject at all times to inspection, review, or audit by State personnel of the Office of the Auditor General, Department of Financial Services, Office of the Chief Inspector General, DEO, or other personnel authorized by EFI and copies of the records shall be delivered to EFI upon request.

11. Pursuant to its contract with DEO, EFI's obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature of the State of Florida and DEO's funding obligations to EFI. This Agreement shall automatically terminate upon the discontinuance or reduction of legislatively appropriated funds that may be used and are sufficient to support this Agreement, in addition to all of EFI's other duties and responsibilities, in which case EFI is not obligated to provide any warning, notice or compensation in lieu of notice. The determination whether such funds are available shall be made by EFI at its sole discretion.

12. Pursuant to its contract with DEO, EFI requires Contractor, by executing this Agreement, to certify that it is not: (1) listed on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, F.S., (2) engaged in a boycott of Israel, (3) listed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, F.S., or (4) engaged in business operations in Cuba or Syria. Pursuant to section 287.135(5), F.S., EFI may immediately terminate this Agreement for cause if Contractor is found to have submitted a false certification as to the above or if Contractor is placed on the Scrutinized Companies that Boycott Israel List, is engaged in a boycott of Israel, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria, during the term of the Agreement. If EFI determines that Contractor has submitted a false certification, EFI will provide written notice to Contractor. Unless Contractor demonstrates in writing, within 90 calendar days of receipt of the notice, that EFI's determination of false certification was made in error, EFI shall bring a civil action against Contractor. If EFI's determination is upheld, a civil penalty equal to the greater of \$2 million or twice the amount of this Agreement shall be imposed on Contractor, and Contractor will be ineligible to bid on any Agreement with a Florida agency or local governmental entity for three years after the date of EFI's determination of false certification by Contractor. In the event that federal law ceases to authorize the States to adopt and enforce the contracting prohibition identified herein, this provision shall be null and void.

13. EFI does not endorse any contractor, commodity, or service, and this Agreement or the end product may not be used to imply any such endorsement.

14. The terms and provisions of this Agreement constitute the entire agreement between the parties hereto with respect to the subject matter of this Agreement, and shall supersede all previous communications, representations, or agreements, either oral or written, between the parties relating to such subject matter. No change or modification of this Agreement shall be effective unless made in writing and signed by both parties hereto.

15. This Agreement is executed and entered into in the State of Florida, and shall be construed, performed, and enforced in all respects in accordance with the laws and rules of the State of Florida. Any litigation arising under this Agreement shall be brought in the appropriate court in Orange County, Florida, applying Florida Law.

16. If any provision of this Agreement is deemed to be invalid, it shall be considered deleted here from and shall not invalidate the remaining provisions. All questions with respect to this Agreement and the rights and liabilities of the parties, are governed by the laws of the State of Florida.

17. In any action to enforce the terms of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and costs as deemed just and proper.

18. Contractor shall not use any funds paid pursuant to this Agreement for lobbying the Florida Legislature, the Florida judicial branch, or any State agency.

19. Pursuant to its contract with DEO, EFI requires Contractor to report on the use of minority and service-disabled veteran business enterprises. This report will be in a form provided by EFI and must be submitted with the final payment request.

20. If any discovery or invention arises or is developed in the course or as a result of work or services performed under this Agreement, or in any way connected with this Agreement, the Contractor shall refer the discovery or invention to EFI to determine whether patent protection will be sought in the name of the State of Florida. Additionally, in the event that any books, manuals, films, or other copyrightable materials are produced, the Contractor shall notify EFI.

21. ACCESS TO RECORDS AND PUBLIC RECORDS REQUIREMENTS:

a. Contractor shall keep and maintain public records required by EFI to perform Contractor's responsibilities hereunder.

b. Contractor shall, upon request from EFI's custodian of public records, provide EFI with a copy of the requested records or allow the records to be inspected or copied by the public records requestor within a reasonable time per the cost structure provided in chapter 119, F.S., or as otherwise provided by law.

c. Contractor shall ensure that public records that are exempt, or confidential and exempt, from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the public agency.

d. Upon completion of the contract, Contractor shall transfer, at no cost to EFI, all public records in possession of Contractor or keep and maintain public records required by EFI to perform the service. If Contractor transfers all public records to the public agency upon completion of the contract, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to EFI, upon request from the EFI's custodian of public records, in a format that is compatible with the information technology systems of EFI.

e. Pursuant to section 288.901(1)(b), Florida Statutes, Contractor acknowledges that the Legislature has determined it is in the public interest and reflects the state's public policy that EFI operate in the most open and accessible manner consistent with its public purposes. To this end, EFI and its divisions, boards, and advisory councils, or similar entities created or managed by EFI, are subject to the provisions of chapter 119 relating to public records and those provisions of chapter 286 relating to public meetings and records.

f. If EFI does not possess a record requested through a public records request and the record is one that is in Grantee's possession, EFI shall immediately notify Contractor of the request, and Contractor must provide the records to EFI or allow the records to be inspected or copied within a reasonable time.

g. **If Contractor provides records to EFI that contain "proprietary confidential business information" as defined in section 288.075, Florida Statutes, or "trade secrets" as defined in section 688.002, Florida Statutes, such information should be clearly marked as such and a redacted version of such record should also be provided to EFI.** In the event that EFI asserts such exemption in response to a public records request based on Contractor's assertion, Contractor agrees to indemnify EFI, with EFI's choice of legal counsel, in any challenge to such assertion.

h. Contractor acknowledges that EFI may unilaterally cancel this Agreement if Contractor refuses to allow public access to all documents, papers, letters, or other material made or received in conjunction with the

Agreement, unless the records are exempt from section 24(a) of Art. I of the Florida Constitution and section 119.07(1), Florida Statutes. If Contractor fails to provide public records to EFI within a reasonable time it may be subject to penalties under section 119.10, Florida Statutes.

i. In the event of a conflict between any provision within this Agreement and the provisions of Florida's public records and sunshine laws contained within Article I, Section 24 of the Florida Constitution, Chapter 119, Florida Statutes, section 286.011, Florida Statutes, and including all applicable exemptions therefrom, the provisions of Florida law shall prevail. Further, EFI shall not be liable to Grantee for any disclosures that EFI deems required under Florida law, and the necessity of such disclosure shall be at EFI's sole discretion determined in conjunction with its legal counsel.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, F.S., TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS by phone at: 850-298-6620, by email at: bmimbs@enterpriseflorida.com, or by mail at: Enterprise Florida, Inc., Public Records Coordinator, 101 North Monroe Street, Suite 1000, Tallahassee, Florida 32301.