



NORFOLK AIRPORT AUTHORITY

EXHIBIT A

GENERAL TERMS AND CONDITIONS

INDEPENDENT AUDITING SERVICES

March 28, 2019

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The following General Terms and Conditions, where applicable, shall be incorporated by this reference in any agreement (“Contract”) between the Authority and the Respondent selected to provide the auditing services (the “Services”) pursuant to the Request for Proposal. Such Respondent referred to herein as the “Selected Respondent or the “Contractor”.

1. **Qualifications of Respondents:** The Authority may make such reasonable investigations as deemed proper and necessary to determine the ability of the Respondent to perform the Service, and the Respondent shall furnish to the Authority all such information and data for this purpose as may be requested. The Authority reserves the right to reject any Proposal if the evidence submitted by, or investigations of, such Respondent fail to satisfy the Authority that such Respondent is properly qualified to carry out the obligations of the Contractor and to provide the Service contemplated herein.
2. **Late Proposals:** To be considered for selection, a Proposal must be received by the Authority by the designated due date and hour. It is the sole responsibility of the Respondent to ensure that its Proposal is timely received by the Authority by the designated due date and hour. Proposals received after the designated date and hour are automatically disqualified and will not be considered. The Authority is not responsible for delays in the delivery of mail by the U.S. Postal Service or private couriers.
3. **Liability of Authority:** No Respondent shall have any cause of action against the Authority arising out of a failure by the Authority to consider a Proposal, or the methods by which the Authority evaluated Proposals received. The selection of the prospective Respondent shall be at the sole discretion of the Authority.
4. **Proposal Acceptance Period:** Any Proposal in response to this RFP shall be valid for ninety (90) days. At the end of ninety (90) days, the Proposal may be withdrawn at the written request of the Respondent. If the Proposal is not withdrawn at that time, it remains in effect until an award is made or the RFP is canceled.
5. **Costs:** The Authority assumes no obligation for any costs associated with preparation or submission of a Proposal.
6. **Unauthorized Contact:** Except the communications with the Director of Finance as specifically authorized is the Request for Proposals, contact with any official or employee of the Authority, including any Commissioner, in connection with this RFP and the Service described therein is prohibited and shall be cause for disqualification of the Respondent. The Authority will not meet individually with any Respondent prior to receipt of Proposals.
7. **Applicable Laws and Courts:** This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the Circuit Court of the City of Norfolk. The Selected Respondent shall comply with all applicable federal, state and local laws, rules and regulations. The Selected Respondent shall give all notices and comply with all

laws, ordinances, regulations, and lawful orders of any public authority bearing on the performance of the Contract.

8. **Ethics in Public Contracting:** By submitting a Proposal, Respondent certifies that its Proposal is made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other Respondent, or subcontractor in connection with its Proposal, and that Respondent has not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
9. **Conflict of Interest:** The Respondent represents to the Authority that entering into any contract with the Authority will not constitute a violation of the Virginia Conflict of Interest Act.
10. **Subcontracts:** No portion of the work shall be subcontracted without prior written consent of the Authority. In the event that the Respondent desires to subcontract some part of the work specified herein, the Respondent shall furnish the Authority the names, qualifications and experience of the proposed subcontractors. The Selected Respondent shall remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the Contract.
11. **Taxpayer Identification Number:** The Selected Respondent shall furnish to the Authority at the time of Contract award and as a condition precedent to receiving payment from the Authority its federal Employer Identification Number (EIN) if a corporation or a partnership, or its Social Security Number (SSN) if a sole proprietor.
12. **Insurance Required of the Contractor:** Contractor agrees to maintain Errors and Omissions insurance coverage in the amount of \$1,000,000.00 per occurrence and \$1,000,000.00 aggregate, at a minimum, to cover all of its own personnel engaged in performing the Services of the Authority under the Contract.
13. **Ownership of Documents and Materials:** Ownership of all materials and documentation including any reports and copies of any analyses prepared pursuant to the Contract with the Authority, shall belong exclusively to the Authority. Such materials and documentation shall be the property of the Authority whether the work for which they are made is executed or not. The Selected Respondent shall not use these materials on any other work or release any information about these materials without the express written consent of the Authority.
14. **Payments to the Contractor:**

The following procedures are established in conformance with the Virginia Public Procurement Act (VPPA), Code of Virginia §§ 2.2-4300 through 2.2-4377, as amended, and, in particular, § 2.2-4347 *et seq.*, which is referred to as the Prompt Payment Act, if applicable.

- (a) The Contractor shall submit its invoice with the documentation required by the Authority. The invoice shall generally itemize or show a breakdown of the total Contract amount, the value of the various phases or parts, the previously invoiced and approved amounts for payment, and the amount of the current invoice. Invoices for reimbursables shall include documentation of costs for which reimbursement is sought.
- (b) Unless there is a dispute about the compensation due the Contractor then within thirty (30) days after receipt by the Authority of the Contractor's invoice, which shall be considered the invoice receipt date, the Authority shall pay to the Contractor the amount approved, less any retainage and prior payments/advances. The date on which payment is due shall be referred to as the Payment Date.
- (c) Interest shall accrue on all amounts owed by the Authority to the Contractor which remain unpaid thirty (30) days following the Payment Date. Said interest shall accrue at the discounted ninety-day U.S. Treasury bill rate as established by the Weekly Auction and as reported in the *Wall Street Journal* on the weekday following each such Weekly Auction. During the period of time when the amounts due to the Contractor remain unpaid following the thirtieth (30th) day after the Payment Date, the interest accruing shall fluctuate on a weekly basis and shall be that established by the immediately prior Weekly Auction. It shall be the responsibility of the Contractor to gather and substantiate the applicable weekly interest rates to the satisfaction of the Authority and to calculate to the satisfaction of the Authority the interest due. In no event shall the rate of interest charged exceed the rate of interest established pursuant to Code of Virginia § 58.1-1812. No interest shall accrue when payment is delayed because of a dispute between the Authority and the Contractor. This exception to the accrual of interest shall apply only to that portion of a delayed payment which is actually the subject of the dispute and shall apply only for the duration of such disagreement. The date of mailing of any payment through the U.S. Postal Service is deemed to be the date of payment to the addressee.
- (d) The Authority is entitled to interest on any amounts from the Contractor that remain unpaid thirty (30) days after the amount is deemed due, whether as a result of a resolution of a dispute or otherwise. Any such interest shall be calculated by the same method as set forth above in this subsection.

15. Payments by the Contractor to Subcontractors:

- (a) If applicable, the Contractor is required to pay interest to any of its subcontractors on all amounts owed by the Contractor that remain unpaid after seven (7) days following receipt by the Contractor from the Authority for work performed by the subcontractor under that contract, except for amounts withheld as allowed. Unless otherwise provided under the terms of the Contract, interest shall accrue at the rate of one percent per month.

- (b) The Contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.
 - (c) Any obligation of the Contractor to pay an interest charge to a subcontractor pursuant to the payment clause in this section shall not be construed to be an obligation of the Authority. A contract modification shall not be made for the purpose of providing reimbursement for the interest charge. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge.
16. **Audit:** The Contractor, by signing any Contract with the Authority, shall agree to retain all books, records, and other documents relative to the contract for five (5) years after final payment, or until audited by the Authority, whichever is sooner. The Authority and its authorized agents shall have full access to and the right to examine any of the materials during said period.
17. **Default:** In case of the Contractor's failure to deliver the reports, documents or services in accordance with the Contract terms and conditions, the Authority, after due written notice, may procure same from other sources, and the Contractor shall be responsible for any resulting additional procurement and administrative costs. This remedy shall be in addition to any other remedies which the Authority may have.
18. **Termination of Contract:**
- (a) **General:** The Authority may terminate the Contract for cause or for convenience after giving thirty (30) days written notice to the Contractor. The written notice need not include a statement of reasons for the termination.
 - (b) **Termination for Cause:** If the Contract is terminated by the Authority for cause, the Contractor shall be responsible for all damages incurred by the Authority as a result of the Contractor's breach of contract or failure to perform, including but not limited to, all costs and expenses incurred in securing a replacement Contractor to fulfill the obligations of the Contract. Any termination by the Authority for default, if determined by a court of competent jurisdiction not to have been justified as a termination for default shall be deemed a termination for the convenience of the Authority.
 - (c) **Termination for Convenience:** The Authority may terminate the Contract in whole or in part for convenience by delivering to the Contractor a written notice of termination as set forth above, specifying the extent to which performance under the Contract is terminated and the effective date of the termination. Upon receipt of such notice, the Contractor must stop work, including but not limited to work performed by subcontractors, at such time and to the extent specified in the notice. If the Contract is terminated for convenience, the Contractor shall be entitled to those fees earned for work performed in accordance with the Contract

prior to the notice of termination. Thereafter, the Contractor shall be entitled to any fees earned for work not terminated, but shall not be entitled to lost profits for the portions of the Contract which were terminated.

- 19. Assignment of Contract:** The Contractor shall not assign the Contract between the Authority and the Contractor, in whole or in part, without the prior written consent of the Authority.
- 20. Anti-Discrimination:**
- (a) By submitting its Proposal, Contractor certifies to the Authority that it will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and Code of Virginia § 2.2-4311. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the Contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. Code of Virginia § 2.2-4343.1E.
 - (b) During the performance of the Contract, the Contractor agrees as follows:
 - (1) The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - (2) The Contractor, in all solicitations or advertisements for employees will state that Contractor is an equal opportunity employer.
 - (3) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

- (c) The Contractor will include the provisions of the foregoing paragraphs (1), (2) and (3) in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- (d) The Authority does not discriminate against faith-based organizations.

21. Drug Free Workplace:

- (a) The Authority seeks to establish and maintain a work environment free from the adverse effects of alcohol and other drugs. The adverse effects of alcohol and other drugs create a serious threat to the safety and welfare of all personnel at the job-site, to job-site safety in general, to worker productivity and quality of workmanship, and to the project schedule. Each of the following acts is prohibited by the Contractor, its employees, subcontractors and suppliers while performing the Service under the terms of the Contract.
 - (1) The unlawful or unauthorized manufacture, distribution, dispensation, possession, or use of drugs (except the possession and use of medically prescribed drugs for legitimate medical purposes) in the workplace;
 - (2) The unlawful or unauthorized manufacture, distribution, dispensation, or use of alcoholic beverages in the workplace during hours of work;
 - (3) The impairment of a person in the workplace, related to the use of alcohol or other drugs including impairment from prescription drugs.
- (b) The Contractor shall post a copy of this policy in a conspicuous place at the workplace and assure that all personnel are advised of the policy. A violation of this policy will be recognized as a breach of contract and may result in termination of the Contract.
- (c) During the performance of this Contract, the Contractor agrees to (i) provide a drug free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees that the Contractor maintains a drug free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000 so that the provision will be binding upon each subcontractor or vendor.

22. Compliance with State Law; Foreign and Domestic Businesses Authorized to Transact Business in Virginia:

- (a) If organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership, Contractor shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Virginia Code, or as otherwise required by law.
- (b) If organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the Virginia Code, Contractor must provide Authority the identification number issued to it by the State Corporation Commission. If not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 of the Virginia Code, or as otherwise required by law, Contractor shall provide Authority a statement describing why Contractor is not required to be so authorized.
- (c) Any business entity described in subsection (a) shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract.

23. Debarment Status: By entering into the Contract, Contractor certifies that it is not currently debarred from doing business with or in the Commonwealth of Virginia, nor is it an agent of any person or entity that is currently debarred from doing business in the Commonwealth of Virginia.

24. Anti-Trust: By entering into the Contract, Contractor conveys, sells, assigns, and transfers to the Authority all rights, title and interest in and to all causes of the action it may now have to hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular Service acquired by the Authority under the Contract.

25. Immigration Reform and Control Act of 1986: By submitting a Proposal, Respondent certifies that it does not and will not during the performance of this Contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.