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Joint Venture Agreement Between  
***The National Technical Information Service***  
and  
***Joint Venture Partner***

The ***National Technical Information Service, hereafter NTIS***, is authorized to enter into joint ventures pursuant to which NTIS and a private sector entity coordinate to offer innovative data services and share in revenues in accordance with their contribution to the joint venture. Specifically, NTIS will accelerate (1) private sector use of government data, either alone or in combination with non-Federal data, to develop and use new and improved data products and services, and (2) government use of data to improve the effectiveness and efficiency of programs.

***[Enter name of Joint Venture Partner], Joint Venture Partner, hereafter JVP***, delivers new capabilities<sup>1</sup> for deriving knowledge and insights from data by delivering new and improved products and services to facilitate data discovery, analysis, interoperability, and use. ***JVP*** will collaborate with NTIS to provide to Federal agency customers unique data services that are not readily suitable for contracts by virtue of complexity, required time to market, and extensive use of emerging technologies and open source tools. ***JVP*** leverages expertise in information management, innovative applications of data technologies, subject matter data science and engineering knowledge, and experience delivering unique value to customers.

## **1. NTIS AUTHORITY**

NTIS has determined that a joint venture arrangement with ***JVP***, not a contract, is appropriate for this joint venture agreement. NTIS is authorized to enter into joint ventures and share revenue under 15 U.S.C. § 3704b(a)(1)(A), and NTIS is authorized to receive funds under 15 U.S.C. §§ 1153 and 3704b note. Further, NTIS possesses programmatic authority to perform the services detailed in this agreement pursuant to 15 U.S.C. § 3704b (National Technical Information Act of 1988) and 15 U.S.C. §§ 1151-1157, specifically 15 U.S.C. §§ 15 U.S.C. 1152(a) and (b) and 3704b(e)(1) - (6).

## **2. THE JOINT VENTURE (JV)**

NTIS and ***JVP*** agree to jointly provide innovative data services to Federal agencies and to explore new service offering(s) and technologies that support the NTIS mission to advance Federal data priorities, promote economic growth, and enable operational excellence through a sustainable joint venture business model. Specifically, NTIS and ***JVP*** agree to develop and implement innovative ways to collect, connect, access, analyze, or use Federal data and data services.

This joint venture does not preclude NTIS from using the same or similar service(s) from another ***JVP*** if it more closely meets the needs of a Federal agency nor does it obligate ***JVP*** to market any of its services to Federal Agencies exclusively through NTIS.

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<sup>1</sup> This section will be modified to reflect the capabilities described in the JVP's proposal.

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NTIS will manage interactions with Federal Agencies and other joint venture partners. NTIS and **JVP** will provide ongoing services as described in Section 3, Services.

### **3. ROLES AND RESPONSIBILITIES**

Services are provided only to Federal Agencies. Each party provides services and products pursuant to this agreement.

#### NTIS Roles and Responsibilities:

- a. Providing program planning and management including coordination and needs definition among Federal Agencies, **JVP** and other parties.
- b. Assessing joint venture program solicitations, joint venture partner selections, joint venture partner agreements and extensions, project opportunities, project proposals, and project extensions to ensure alignment with the NTIS data mission and proper use of the joint venture authority.
- c. Providing technical guidance and management oversight for **JVP** services, products, and activities.
- d. Providing data services to complement and support the development of solutions in collaboration with **JVP**.
  1. Providing innovations in the use of data and data services with other Federal organizations.
  2. Providing new, more effective and/or efficient methods for sharing data.
  3. Advancing ways to analyze, interpret, and understand data as well as apply it in meaningful ways.
  4. Developing technologies, techniques, and processes that can lead to deep understanding from and derive new insights from data to deliver products and services.
- e. Maintaining systems, equipment, financial structure, specialized staff skills, and other capabilities to undertake the joint venture program.

#### **JVP** Roles and Responsibilities<sup>2</sup>:

- a. Partnering with NTIS to provide unique data services to Federal customers on projects that involve solution complexity, accelerated time to market, and extensive use of emerging technologies and open source tools.
- b. Providing technical capabilities to develop and implement innovative ways to collect, connect, access, analyze, or use Federal data and data services in one or more of the following areas identified in the **JVP** proposal, which is hereby incorporated by reference.
  1. Providing innovations in the use of data and data services. Innovations may be associated with (i) making it easier to use data, and (ii) combining, analyzing and using data, either alone or in combination with non-Federal data, in new ways, and (iii) data infrastructure and security such as

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<sup>2</sup> This section will be modified to reflect the capabilities described in the JVP's proposal.

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- advancements for data inventories, data capture, cloud-based data solutions, cybersecurity, and assistive technologies.
2. Providing new, more effective and/or efficient methods for sharing data. Innovations may be associated with (i) data discovery and usability such as search engine optimization, interactive visualization and query management, and user analytics, (ii) data interoperability and standards such as data cleansing, metadata practices, application programming interfaces, and developer platforms, and (iii) simplifying and streamlining delivery of data services.
  3. Advancing ways to analyze, interpret, and understand data as well as apply it in meaningful ways. Innovations may be associated with data analytics and forecasting such as data visualization, geospatial analysis, comparative and predictive analytics, and statistical methods.
  4. Developing technologies, techniques, and processes that can lead to deep understanding from and derive new insights from data to deliver products and services. Such innovations may be associated with data analytics and forecasting such as machine learning, cognitive analytics, artificial intelligence, and other computer science advancements involving Federal data alone, or in combination with non-Federal data.
- c. Providing services performed by necessary qualified technical and professional personnel, alone or through teaming arrangements with other JVP(s) and external partners to deliver innovative, timely, and reliable solutions for Federal clients.
  - d. Providing equipment, tools, facilities, and overall support and resources necessary to deliver innovative data services to Federal clients in partnership with NTIS.
  - e. Providing and using information technology (IT) systems, services, tools, applications, and processes that are in compliance with applicable Federal IT Security standards, policies, and reporting requirements, and mitigating any risks to acceptable levels, specified in each Project Plan agreement.

#### **4. PROJECT DEVELOPMENT, PRICING, AND REVENUE SHARING**

##### **4.1. Project Development**

NTIS is the focal point for engaging and communicating with Federal agencies about specific projects to be performed by NTIS and its JVPs. If *JVP* becomes aware of a Federal agency's need that it believes could appropriately be addressed by an NTIS joint venture, *JVP* should inform NTIS about the opportunity, and, if NTIS in its sole discretion determines that its joint venture authority is appropriate for the opportunity, NTIS will contact the Federal agency to pursue the opportunity. However, NTIS will not pursue opportunities that have been announced by a Federal agency as a procurement opportunity in FedBizOpps. In some cases, NTIS may suggest two or more proposals be combined and the proposers work together to achieve an optimal solution for the customer Federal agency or agencies.

##### **4.2. Project Pricing**

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If **JVP** is selected for a project opportunity, then NTIS and **JVP** jointly will determine all prices based on the proposed work plan and cost estimate submitted by the **JVP** in response to a project opportunity, the normal NTIS pricing structure, and consultation on any items that are outside the normal pricing structure. NTIS will submit all price proposals to the Federal Agency. **JVP** will not deviate from this process. NTIS will negotiate, process and execute the Project Plan agreement with the customer Federal agency, incorporating **JVP**'s project proposal by reference. NTIS will consult with **JVP** regarding changes requested by the customer Federal agency.

#### **4.3. Revenue Sharing**

The normal NTIS pricing structure for the joint venture will split the revenue from a project between NTIS and **JVP**. NTIS will recover its direct and indirect costs, and the **JVP** will recover their direct and indirect costs as presented in their proposal and documented in the **JVP** letter agreement for the project.

#### **4.4. Project Plan Agreement and Billing**

Revenue sharing will be in accordance with the following guidelines for the Project Plan agreement and billing requirements:

- a. Each Federal agency customer will enter into a Project Plan agreement with NTIS. The Project Plan agreement will include a price and the specific services to be provided to the Federal agency customer from among those listed in Section 3. of this agreement. NTIS and **JVP** thereafter will execute a **JVP** letter agreement, including the total amount of funding that may be transferred to **JVP** for work on that Project Plan agreement, before commencing work. Should NTIS and **JVP** determine that the Project Plan agreement price requires adjustment, NTIS will negotiate with the customer Federal agency, and the change will be documented as an amendment to the Project Plan agreement. After the Project Plan agreement is amended, NTIS and **JVP** will execute a new **JVP** letter agreement, including the revised total amount of funding that may be transferred to **JVP** for work on that Project Plan agreement, before commencing work requiring additional funding.
- b. NTIS and **JVP** agree to review all Project Plan agreement terms and conditions, statements of work, and pricing before submitting a proposal to a Federal agency.
- c. **Billing Details** - For each Project Plan agreement on which NTIS and **JVP** agree to perform work, **JVP** will submit an invoice(s) to NTIS no less often than monthly as work is completed and as agreed in the applicable **JVP** letter agreement. Invoices should be submitted to NTIS either electronically to [VendorInvoices@ntis.gov](mailto:VendorInvoices@ntis.gov), or by mail to NTIS Accounting, 5301 Shawnee Road, Alexandria, Virginia 22312. **JVP** travel will be subject to the Federal Travel Regulations, and supporting documentation must be submitted with the invoice

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when the invoice includes travel costs. The Federal Travel Regulations can be accessed at: <http://www.gsa.gov/portal/content/102886#FTRArchives>

## **5. REPORTS**

Each party will provide a monthly report to the other outlining programmatic and financial details of the work performed. The report will outline, at a minimum, accomplishments for the past month, plans for the current month, and any actual or anticipated issues. NTIS will compile information and submit reports as required by each Federal agency customer.

## **6. OUTREACH TO OTHER AGENCIES**

NTIS will conduct an active outreach program, with **JVP** providing reasonable support, to encourage other Federal agencies to use the services of the joint venture as described in this agreement. Any costs incurred by NTIS and/or **JVP** in support of the foregoing outreach efforts will be the responsibility of each party. Neither party shall be responsible for the costs incurred by the other party. NTIS will develop a marketing plan, outlining responsibilities, and share it with JVP for comments before it is finalized. NTIS shall propose and **JVP** may participate in a broad, non-project specific outreach program, as mutually agreed upon by the parties and permitted by Federal law, which includes but is not limited to the following:

- a. Performing periodic outreach planning meetings and assessments of customer needs and satisfaction;
- b. Supporting demonstrations and outreach efforts to solicit new Federal agency customers;
- c. Contributing to the preparation of generic and specialized outreach materials for use and distribution via web, social media, and other channels; and
- d. Preparing a yearly outreach plan that will be updated at regular intervals and which will list outreach opportunities via conferences and other professional events.

**JVP** shall not engage in direct project-specific marketing and outreach to other Federal agencies. **JVP** should inform NTIS about a potential project opportunity as stated in Section 4.1 of this agreement if **JVP** becomes aware of a Federal agency's need that it believes could appropriately be addressed by an NTIS joint venture.

## **7. PUBLIC RELATIONS**

NTIS and **JVP** will coordinate all public announcements relating to this joint venture. All marketing and promotion on behalf of the joint venture must be reviewed and approved in writing by both NTIS and **JVP** in a timely manner. Neither party will use the emblems, logos, or other trademarks of the other without prior written permission. Use of any emblems, logos, or other trademarks of the Department of Commerce shall be in accordance with the Department of Commerce's policies and procedures.

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## **8. SECTION 508 COMPLIANCE**

The JVP letter for each JV project will address compliance requirements for Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d).

## **9. INFORMATION TECHNOLOGY (IT) SECURITY**

*JVP* is subject to applicable NTIS and Federal IT security standards, policies, and reporting requirements for systems, services, tools, applications, and processes provided to NTIS and its Federal customers, including but not limited to:

- Federal Information Security Management Act (FISMA) of 2002.
- Privacy Act of 1974 (5 U.S.C. § 552a).
- Federal Information Processing Standard (FIPS) 199, “Standards for Security Categorization of Federal Information and Information Systems”
- FIPS 200, “Minimum Security Requirements for Federal Information and Information Systems”
- FIPS 140-2, “Security Requirements for Cryptographic Modules”

The JVP letter agreement for each JV project will specify the applicable IT security requirements for the project, which will include:

- a. the IT security standards, policies, and reporting requirements;
- b. risk-based screening and security requirements for personnel working on low, moderate, or high-risk projects;
- c. compliance requirements for security controls;
- d. authorization to operate (ATO) based on required security assessments;
- e. continuous monitoring of security controls and the operating environment
- f. plans of action and milestones (POA&Ms) to fix vulnerabilities;
- g. reporting and responding to security incidents and notification requirements; and
- h. requirement to comply with applicable privacy laws, rules, and regulations.

*JVP* shall obtain prior written approval from the NTIS Authorizing Official for any exceptions or alternatives to the specified requirements. Exhibit 1 provides a sample set of IT security requirements for purposes of illustration.

## **10. FACILITIES AND EQUIPMENT**

*JVP* will provide facilities and equipment for its personnel providing services under this agreement. NTIS will provide facilities and equipment for its personnel providing services under this agreement. NTIS and JVP may agree to alternative arrangements on a mutually agreed upon basis as documented in the JVP letter agreement for each project.

## **11. CONFIDENTIALITY**

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Except as may otherwise be required by law, neither party may disclose confidential or proprietary information provided by the other party and clearly marked without that party's written consent. **JVP** agrees to disclose to NTIS and Federal agency customers only information that is required for performance of obligations under this agreement. If either party is required to disclose any proprietary or confidential information, it will provide advance notification to the other party as permitted by Federal law. This Section 11. Confidentiality does not apply to the extent that confidential information is required to be disclosed by applicable law, including the Freedom of Information Act (FOIA), 5 U.S.C. 552. Notwithstanding the foregoing, if NTIS receives a request for disclosure of **JVP** confidential information, NTIS agrees to promptly notify **JVP** in writing and give **JVP** an opportunity to request confidentiality protection for any information it believes NTIS may withhold, in accordance with Department of Commerce FOIA procedures. The final decision as to whether to withhold information will be made by NTIS. In addition, neither party will disclose to third-parties any business leads that it learns about pursuant to this Agreement without the other party's written consent, except as otherwise may be required by Federal law.

This Agreement imposes no obligation upon NTIS with respect to information which (a) was in NTIS's possession before receipt from **JVP**; (b) is or becomes a matter of public knowledge through no fault of NTIS; (c) is received by NTIS from a third party without a duty of confidentiality; (d) is disclosed by **JVP** to a third party without a duty of confidentiality on the third party; (e) is disclosed by NTIS with **JVP**'s prior written approval or (f) is developed by NTIS without reference to the confidential information disclosed under this JVP agreement.

NTIS further agrees to disclose confidential information only to those employees or agents who are required to protect it against unauthorized disclosure. Nothing shall prevent NTIS from disclosing **JVP**'s confidential information in any legal proceeding arising from or in connection with this agreement or disclosing the information to a federal or state governmental entity as required by law. If NTIS is so required to disclose any **JVP** confidential information, it will provide advance notification to **JVP** as permitted by applicable law.

These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.

**JVP** agrees to include in any contract or teaming arrangement for services performed in support of this agreement a clause to effect the flow down of the preceding paragraphs in this section to the contractor or other party providing support services.

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## **12. SECURITY CLEARANCES**

NTIS and **JVP** will attempt to maintain sufficient staff with appropriate clearances in order to work with Federal agencies who may have security requirements. For some services requested by other Federal agencies and performed by **JVP** and its contractors and other partner(s) under this agreement, the other Federal agency may require that **JVP** employees and contractor and other partner employees complete and submit information to the other Federal agency to enable that agency to make suitability determinations and/or obtain security clearances for such employees. **JVP** agrees to comply, and to require its contractors and other partners to comply, with such requirements. Clearance or other security requirements, if any, must be specified in the applicable JVP letter agreement.

## **13. ADMINISTRATIVE MATTERS**

- a. Applicable Law – This JVP agreement and the performance of the rights and obligations hereunder will be governed by applicable Federal law.
- b. Entire Agreement – This agreement constitutes the entire agreement of the parties and supersedes all other written or oral communications, agreements or understandings between the parties relating to the subject matter hereof. This agreement may not be amended or modified except by written agreements executed by duly authorized representatives of both parties.
- c. Relationship of the Parties – Nothing in this agreement constitutes or shall be construed as constituting any of the Parties as Partners or as establishing a fiduciary relationship between them. Neither Party shall have any power or authority to bind the other in any respect. This agreement does not create an employer, employee, or similar relationship between the parties. The relationship shall be that of independent contractors.
- d. Non-Assignability – Neither this agreement nor any of the rights or obligations hereunder may be assigned or delegated by either party without the other party's consent.
- e. Use of Contractors and Other Teaming Arrangements -- In general, NTIS expects **JVP** to provide the majority of the partner services using **JVP's** own staff and products under any JVP letter agreement. Before the parties submit a proposal to another Federal agency or during NTIS negotiations of a Project Plan agreement with another Federal agency, **JVP** will notify NTIS if **JVP** intends that more than 50 percent of the labor the Partner is responsible for (measured by cost) under the proposed Project Plan Agreement will be provided by another entity. At that time **JVP** will submit to NTIS a written estimate of what portion of the labor will be provided by the other entity. In addition, **JVP** will provide NTIS notice before execution of any JVP letter agreement and when plans change during the implementation of the Project Plan agreement that increase the outside labor portion to more than 50 percent.

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- f. Preservation of Rights – Any failure or delay of a party to exercise or enforce any of its rights shall not be deemed a waiver of such rights, nor shall any such failure or delay preclude the exercise or enforcement of such rights at any later time.
- g. Headings – The headings appearing in this agreement are inserted only as a matter of convenience and for reference only and in no way define, limit, or describe the scope and intent of this agreement or any of the provisions hereof.
- h. Limitation of Liability – Neither party shall be liable to each other for any incidental, consequential, special, and exemplary or punitive damages because of its performance or nonperformance of its obligations under this agreement, except only as stated in this agreement (see Section 16., Indemnification).
- i. End User Licenses – Neither NTIS nor **JVP** will be responsible for obtaining end-user licenses of third-party proprietary software for Federal agency customers.
- j. Terms and Conditions in JVP Letter Agreements – To the extent that terms and conditions for a specific JVP letter agreement between NTIS and **JVP** entered into pursuant to this agreement in support of a Project Plan agreement between NTIS and another Federal agency differ from the terms and conditions in this agreement, the terms and conditions set forth in the applicable JVP letter agreement will supersede those in this agreement..
- k. Joint Venture Relationship – This joint venture agreement is not a contract, and **JVP** is not a contractor to NTIS. In turn, this joint venture agreement is not governed by the Federal Acquisition Regulations (FAR).
- l. Flowdown Provisions – **JVP** will ensure that all entities **JVP** has contracted, or entered into other teaming arrangements with, to perform services under a Project Plan agreement will comply with Section 8. Section 508 Compliance and the specific provisions set forth in the JVP letter agreement for the project, Section 9. Information Technology (IT) Security and the specific provisions set forth in the JVP letter agreement for the project, Section 11. Confidentiality, Section 14. Intellectual Property and the specific provisions set forth in the JVP letter agreement for the project, and Section 16. Indemnification, as applicable.

## **14. INTELLECTUAL PROPERTY RIGHTS**

### **a. Government Rights in Data**

NTIS, as appropriate, and Client Agency receiving the services provided pursuant to this Agreement and a Project Plan Agreement shall have, with respect to all data (e.g. the surveys, software, coding, documentation, and reports) first produced by **JVP** under this agreement and the Project Plan Agreement, the rights to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform

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publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.

*JVP* agrees to include in any contract or teaming arrangement for services to be performed in support of this agreement a clause to effect the flow down of the preceding paragraph to the contractor or other party providing support services.

Data and data services provided under this agreement may only be accessed and utilized for purposes consistent with all applicable statutory and regulatory protections and all relevant agreements.

b. Government Rights in Patentable Inventions

On a project-by-project basis, NTIS will negotiate intellectual property rights in patentable inventions with *JVP*, and appropriate terms will be included in the JVP letter agreement for each specific project. At a minimum, the Government will reserve sufficient rights to use for Government purposes all deliverables under the Project Plan agreement and the JVP letter agreement.

## 15. TERM and TERMINATION

- a. This agreement will become effective on the date of last signature by the parties and will remain in effect for three (3) years unless terminated sooner. Either party may terminate by giving the other party's signatory or successor 90 days' notice in writing. The parties will review this agreement within two (2) years from the effective date to determine whether it should be revised, renewed, or canceled.
- b. Should any JVP letter agreement still be in effect at the time of such termination, the provisions of this agreement shall continue in effect until the JVP letter agreement is terminated in accordance with its terms.

## 16. INDEMNIFICATION

*JVP* holds harmless and indemnifies NTIS for all liabilities, demands, damages, expenses, and losses arising out of a claim that the use by NTIS or any party acting on its behalf, of *JVP*'s technology infringes the intellectual property rights of a third party. The foregoing obligation is contingent upon NTIS promptly notifying *JVP* of any claim that its technology and/or products in any way violate any intellectual property rights, such as patents, copyrights, trademarks, and trade secrets. NTIS will permit *JVP* to participate in litigation relating to any claim, to the extent permitted by the Department of Justice. This provision will survive termination of this Agreement.

NTIS agrees to promptly consider and adjudicate any claims that may arise out of this Agreement resulting from the actions of NTIS, duly authorized representatives, or contractors of NTIS, and to pay for any damage or injury as may be required by Federal law. Such adjudication will be pursued under the Federal Tort Claims Act, 28 U.S.C. Section

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2671 *et seq.*, the Federal Employees Compensation Act, 5 U.S.C. Section 8101 *et seq.*, or such other legal authority as may be pertinent.

**17. DISPUTE RESOLUTION**

Should disagreements arise on the interpretation of the provisions of this agreement or amendments/modifications and/or revisions thereto that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each party and presented to the other party for consideration. If agreement or interpretation is not reached within 30 days, the parties shall forward the written presentation of the disagreement to respective higher officials for appropriate resolution. Both parties agree that all claims, disputes, and/or causes of action arising under or related to this agreement, not resolved in the dispute resolution process, shall be brought in a court/forum of competent Federal jurisdiction.

**18. PARTIES' REPRESENTATIVES**

The representatives' named below will serve in a liaison capacity to facilitate operations between the participating organizations:

NTIS Program Management Official:

[JVP Name]:

5301 Shawnee Road, Rm XXX  
Alexandria, VA 22312  
Fax: (703) 605-6373

**19. SIGNATORY AUTHORITY**

The duly authorized parties whose signatures are affixed below execute this agreement:

\_\_\_\_\_  
Gregory Capella, Deputy Director  
National Technical Information Service

\_\_\_\_\_  
[JVP Name]

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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## EXHIBIT 1

### SAMPLE INFORMATION TECHNOLOGY (IT) SECURITY REQUIREMENTS

#### 1. NTIS IT Security Legal Requirements, Policies, and Standards

*JVP* is subject to applicable NTIS and Federal IT Security standards and policies for systems and services provided to NTIS and its Federal customers, including:

- Federal Information Security Management Act (FISMA) of 2002.
- Privacy Act of 1974 (5 U.S.C. § 552a).
- Federal Information Processing Standard (FIPS) 199, “Standards for Security Categorization of Federal Information and Information Systems”
- FIPS 200, “Minimum Security Requirements for Federal Information and Information Systems”
- FIPS 140-2, “Security Requirements for Cryptographic Modules”

*JVP* will obtain prior written approval from the NTIS Authorizing Official for any exceptions or alternatives to NTIS and Federal IT Security standards, policies, and reporting requirements.

#### 2. Personnel Screening and Security

NTIS separates the risk levels for personnel working on Federal computer systems into three categories: Low Risk, Moderate Risk, and High Risk. *JVP* personnel (hereafter known as “Applicant”) determined to be in a Low Risk position, will be required to complete a National Agency Check with Written Inquiries (NACI) investigation before being permitted to perform work with NTIS for Federal Agency customers. Those Applicants determined to be in a Moderate Risk position will be required to complete either a Limited Background Investigation (LBI) or a Minimum Background Investigation (MBI) based on NTIS policies and standards before being permitted to perform work with NTIS for Federal Agency customers. Those Applicants determined to be in a High Risk position will be required to complete a Background Investigation (BI).

#### 3. NTIS IT Security Compliance Requirements

*JVP* will comply with all current, applicable requirements for Federal Information and Information Systems, including FISMA compliance requirements as specified by OMB memoranda and current guidance in non-draft revisions of National Institute of Standards and Technology’s Federal Information Processing Standards (FIPS) and 800 series special publications (SP) pertaining to security and privacy controls for Federal Information Systems. FIPS 200, “Minimum Security Requirements for Federal Information and Information Systems,” is a mandatory federal standard that defines the minimum-security requirements for federal information and information systems. To comply with the federal standard, NTIS must determine the security category of the information and information system in accordance with FIPS 199, “Standards for

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Security Categorization of Federal Information and Information Systems,” and then the **JVP** will apply the appropriately tailored set of Low, Moderate, or High impact baseline security controls recommended in NIST SP 800-53, as determined by NTIS. **JVP** will use NTIS technical guidelines, NIST guidelines, or industry best practice guidelines in hardening their systems, as deemed appropriate by the Authorizing Official.

#### **4. Authorization and Assessment (A&A) Activities**

The implementation of a new Federal Government IT system requires a formal approval process known as Authorization and Assessment (A&A). NIST SP 800-37, “Guide for Applying the Risk Management Framework to Federal Information Systems,” provides guidelines for performing the A&A process. **JVP’s** system/application must have a valid A&A (approved in writing by the Federal government) before going into operation and processing government information. The failure to obtain and maintain a valid A&A will be grounds for cancellation of this agreement. The system/application must have a new A&A conducted (and approved in writing by the Federal government) at least every three (3) years or at the discretion of the Authorizing Official when there is a significant change to the system/application’s security posture. All NIST SP 800-53 controls must be tested/assessed no less than every 3 years.

#### **5. Reporting and Continuous Monitoring**

Maintenance of the Authority-To-Operate (ATO) will be through continuous monitoring of security controls and the operating environment to determine if the security controls continue to be effective over time in light of changes that occur in the system and environment. **JVP** will ensure that system security documentation and continuous monitoring reports are kept up-to-date and made available for NTIS to review within three (3) business days of request. This will allow the Authorizing Officials to make credible risk-based decisions regarding the continued operations of the information systems and initiate appropriate responses as needed when changes occur. System security documentation and reporting requirements will conform to current year FISMA/FedRAMP reporting instructions as specified by OMB memoranda, current year FISMA/FedRAMP documentation templates, and current year, non-draft revisions of the National Institute of Standards and Technology’s 800 series publications pertaining to security and privacy controls for Federal Information Systems.

**JVP** will:

- Ensure that its information systems and services provided under this agreement satisfy applicable Federal Information and Information Systems security requirements through use of security controls in accordance with NIST SP 800-53.
- Maintain complete and current A&A documentation for [PARTNER] Systems and Services and provide such to NTIS for full security review and approval by the Authorizing Official.
- Represent that A&A documentation for [PARTNER] Systems & Services are compliant with Federal Information and Information Systems security requirements.

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- Provide NTIS at least quarterly, an updated Plan of Action & Milestone (POA&M) document – Reference: NIST 800-53, Rev. 4 or most current version, control CA- 5
- Provide to NTIS at least once quarterly, a report on vulnerability scanning results – Reference: NIST 800-53, Rev. 4 or most current version, control RA-5
- Provide NTIS access to review any systems or infrastructure and conduct security reviews, scans, assessments, and audits as required.
- Take timely action and prepare status reports on all POA&M that are required to maintain a current and approved authorization to operate (ATO).
- Cooperate with NTIS IT Security team by monitoring security controls on an ongoing basis.
- Keep the NTIS Program Manager informed of significant software application and/or infrastructure changes in advance.
- Participate actively with Change Control Board and user groups established for the partner and mutual clients, and notify NTIS Program Manager immediately if any breach of security or system failure occurs.

## **6. Security Incidents & Reporting**

**JVP** shall promptly notify NTIS Information Technology Security Officer of a Security Breach in accordance with **JVP's** standard security incident report and response policies within one hour upon confirmation by the relevant **JVP** confirming authority. Should the US-CERT and Department of Commerce notification guidelines change, NTIS and **JVP** may modify this agreement accordingly in writing. This notification is in addition to any other standard internal **JVP** escalation or response on the part of **JVP's** team. In addition, **JVP** will keep NTIS informed regarding all steps taken in response to security incidents as requested by NTIS.

## **7. Additional Terms**

- a. If the system involves the design, development, or operation of a system of records for individuals to accomplish a client agency function involving records subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a) (Privacy Act) and applicable agency regulations, **JVP** agrees to comply with the Privacy Act and the Federal Agency customer's rules and regulations.
- b. **JVP** will be responsible for the following privacy and security safeguards:
  - i. **JVP** will not publish or disclose in any manner, without the NTIS Authorizing Official's written consent, the details of any safeguards either designed or developed by **JVP** under this Agreement or provided to **JVP** by the NTIS and/or a customer Federal Agency.
  - ii. To the extent required to carry out a program of inspection to safeguard against threats and hazards to the security, integrity, and confidentiality of any non-public Government data collected and stored by **JVP**, **JVP** will afford NTIS and/or a

*Disclaimer: Early version in clearance process subject to change.*

customer Federal Agency access to facilities, systems, and documentation within 72 hours of notice for conducting audits.

- iii. NTIS personnel, Federal Agency customer personnel, and/or agents acting on behalf of NTIS and/or a Federal Agency customer may perform automated security scans of **JVP** owned and/or operated systems using NTIS and/or Federal Agency customer operated equipment and specified tools. If **JVP** chooses to run its own automated scans or audits, results from these scans may be acceptable in lieu of NTIS-performed vulnerability scans, at the Authorizing Official's discretion. Acceptance of **JVP**-run automated scans or audits will require Authorizing Official's advance approval of the scanning tools and configuration. In addition, **JVP** will provide the results of **JVP**-conducted scans to NTIS for review as part of FISMA authorization and continuous monitoring requirements within 72 hours of NTIS request.
- iv. If either NTIS or **JVP** discovers new or unanticipated threats or hazards, or if existing safeguards have ceased to function, the discoverer will immediately bring the situation to the attention of the other party.