

CON21-260

**AGREEMENT FOR CONTRACTOR SERVICES
BETWEEN
ENTERPRISE FLORIDA, INC.
AND
PROFESSIONAL WOMEN AFRICA LIMITED,
T/A ELLARY SOLUTIONS**

THIS AGREEMENT (“Agreement”) is entered into this 1st day of July, 2021, by and between ENTERPRISE FLORIDA, INC., a Florida not-for-profit corporation (“EFI”) and PROFESSIONAL WOMEN AFRICA LIMITED, TRADING AS ELLARY SOLUTIONS (“Contractor”) (individually each a “Party” and collectively referred to as the “Parties”).

RECITALS

WHEREAS, the Legislature has found that the expansion of international trade and investment is vital to the overall health and growth of Florida’s economy and this expansion is hampered by the lack of technical and business assistance, financial assistance, and information services for businesses in Florida; and

WHEREAS, the Legislature has found that businesses could be assisted by international offices, and EFI, as the principal economic development organization for the State of Florida, is responsible for using public and private expertise to increase private investment in Florida and advance international trade opportunities to grow and diversify Florida’s economy; and

WHEREAS, EFI is specifically directed to assist in the establishment and operation of offices in foreign countries to promote trade and economic development of the State of Florida, and to promote the gathering of trade information and research on trade and investment opportunities in specific countries; and

WHEREAS, the purpose of this Agreement is to establish a foreign office that seeks to identify and pursue trade, financial, and corporate investment leads and projects originating from Southern and Eastern African countries, with a focus on the Republic of South Africa (the “Countries”); and

WHEREAS, in furtherance of its responsibilities to advise and assist in promoting and developing international trade and Foreign Direct Investment (FDI), EFI desires to enter into this Agreement with Contractor upon the terms and conditions below; and

WHEREAS, Contractor acknowledges that this is a performance-based funding contract, and represents that it shall continue to possess the requisite skills, knowledge, qualifications, and experience to perform the tasks described herein; and

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. PARTIES:

The Parties and their respective addresses for purposes of this Agreement are as follows:

EFI: Z. Joe Kulenovic, V.P. International Operations
Enterprise Florida, Inc.
201 Alhambra Circle, Suite 610
Coral Gables, Florida 33134
Tel: +1-305-808-3588
Fax: +1-305-808-3586
Email: zjkulenovic@enterpriseflorida.com

Contractor: Abigail Ellary, Director
Professional Women Africa Limited,
T/A Ellary Solutions
Spaces/The Business Centre
2 Ncondo Place
Ridge Side, Umhlanga Ridge
Kwa-Zulu Natal, 4319
Republic of South Africa
Tel: +27-82-341-9541
Email: abigail@ellarysolutions.com

2. AGREEMENT MANAGERS:

The Parties each hereby appoint an Agreement Manager to facilitate the terms of this Agreement. All written approvals referenced in this Agreement must be obtained from the Parties' Agreement Managers or their designees. The EFI Agreement Manager is Z. Joe Kulenovic, V.P. International Operations, who can be reached at +1-305-808-3588. The International Office Agreement Manager, Abigail Ellary, can be reached at +27-82-341-9541.

3. TERM:

The term of this Agreement shall commence on July 1, 2021, and shall remain in effect through June 30, 2022, ("Term") unless otherwise terminated as provided herein. This Agreement may be renewable at the exclusive discretion of EFI, it being acknowledged that EFI's decision to renew this Agreement is not guaranteed, and shall be based on Contractor's fulfillment and reasonable performance of its obligations under this Agreement, EFI's strategic business decisions, and ensuring the best value and return on investment to the State of Florida. EFI reserves the right to continuously review proposals from other parties interested in representing EFI within its territories, and, from time to time, seek competitive bids from qualified companies, and in which case EFI is not obligated to provide Contractor with any warning, notice, or compensation in lieu of notice. The determination to extend, competitively procure, or review proposals from other parties shall be made by EFI in its sole discretion. Any extensions and renewals shall be agreed to by both Parties in writing and authorized by amendments to this Agreement as stated in Paragraph 14.

4. CONSIDERATION:

In consideration for the performance by the Contractor of the Services, subject to the conditions of this Agreement, EFI shall pay Contractor an aggregate and fixed amount of One Hundred Twenty Thousand Dollars (US\$ 120,000) (the "Consideration"), according to the following terms:

By the 30th day of each month unless otherwise specified by EFI, or another date that is acceptable to EFI, Contractor shall provide an invoice to the Agreement Manager stating the equal installment of the Consideration payable with respect to such month. The invoice shall be sent together with the monthly progress report for the same month required by Paragraph 10. Contractor invoices shall be paid within thirty (30) days of receipt. EFI reserves the right to withhold or delay payment of the Consideration if Contractor fails to submit the required invoices and monthly progress reports as they become due and EFI receives and approves the same.

EFI's obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature of the State of Florida and Florida Department of Economic Opportunity's (DEO) funding obligations to EFI.

5. EMPLOYEE SALARIES:

Contractor is responsible for payment of all salaries, taxes, fees, or other compensation of any staff members that it wishes to engage and compliance with all applicable laws, including but not limited to employment laws, in the relevant jurisdiction where Contractor is operating. Upon request by EFI, Contractor shall produce a written statement, in a form approved by EFI, signed by any employees or representatives of Contractor acknowledging that they are not employees of EFI or of the State of Florida.

6. EXPENSES OF CONTRACTOR:

Contractor acknowledges and agrees that Contractor shall be responsible for its own operational expenses, including but not limited to the following:

- a. Staff salaries;
- b. Office supplies;
- c. Postage, telephone and other communications costs;
- d. All business travel in the Durban metropolitan area, three (3) business trips within the Republic of South Africa outside of the Durban metropolitan area, any necessary business travel within Kenya, and one (1) trip to Florida during the term of this agreement;
- e. Participation and membership fees;
- f. Promotion and entertainment expenses;
- g. Printing;
- h. Equipment leases;

- i. Local production and promotional costs in support of EFI South Africa's self-directed business development efforts;
- j. Senior, mid-level, and support staff as required;
- k. Translation, when required, of promotional materials that the Contractor produces; and
- l. Office space dedicated to Contractor's performance of the Services.

7. SCOPE OF SERVICES:

Contractor shall provide the following main categories of services to EFI:

- a. Contractor shall network with public and private-sector officials on behalf of EFI.
- b. Contractor shall handle all official correspondence and business development activities in the Countries on behalf of EFI.
- c. Contractor shall continually work to promote Florida's business credentials and reputation and introduce actual business opportunities with the business community in Southern and Eastern Africa, by undertaking an information dissemination program.
- d. Contractor shall continually update its database of prospects likely to locate or invest in Florida, and its database of targeted trade opportunities.
- e. Contractor shall assist Florida companies in identifying and connecting with prospective buyers or distributors for their products and/or services in the Countries, including providing Virtual Business Matchmaking (VBM) Services utilizing EFI's online platform.
- f. During the term of this Agreement, Contractor shall assist in organizing EFI's participation at trade and/or investment events, both in-person and virtual, in Southern and/or Eastern Africa. If it is determined by both parties that additional trade and/or investment events are required, beyond the other trade and/or investment events outlined in Paragraph 8 or included in the operational plan, then Contractor's time will be reallocated accordingly, and both parties will agree upon additional compensation, if necessary.
- g. The Contractor will organize a business development mission from Florida to Southern or Eastern Africa, or a business development mission from Southern or Eastern Africa to Florida, during the term of this Agreement. If the mission does not take place during the term of this Agreement, then EFI must approve what additional activities the Contractor will undertake to replace the mission. Both parties may mutually agree upon additional compensation if additional missions approved by EFI are conducted in addition to the ones listed in Paragraph 8.

- h. When requested by EFI, Contractor shall identify and seek out sources of sponsorships for EFI-sponsored seminars in Southern or Eastern Africa.
- i. Contractor shall be responsible for overall financial management of operational expenses in Southern or Eastern Africa.

All of the services and activities identified in this Paragraph 7 shall herein be referred to as the "Services."

8. PERFORMANCE MEASURES:

During the term of this Agreement, the Contractor shall actively and diligently perform the Services identified in Paragraph 7. As measures of the Contractor's performance, EFI will consider:

- a. The capital value of announced Foreign Direct Investment ("FDI") projects from sources located in African countries, and directed to Florida;
- b. The value of documented trade transactions, including joint ventures between African companies, and companies in the State of Florida;
- c. Significant relationship development with twelve (12) target industry companies situated in African countries;
- d. Relationship development with twenty-four (24) new key trade multipliers in African countries;
- e. Organization and/or participation on behalf of EFI at in-person and virtual trade shows in Southern and/or Eastern Africa;
- f. Market research on EFI's target industry sectors in Southern or Eastern Africa (if requested);
- g. Content management and maintenance of the EFI South Africa microsite on EFI's website;
- h. Organizing and participating in a targeted industry business development mission from Florida to Southern or Eastern Africa, or a mission from African countries to Florida (if requested by EFI);
- i. Participation in U.S. Department of Commerce in-person and virtual events in African countries (if requested);
- j. Satisfactory assistance to EFI's economic development partners in their efforts to promote their business locations in African countries;
- k. Satisfactory assistance to Florida companies in their efforts to export their products and/or services to African markets; and

- I. Satisfactory performance of matchmaking services, both in-person and virtual, for Florida companies in African markets (when requested, at an additional mutually negotiated fee not included in this agreement, commensurate with the fees for similar services charged by the US Commercial Service).

The Contractor shall have performed reasonably if they achieve a positive assessment of their overall performance by the EFI's Agreement Manager, based upon the performance measures listed above.

9. FISCAL YEAR OPERATIONAL PLAN:

The Contractor is required to prepare and submit an operational plan no later than 15 days after the start of this Agreement, according to a format agreed upon with EFI and consistent with the requirements enumerated in section 288.012(2), Florida Statutes. If the Contractor desires to have its contract renewed, it should submit its operational plan for the next contract term prior to the termination of this Agreement. Any renewal or extension of this contract is in the exclusive discretion of EFI.

10. MONTHLY REPORTS:

The report contains two parts, which describe the Contractor's performance of Services (collectively, the "Report Information"). The Contractor shall input information in connection with both trade development and investment activities into the EFI-designated CRM system on a continuous basis.

Trade development information in the CRM system must include:

- a. The names of Florida companies assisted, their location and primary product or service, participant names, and the primary purpose for their participation in the program. Contractor shall include the industry each company is in, with particular attention to how many of these companies are in EFI's targeted industries. EFI's Agreement Manager must be able to determine which of the Florida companies assisted fall within the following industries:
 1. Aviation & Aerospace;
 2. Information Technology including:
 - Software & Computer Systems;
 - Microelectronics & Computer Products;
 - Photonics & Optics;
 - Modeling, Simulation & Training;
 - Digital Media; and
 - Telecommunications;
 3. Life Sciences including:
 - Medical Devices;
 - Biotechnology;

- Pharmaceuticals; and
 - Medical Supplies
 - 4. Financial & Professional Services, including:
 - Accounting;
 - Architecture;
 - Banking;
 - Consulting;
 - Engineering;
 - Insurance; and
 - Legal;
 - 5. Defense & Homeland Security, including Cybersecurity;
 - 6. Logistics & Distribution;
 - 7. Strategic Challenges, including
 - Corporate Headquarters; and
 - Manufacturing;
 - 8. Cleantech, including:
 - Energy Efficiency; and
 - Environmental Technologies;
 - 9. And Others, as identified and approved by the Agreement Manager.
- b. The trade leads generated;
 - c. Documented dollar value of confirmed and expected sales by Florida businesses;
 - d. The number of consultations with foreign companies;
 - e. Official meetings and events; and
 - f. Activities associated with trade development (may be in a separate written report).

Foreign Direct Investment information in the CRM system must include:

- a. All activities associated with an FDI lead or project activity, enabling its development to be tracked over time, including but not limited to: investment inquiries, lead qualification and follow-up, referrals to EDO partner organizations, project establishments, and project announcements;
- b. Investment projects from the Contractor which are announced should include verified information on the project site's final physical location, capital investment, the number of jobs created in connection with the project, and average wages; and
- c. In addition to entering data in the CRM system, the Contractor will provide any other information for the monthly report requested by the Agreement Manager.

11. **FINAL REPORT:**

Within thirty (30) days after termination of this Agreement, the Contractor shall provide to EFI a final program report describing:

- a. The cumulative report information for the term of this Agreement;
- b. Barriers or other issues affecting the Contractor's operational effectiveness;

- c. Changes in office operations which are planned for the current fiscal year;
- d. Marketing activities conducted;
- e. Strategic alliances formed with organizations in the Countries where the Contractor represents EFI;
- f. Activities conducted with other Enterprise Florida international offices;
- g. Any other information requested by the Agreement Manager and/or which Contractor believes would contribute to an understanding of its activities;
- h. Itemized accounting of funds disbursed from this Agreement; and
- i. Any other information required by section 288.012(3), Florida Statutes.

EFI, DEO, the Office of the Auditor General, Department of Financial Services, Office of the Chief Inspector General, or other personnel authorized by EFI reserves the right to audit and review all information provided by Contractor pursuant to this Agreement. Contractor shall retain and maintain all records available for an audit as may be requested for a minimum period of seven (7) years after termination of this Agreement.

12. ANNUAL FISCAL YEAR REPORT:

The Annual Fiscal Year Report can also be used as the Final Report, since both require the same information and cover the same 12-month period. The Contractor must produce and submit an itemized accounting summary of funds disbursed during the period of the Agreement. This document must be submitted separately from the Final Report/Annual Fiscal Year Report.

By July 31 of each year, the Contractor will submit an Annual Fiscal Year Report. The format for the Annual Report will be defined by the Agreement Manager, and include a description of the following, in addition to all requirements outlined in Sec. 288.012(3), Florida Statutes:

- a. The cumulative Report Information for the fiscal year July 1, 2021 through June 30, 2022;
- b. Impediments or other issues affecting the Contractor's operational effectiveness;
- c. Changes in office operations which are planned for the current fiscal year;
- d. Marketing activities;
- e. Strategic alliances formed with organizations in the Countries where the Contractor represents EFI;
- f. Activities conducted with other Enterprise Florida international offices;
- g. Any other information requested by the Agreement Manager, and/or which the Contractor believes would contribute to an understanding of its activities;
- h. Itemized accounting of funds disbursed from this Agreement; and
- i. Any other information required by section 288.012(3), Florida Statutes.

13. FINAL DISBURSEMENT:

Upon termination of this Agreement, EFI shall designate the final payment of the Consideration hereunder as the "Final Payment." Contractor acknowledges that its

acceptance of the Final Payment shall constitute full and complete release of EFI, DEO, and the State of Florida by Contractor from any and all claims, demands, and courses of action whatsoever that Contractor may have against EFI.

14. 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 per Paragraph 1. 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.

15. 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 and filing international, national, or provincial taxes or other payroll withholdings on behalf of Contractor, either in the Countries or in the United States of America. 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.

16. LIABILITY:

EFI shall not assume any liability for the acts, omissions to act, or negligence of Contractor, its agents, servants, or employees. In all instances, Contractor shall be responsible for any injury or property damage resulting from any activities conducted by Contractor pursuant to this Agreement.

17. INDEMNIFICATION:

Contractor agrees to be liable for, and shall indemnify, defend, and hold EFI and the State of Florida harmless from all claims, suits, judgments, or damages arising from Contractor's performance of the Services and its other obligations under this Agreement.

18. TELECONFERENCES:

Contractor shall conduct a teleconference meeting on an as needed basis with the Agreement Manager to review Contractor's performance of the Services, and to discuss upcoming activities and issues relative to the fulfillment of this Agreement. EFI acknowledges that due to the difference in time zones, scheduling difficulties

may occur; however, Contractor shall use its best efforts to be available for such teleconference meetings.

19. AVAILABILITY OF INFORMATION:

EFI recognizes that Contractor can only perform the Services if EFI responds to Contractor's requests for information and provides all required information and documentation in a timely manner.

20. PRINCIPAL:

Contractor agrees that Abigail Ellary, an individual (the "Principal") shall serve as an employee or independent contractor of Contractor, and the Principal shall have primary responsibility for the performance by Contractor of the Services.

21. PROMOTIONAL MATERIALS:

Contractor shall promote itself as an official foreign office of EFI in African countries. Contractor shall display signage in the reception area of its offices promoting the presence and establishment of "Enterprise Florida, Inc. – Africa Regional Office". Advertisements and other promotional materials for any activity funded by this Agreement shall include prominent reference to EFI.

22. 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.

23. NON-EXCLUSIVE RELATIONSHIP:

The relationship between the parties is a non-exclusive one, which allows the Contractor and the Principal 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. Notwithstanding the foregoing:

- a. Without EFI's prior written consent, Contractor shall not represent or perform any consulting assignment regardless of its size, scope, or nature for any other government or economic development body of any municipality, region, state, territory, or possession of the United States of America during the term of this Agreement which EFI deems competitive in the territories where Contractor is representing EFI; and
- b. Contractor shall notify EFI if a Florida business or organization wishes to employ Contractor to perform any services.

24. NO PLEDGE OF CREDIT:

Contractor has no authority to, and shall not, pledge the credit of EFI, the Florida Department of Economic Opportunity (DEO,) or the State of Florida, or make EFI, DEO, or the State of Florida a guarantor of payment or surety for any contract, debt, obligation, judgment, lien or any form of indebtedness.

25. INSURANCE:

Contractor represents and warrants that it has the necessary and reasonable insurance required to do business in the Republic of South Africa.

26. EXCLUSIVE RIGHTS:

Neither Contractor nor any employee of Contractor shall have any proprietary interest in the products delivered under this Agreement. Anything, by whatsoever designation it may be known, that is produced or developed in connection with this Agreement shall be the exclusive property of EFI and may be copyrighted, patented, or otherwise restricted by EFI only.

Consultant's access to EFI's CRM system is a privilege assigned by EFI for its business purposes. Information in the database or client tracking system is EFI's and may not be used for other personal or business activities. Inappropriate uses of EFI information may be cause for immediate termination.

27. 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," for the purpose of the United States Copyright law, 17 U.S.C. § 101 *et seq.* and that 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":

- (a) 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.

- (b) 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.

28. 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.

29. 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 any advertisements or promotional materials utilized in furtherance of this Agreement (excluding EFI Materials), as delivered

or used 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.

30. COORDINATION:

When reasonable, Contractor shall coordinate with other components of the state and local economic development systems of the State of Florida, and avoid duplication of existing state and local services and activities provided in the State of Florida.

31. OBLIGATION UPON TERMINATION:

In the event of termination of this Agreement, in addition to any payments then due under Paragraph 4, EFI's sole obligation and liability to Contractor, if any, shall be to pay Contractor that portion of the Consideration equal to the reasonable value of the Contractor's performance of the Services and expenses incurred prior to the effective date of termination and unable to be reasonably cancelled.

Notwithstanding the foregoing, with respect to the month in which termination becomes effective, Contractor remains obligated to provide to EFI the invoice and monthly progress report required by Paragraphs 4 and 10, and final program report, required in Paragraph 11, which invoice and reports must be received and approved by EFI as a condition to any final payment under this Agreement.

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

- a. The purpose of this Agreement is contained within the Recitals.
- b. Specific performance standards and responsibilities for each entity are included in paragraph 8.
- c. A detailed contract budget is found in paragraph 4.
- d. The value of the services provided is found in paragraph 4.
- e. There are no projected travel and entertainment expenses for employees and board members of EFI.

33. 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.


34. EFI STANDARD TERMS:

EFI's Standard Contract Terms & Agreements, which are attached hereto as "Attachment A", are made part of this Agreement and fully incorporated herein.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed on their behalf by their respective authorized and proper representatives, each with the requisite authority to bind their respective Party to the terms herein, as of the day and year first above written.

FOR: PROFESSIONAL WOMEN AFRICA LIMITED,
TRADING AS ELLARY SOLUTIONS
("Contractor")

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

DocuSigned by:

Abigail Ellary
Director

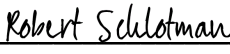
Jamal Sowell
President/CEO

Date: 7/2/2021

Date: _____

OR-

[EFI Designee]

DocuSigned by:
Signature: 
31B112E6369B471...

Printed Name: Robert Schlotman

Title: Chief Operating Officer

Date: 7/2/2021

ATTACHMENT A

Enterprise Florida Standard Contract Terms & Agreements 2021-2022

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 for its convenience, in whole or in part at any time by providing written notice to Contractor. EFI may terminate this Agreement for 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 or reckless 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. In the event that EFI terminates this Agreement for cause or default and said termination is found to be wrongful by a court of competent jurisdiction, the termination shall be treated as one for convenience.

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. Lost profits, consequential damages, special damages, and costs incurred in preparing a proposal or otherwise incurred in obtaining this contract or award may not be recovered.

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 may expend funds only for allowable costs.

6. Any balance of unobligated funds which has been advanced or paid to Contractor must be refunded to EFI upon request of EFI or termination of this Agreement. Any funds paid in excess of the amount to which Contractor is entitled under the terms and conditions of this Agreement must be refunded to EFI upon request of EFI or upon termination of this Agreement.

7. The EFI Contract Manager shall periodically review the progress made on the Scope of Work and deliverables required under this Agreement. If Contractor fails to meet and comply with the activities/deliverables established in this Agreement or to make appropriate progress on the activities and/or towards the deliverables and they are not resolved within two weeks of notification, the Contract Manager may approve a reduced payment, request Contractor to redo the work, or terminate this Agreement.

8. Failure of Contractor to provide project deliverables and/or meet the scope of work as specified in the approved Scope of Work and deliverables required under this Agreement will result in a partial payment and/or nonpayment, as appropriate and as determined by EFI in its sole discretion.

9. Failure of Contractor to deliver the minimum requirements reflected in the Scope of Work and deliverables required, may result in withholding of future advance payment request (to the extent applicable to this Agreement) from the date of noncompliance until each deliverable has met compliance as determined by EFI in its sole discretion. All scheduled payments must be sequential in order as identified in the deliverable payment schedule of this Agreement. If payment is withheld due to deliverable compliance requirement, no further payments may be paid out of sequence.

10. 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.

11. 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.

12. 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.

13. Contractor agrees to comply with the requirements of section 448.095, Florida Statutes, and to register with and use the E-Verify system to verify the work authorization status of all newly hired employees in the United States of America and if entering into a contract with any subcontractor to further the objectives of this Agreement to require the subcontractor to provide Contractor with an affidavit stating that the subcontractor does not employ, contract with or subcontract with an unauthorized alien in the United States of America. Knowing violation of this provision shall be cause for unilateral cancellation of this Agreement by EFI.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. (i) 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 Leon County, Florida, applying Florida Law. Each of the Parties agrees that a final, non-appealable judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(ii) Each of the Parties irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in Second Judicial Circuit, in and for Leon County, Florida. Each of the Parties hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

22. 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.

23. Each of the Parties acknowledges that it has consulted with its own counsel as to the meaning, effect and interpretation of this Agreement and has not relied on any promises, representations or warranties howsoever expressed or implied not contained in this Agreement.

24. 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.

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

26. 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.

27. 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.

28. 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 Contractor'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 Contractor 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@enterprise-florida.com, or by mail at: Enterprise Florida, Inc., Public Records Coordinator, 101 North Monroe Street, Suite 1000, Tallahassee, Florida.