**FLORIDA STANDARD ADDITIONAL TERMS AND CONDITIONS**

These Additional Terms and Conditions (the "ATCs") specify the provisions of State of Florida law that pertain to the 3rd Eye Technologies Mystic Message Archival (MMA) service.

**BE IT KNOWN** that the Provider and Client (the "Parties"), for good consideration, agree to the following additions to the contract for MMA services referencing the ATCs herein ("Agreement").

1. **<u>Governmental Entity.</u>** Provider acknowledges that, because Client is a governmental entity, these ATCs are necessary and supplement the Agreement.

2. **<u>Material Term; Conflict.</u>** These ATCs are a material term of the Agreement and same is relied upon by the Client in entering into the Agreement. A breach of these ATCs is a material breach of the Agreement. The Parties expressly agree that notwithstanding anything to the contrary set forth in the Agreement, in the event of a conflict or inconsistency between the terms of these ATCs and those of the Agreement, the terms of these ATCs shall take precedence.

   Notwithstanding the foregoing, nothing in this Section shall be construed to modify, override, or diminish any limitation of liability, indemnification cap, intellectual property provision, or confidentiality protection for Provider's proprietary information set forth in the Agreement, except to the extent such provision directly conflicts with a mandatory requirement of Florida law referenced in these ATCs.

3. **<u>Prompt Payment Act.</u>** Refer to the Agreement (if applicable).

4. **<u>Tax Exempt.</u>** Refer to the Agreement (if applicable).

5. **<u>Public Records Laws; Confidential and Exempt.</u>** Notwithstanding anything to the contrary set forth in the Agreement, the Provider acknowledges the Client's duties under Article 1, Section 24, Florida Constitution and Chapter 119, Florida Statutes (2023), to provide public access to the Client's records and to hold them open for personal inspection and copying by any person. the Provider acknowledges that the Parties are required to comply with Article 1, Section 24, Florida Constitution and Chapter 119, Florida Statutes, with regard to the Agreement and the Provider affirms that said laws supersede any contrary or inconsistent terms of the Agreement. As such, notwithstanding anything to the contrary set forth in the Agreement, the definitions of "Confidential" and/or "Proprietary" information, the Parties' abilities and obligations to disclose same, the methods for such disclosure, and the remedies, if any regarding same, shall be determined solely according to Article 1, Section 24, Florida Constitution and Chapter 119, Florida Statutes, as those laws may be amended from time to time.

6. **Public Records Obligations.** If, under the Agreement, the Provider is providing services and is acting on behalf of the Client as provided under Section 119.011(2), Florida Statutes (2023), the Provider, shall:
   A. Keep and maintain public records required by the Client to perform the service;
   B. Upon request from the Client's custodian of records, provide the Client with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
   C. 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 Agreement term and following completion of the Agreement if the Provider does not transfer the records to the Client; and,
   D. Upon completion of the Agreement, transfer, at no cost, to the Client, all public records in possession of the Provider or keep and maintain public records required by the Client to perform the service. If the Provider transfers all public records to the Client upon completion of the Agreement, the Provider shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Provider keeps and maintains public records upon completion of the Agreement, the Provider shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Client upon request from the Client's custodian of public records in a format that is compatible with the information technology systems of the Client.
   E. A request to inspect or copy public records relating to the City's contract for services must be made directly to the Client. If the Client does not possess the requested records, the Client shall immediately notify the Provider of the request, and the Provider must provide the records to the Client or allow the records to be inspected or copied within a reasonable time.
   F. If the Provider does not comply with the Client's public records request for records, the Client shall consider such noncompliance a material default of the terms of the contract and shall seek such remedies for such default as provided in the contract or at law.

7. **Unilateral Termination.** If the Provider fails to provide the public records to the Client within a reasonable time or otherwise fails to comply with this Section, the Provider may be subject to penalties under Section 119.10, Florida Statutes (2023) and may be subject to unilateral cancellation of the Agreement by the Client.

8. **Public Records Questions Contact.** Refer to the Agreement (if applicable).

9. **Annual Appropriations.** Provider acknowledges that during any fiscal year Client shall not expend money, incur any liability, or enter into any agreement which, by its terms, includes the expenditure of money in excess of the amounts budgeted as available for expenditure.

Client's performance and obligation to pay Provider under the Agreement are contingent upon annual appropriation being made for that purpose. If during the term of the Agreement, the Client does not make an annual appropriation necessary to continue its performance under the Agreement, the Client may terminate the Agreement upon the expiration of the funded fiscal year.

10. **E-Verify pursuant to § 448.095, Fla. Stat.** Section 448.095, Florida Statutes (2023), requires the Provider to be registered and use the E-Verify system to verify the work authorization status of all newly hired employees and prohibits the Provider from entering into the Agreement unless it is in compliance therewith. Information provided by the Provider is subject to review for the most current version of the State or Federal policies at the time of the award of the Agreement.
    A. the Client hereby affirms it is duly registered, uses, and adheres to the practices of the E-Verify system, including those outlined in the clauses below.
    B. the Provider has agreed to perform in accordance with the requirements of this Section and agrees as follows:
        1. It certifies and assures the Client that the Provider is currently in full compliance with Section 448.095, Florida Statutes (2023), it is registered and uses the E-Verify System to verify work authorization status of all newly hired employees.
        2. the Client shall immediately terminate the Agreement if the Client has a good faith belief that the Provider has knowingly violated Section 448.09(1), Florida Statutes (2023), that is, that the Provider knowingly employed, hired, recruited, or referred either for itself or on behalf of another, private or public employment within the State an alien who is not duly authorized to work by the immigration laws or the Attorney General of the United States.
        3. When the Provider enters into a contract with an employee, a contractor or a subcontractor, the Provider shall obtain from that contracting party ("Contracting Party") an affidavit stating that the Contracting Party does not employ, contract with, or subcontract with an unauthorized alien.
        4. the Provider shall maintain a copy of such affidavit for the duration of the Agreement and provide it to the Client upon request.
        5. the Provider shall immediately terminate the Contracting Party if the Provider has a good faith belief that the Contracting Party has knowingly violated Section 448.09(1), Florida Statutes (2023), as set forth above.
        6. If the Client has a good faith belief that the Provider's Contracting Party has knowingly violated Section 448.095, Florida Statutes (2023), but that the Provider has otherwise complied, the Client shall promptly order the Provider to terminate the Contracting Party. the Provider agrees that upon such an order, the Provider shall immediately terminate the Contracting Party. the Provider agrees that if it should fail to comply with such an order, the Client shall immediately terminate the Provider.

7. If the Client terminates the Agreement with the Provider, the Provider may not be awarded a public contract for at least one (1) year after the date of termination.
8. the Provider is liable for any additional costs incurred by the Client as a result of a termination under this Section.
9. Any such termination under this Section is not a breach of the Agreement and may not be considered as such.
10. the Provider shall maintain records of its registration, use, and compliance with the provisions of the E-Verify system, including the registration and use by its subcontractors, and to make such records available to the Client or other authorized governmental entity.
11. To comply with the terms of this Employment Eligibility Verification provision is made an express condition of the Agreement and the Client may treat a failure to comply as a material breach of the Agreement.

11. **<u>Scrutinized Companies pursuant to § 287.135, Fla. Stat.</u>**

A. **Certification.**

1. If the Agreement is for One Million Dollars or more, the Provider certifies that at the time it submitted its bid or proposal for the Agreement or before entering into the Agreement or renewing same, the Provider was not then and is not now:
   a. 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, Florida Statutes (2023), or
   b. Engaged in business operations in Cuba or Syria.
2. If the Agreement is for any amount, the Provider certifies that at the time it submitted its bid or proposal for the Agreement or before entering into the Agreement or renewing same, the Provider was not then and is not now:
   a. On the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes (2023), or
   b. Engaged in a boycott of Israel.

B. **Termination, Threshold Amount.** the Client may, entirely at its option, terminate the Agreement if it is for One Million Dollars or more and the Provider meets any of the following criteria.

1. Was entered into or renewed on or after July 1, 2011, through June 30, 2012, and the Provider is found to meet any of the following prohibitions:
   a. Submitted a false certification as provided under Section 287.135(5), Florida Statutes (2023), or
   b. Been placed 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, Florida Statutes.
2. Was entered into or renewed on or after July 1, 2012, through September 30, 2016, and the Provider is found to meet any of the following prohibitions:
   a. Submitted a false certification as provided under Section 287.135(5), Florida Statutes;

        b. Been placed 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, Florida Statutes; or
        c. Been engaged in business operations in Cuba or Syria.
    3. Was entered into or renewed on or after October 1, 2016, through June 30, 2018, and the Provider is found to meet any of the following conditions:
        a. Submitted a false certification as provided under Section 287.135(5), Florida Statutes;
        b. Been placed 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, Florida Statutes;
        c. Been engaged in business operations in Cuba or Syria; or
        d. Been placed on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes or is engaged in a boycott of Israel.
    4. Was entered into or renewed on or after July 1, 2018, and the Provider is found to meet any of the following prohibitions:
        a. Submitted a false certification as provided under Section 287.135(5), Florida Statutes;
        b. Been placed 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, Florida Statutes; or
        c. Been engaged in business operations in Cuba or Syria.

C. **Termination, Any Amount.** the Client may, entirely at its option, terminate the Agreement if it is for any amount and meets any of the following criteria.
    1. Was entered into or renewed on or after July 1, 2018, and
    2. the Provider is found to have been placed on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes or is engaged in a boycott of Israel.

D. **Comply; Inoperative.** The Parties agree to comply with Section 287.135, Florida Statutes, as it may change from time to time during the Term. The contracting prohibitions in this Section become inoperative on the date that Federal law ceases to authorize the State of Florida to adopt and enforce such contracting prohibitions.

12. **Discriminatory Vendor List, Convicted Vendor List, Antitrust Violator Vendor List.** the Provider certifies and assures the Client that the Provider and its affiliate, if any and as defined under the pertinent statutes, has not been placed on the Discriminatory Vendor List pursuant to Section 287.134, Florida Statutes (2023), the Convicted Vendor List pursuant to Section 287.133, Florida Statutes (2023), and the Antitrust Violator Vendor List pursuant to Section 287.137, Florida Statutes (2023). the Provider acknowledges that absent certain conditions set forth in the respective statutes, those that have been placed on such lists may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded

or perform work as a contractor, supplier or subcontractor under a contract with a public entity, may not transact business with a public entity, and may not benefit from certain economic incentives.

13. **Sovereign Immunity.** Nothing in the Agreement shall be deemed to waive the sovereign immunity protections provided the Client pursuant to Florida law. Notwithstanding anything to the contrary set forth in the Agreement, the Client's obligation to indemnify the Provider, if any, for any reason or purpose, is limited and shall not exceed the limits set forth in Section 768.28, Florida Statutes (2023). All liability of the Client shall be limited to the limits set forth therein, whether sounding in contract, tort, or otherwise. This Section shall survive the termination of the Agreement.

14. **Mutual Indemnification.** Notwithstanding anything to the contrary set forth in the Agreement, each Party agrees to indemnify, defend and hold harmless the other, its officers, board members, agents, representatives and employees from and against any and all fines, suits, claims, demands, penalties, liabilities, costs or expenses, losses, settlements, judgments and awards and action of whatever kind or nature arising out of the Agreement, including attorney's fees and costs (and costs and fees on appeal as well as for litigating the issue of the amount of fees to be awarded), and damages (including, but not limited to, actual and consequential damages) arising from any negligent, willful or wrongful misconduct, knowing misrepresentation or breach of the Agreement by such Party, its officers, board members, agents, representatives or employees. This Section shall not be construed in any way to alter the Client's waiver of sovereign immunity or the limits established in Section 768.28, Florida Statutes (2023) with respect to actions in tort or contract. Pursuant to Section 768.28, Florida Statutes, nothing in the agreement may require the Client to indemnify or insure the Provider for the Provider's negligence.

15. **Rights of Third Parties.** Nothing in the Agreement, whether express or implied, is intended to confer any rights or remedies under or because of the Agreement on any persons other than the Parties hereto and their respective legal representatives, successors and permitted assigns. Nothing in the Agreement is intended to relieve or discharge the obligation or liability of any third persons to any Party to the Agreement, nor shall any provision give any third persons any right of subrogation or action over or against any Party to the Agreement.

16. **Waiver.** Notwithstanding anything set forth to the contrary in the Agreement, no waiver of any default by either Party shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by either Party shall give the other Party any contractual right by custom, estoppel, or otherwise.

17. **<u>Severability.</u>** If any provision of the Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of the Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed and enforced as so limited.

18. **<u>Attorneys' Fees.</u>** Notwithstanding anything to the contrary set forth in the Agreement, if a civil action or other legal proceeding is brought for the enforcement of the Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provision of the Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees, sales and use taxes, court costs and all expenses reasonably incurred even if not taxable as court costs (including, without limitation, all such fees, taxes, costs and expenses incident to arbitration, appellate, bankruptcy and post-judgment proceedings), incurred in that civil action or legal proceeding, in addition to any other relief to which such party or parties may be entitled. Attorney's fees shall include, without limitation, a reasonable attorneys' fees for litigating the issue of the amount of fees to be awarded, paralegal fees, investigative fees, administrative costs, sales and use taxes and all other charges that would be reasonably billed by the attorney to the prevailing party. Such award is limited to only those instances involving a legal proceeding, not a collection effort.

19. **<u>Applicable Law/Jurisdiction/Venue.</u>** The Agreement is being delivered in the State of Florida, and shall be construed and enforced in accordance with the laws of the State of Florida. Notwithstanding anything to the contrary set forth in the Agreement, the venue for any legal proceeding arising out of the Agreement, shall be in the State or Federal courts.

20. **<u>Waiver of Jury Trial.</u>** EACH PARTY HEREBY AGREES THAT IN ANY LITIGATION OR PROCEEDING, WHETHER AT LAW OR IN EQUITY, WHICH ARISES OUT OF THE AGREEMENT, WHETHER SOUNDING IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, TRIAL SHALL BE HAD BY A COURT OF COMPETENT JURISDICTION AND NOT TO A JURY. EACH PARTY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY. EACH PARTY HAS READ AND UNDERSTANDS THE EFFECT OF THIS WAIVER.

21. **<u>Survival.</u>** Sections 10-17 of these ATCs shall survive the termination of the Agreement, or any duties or obligations thereunder, and shall be fully binding until any proceeding which may be brought under this Agreement is barred by the applicable statute of limitations. In addition, any other provisions, or parts thereof, of these ATCs which, by their nature, should survive termination or cancellation shall survive.

22. **<u>Headings.</u>** Section headings contained in this document are for convenience only and are not to be deemed or construed to be part of the Agreement.

23. **Authority to Execute Agreement.** Refer to the Agreement (if applicable).

24. **Transacting Business in Florida.** As of the date of entering this Agreement, the Provider represents that the Provider has been issued a certificate of authority issued by the Florida Department of State, required to transact business in Florida, pursuant to Section 607.1501, Florida Statutes, or a determination has been made by the Provider and its legal advisor that performance of this Agreement will not require any act constituting transacting business in Florida. In the event the Client, at its sole discretion, determines that the Provider is transacting business in Florida without a certificate of authority issued by the Florida Department of State, the Client may immediately terminate this Agreement.

25. **No Other Negations or Changes.** No other terms or conditions of the Agreement are negated or changed as a result of these ATCs.

26. **Entire Agreement.** The Agreement and these ATCs collectively contain the entire agreement between the Parties related to the matters specified herein and supersede any prior oral or written statements or agreements between the Parties related to such matters. Any amendment to the Agreement thereto shall be made in writing and signed by both Parties.