Commonwealth of Virginia
Virginia Information Technologies Agency

IT RESEARCH & ADVISORY SERVICES

Optional Use Contract

Date:	May 31, 2007
Contract #:	**VA-050711-GARG**
Authorized User:	Commonwealth of Virginia agencies and institutions of higher education, Political Bodies
Contractor:	THE GARTNER GROUP 12600 Gateway Boulevard Fort Myers, FL 33913
FIN:	04-3099750
Contact Person:	Tiffany A. Moklebust Office: 804-778-7995 Mobile: 410-960-6211 E-mail: tiffany.moklebust@gartner.com
Delivery:	Per Purchase Order
FOB:	Destination
Term:	May 11, 2007 – May 10, 2009
Payment:	Net 30 days

For Additional Contract Information, Please Contact:

Supply Chain Management
Virginia Information Technologies Agency

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NOTES: Individual Commonwealth of Virginia employees are not authorized to purchase equipment or services for their personal use from this Contract.

For updates, please visit our Website at http://wwwwww.vita.virginia.gov/procurement/contracts.cfm

CONTRACT #VA-050711-GARG

EXTRACT CHANGE LOG

Change No.	Description of Change	Effective Date
1	Mod 1 adds additional pricing for consultants listed; changes language in “period of performance” in Exhibit C; and changes the contract number to VA-050711-GARG	5/23/07

MODIFICATION #1
TO
CONTRACT NUMBER VA-050711-GARG
BETWEEN THE
COMMONWEALTH OF VIRGINIA
AND
GARTNER

This MODIFICATION #1 is an agreement between the Commonwealth of Virginia, hereinafter referred to as "State" or "Commonwealth" or "VITA" (Virginia Information Technologies Agency), and Gartner, hereinafter referred to as "Contractor" relating to the modification of the above Contract. This Modification #1 is hereby incorporated into and made an integral part of Contract VA-050711-GARG (the Agreement), as modified.

The purpose of Modification #1 is to document both parties' agreement concerning the addition of the following price for consultants as identified herein.

Experience Level	Hourly Rate
Specialist	$152.76
Senior Specialist	$205.80
Manager	$279.00
Senior Manager	$352.19
Expert	$425.82
Senior Expert	$514.51
Project Manager	$352.19
Project Director	$425.93
Senior Project Director	$514.51

Exhibit C, #36 Period of Performance change "The end of the period of performance is reduced/extended from December 31, 2005 to June 30, 2006" to the following "The end of the period of performance is reduced/extended from Month/Day/Year to Month/Day/Year"

In **Exhibits B, C & E** change "Contract Number VA-040107-GARG" to Contract Number VA-050711-GARG"

These changes are effective immediately.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

PERSONS SIGNING THIS CONTRACT ARE AUTHORIZED REPRESENTATIVES OF EACH PARTY TO THIS CONTRACT AND ACKNOWLEDGE THAT EACH PARTY AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THE CONTRACT.

GARTNER

BY: Will F Mohan

NAME: William F. Mohan, Jr.

TITLE: Director, Government Contracts

DATE: 5-21-07

COMMONWEALTH OF VIRGINIA

BY:

NAME: GREGORY SCEARCE

TITLE: STRATEGIC SOURCING SPECIALIST

DATE: 5-23-07

INFORMATION TECHNOLOGY RESEARCH AND ADVISORY SERVICES CONTRACT

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INFORMATION TECHNOLOGY RESEARCH AND ADVISORY SERVICES CONTRACT

THIS INFORMATION TECHNOLOGY RESEARCH AND ADVISORY SERVICES CONTRACT ("Contract") is entered into by and between the Virginia Information Technologies Agency (VITA) pursuant to §2.2-2012 of the Code of Virginia and on behalf of the Commonwealth of Virginia (hereinafter referred to as "VITA"), and Gartner, Inc. ("Supplier") to be effective as of May 11, 2007 ("Effective Date").

1. PURPOSE AND SCOPE

This Contract sets forth the terms and conditions under which Supplier shall provide IT Research and Advisory Services ("Services") to the Authorized Users.

2. DEFINITIONS

A. Acceptance

Acceptance shall take the form of successful performance of the Services at the designated location, or completed and successful Acceptance testing in conformance with the Requirements as determined by the Authorized User in the applicable order/Statement of Work.

B. Agent

Any third party independent agent of any Authorized User.

C. Authorized User

All public bodies, including VITA, as defined by §2.2-4301 and referenced by §2.2-4304 of the Code of Virginia.

D. Confidential Information

Any confidential or proprietary information of a Party that is disclosed in any manner, including oral or written, graphic, machine readable or other tangible form, to any other Party in connection with or as a result of discussions related to this Contract or any order issued hereunder, and which at the time of disclosure either (i) is marked as being "Confidential" or "Proprietary", (ii) is otherwise reasonably identifiable as the confidential or proprietary information of the disclosing Party, or (iii) under the circumstances of disclosure should reasonably be considered as confidential or proprietary information of the disclosing Party.

E. Computer Virus

Any malicious code, program, or other internal component (e.g., computer virus, computer worm, computer time bomb, or similar component), which could damage, destroy, alter or disrupt any computer program, firmware, or hardware or which could, in any manner, reveal, damage, destroy, alter or disrupt any data or other information accessed through or processed by such software in any manner.

F. Copyrighted Material

Supplier's Research and Advisory Services, which are owned by Supplier and/or its affiliates. Supplier reserves all rights to the Services not expressly granted to Users of the Services hereunder.

G. Deliverable

The tangible embodiment of the Services provided to Authorized Users, which may include the development or creation of Work Product, performed or provided by Supplier. Such deliverable may include Supplier's Existing Products as identified in the applicable Statement of Work.

H. Existing Products.

Supplier's tangible products that existed prior to the commencement of any Statement of Work and which is embodied as a concrete representation of Supplier's intellectual property in a deliverable. For clarification purposes, Supplier's existing products also means "pre-

existing material," which may include the following (1) Supplier's previously created research references in deliverables to be provided under this Contract; (2) benchmarking data and data collection tools used in creating Deliverables for the Authorized User(s), (3) assessment models used in the Deliverables; (4) data collection templates and survey tools used for applications and infrastructure purposes in the Deliverables; (5) strategic planning methodology and other pertinent methodologies such as benchmarking comparisons used in creating deliverables, and (6) any other Supplier's intellectual property that either existed or was subsequently developed independently outside of this contract before performance of contractual obligations of Supplier's work for the Authorized User(s) under this Contract.

I. **Party**
Supplier, VITA, or any Authorized User.

J. **Requirements**
The functional, performance, operational, compatibility, Acceptance testing criteria and other parameters and characteristics of the Service(s) and Deliverables described in the applicable documentation, Exhibit A and such other parameters, characteristics, or performance standards for the product that may be agreed upon in writing by the VITA and Supplier or the Parties to an order issued hereunder.

K. **Service**
Any work performed or service provided, including any Deliverable described in the applicable SOW, by Supplier under this Contract for an Authorized User. Service includes the discovery, creation, or development of Work Product, if any.

L. **Statement of Work (SOW)**
Any document in substantially the form of Exhibit B to this Contract which, upon signing by both Parties to the agreement in accordance with the requirements set forth herein, shall be deemed a part of this Contract, and which describes the deliverables, due dates, assignment duration and payment obligations for a specific project, engagement, or assignment for which Supplier shall be providing Services to an Authorized User. Any Statement of Work shall constitute an order.

M. **Supplier**
Includes any individual who is an employee, agent, sub-contractor, or independent contractor of Supplier who is assigned by Supplier to perform Services under this Contract.

N. **VITA**
Virginia Information Technologies Agency, an agency of the Commonwealth of Virginia pursuant to Chapter 20.1 (§§2.2-2005 et seq.) of the Code of Virginia.

O. **Warranty Period**
Clause deleted. Refer to Section titled General Warranty.

P. **Work Product**
Inventions, combinations, machines, methods, formulae, techniques, processes, improvements, software designs, computer programs, strategies, specific computer-related know-how, data and original works of authorship (collectively, the "Work Product") discovered, created, or developed by Supplier, or jointly by Supplier and an Authorized User(s) in the performance of this Contract or any order issued hereunder. Work Product shall not include configuration of software.

3. TERM AND TERMINATION

This Contract is effective and legally binding as of the Effective Date and, unless terminated as provided for in this section, shall continue to be effective and legally binding for a period of two (2) years. Subject to the mutual written agreement of VITA and Supplier, this Contract may be extended for up to three (3) additional one (1) year periods after the expiration of the initial two (2) year period. VITA will issue a written notification to the Supplier stating the extension period, thirty (30) days prior to the expiration of any current term. Expiration of the

term of the Contract shall not affect any perpetual license granted hereunder. In addition, performance of an order may survive the expiration of the term of this Contract, and all terms and conditions required for the operation of such order shall remain in full force and effect until Services pursuant to such order have met the final acceptance criteria of the ordering Authorized User.

VITA may terminate this Contract, in whole or in part, or any order issued hereunder, in whole or in part, or an Authorized User may terminate an order, in whole or in part, upon not less than thirty (30) days prior written notice at any time for any reason. In addition, VITA may immediately terminate this Contract, in whole or in part, or any order issued hereunder, if Supplier becomes a party excluded from Federal Procurement and Nonprocurement Programs or if Supplier is found to be in violation of 31 USC 1352. Supplier shall submit any contractual dispute to VITA or the terminating Authorized User for resolution according to the terms of the Dispute Resolution Section of this Contract. Upon termination, the Commonwealth shall have no future liability except for Services rendered or Deliverables provided by Supplier prior to the termination date. Termination of this Contract shall not affect any perpetual license granted to an Authorized User pursuant to this Contract, provided such Authorized User has paid all fees for such license. Nor shall termination of this Contract affect any ownership of Work Product by the Commonwealth or any Authorized User pursuant to this Contract, provided the Commonwealth or the Authorized User has made payment for such Work Product.

The terms of this Section shall not apply to termination for non-appropriation of funds.

[Termination by Supplier is not acceptable]

4. SERVICES

A. Nature of Services and Engagement

Supplier is an independent contractor engaged to perform certain Services, including but not limited to research, advisory and consulting activities on behalf of an Authorized User as set forth in any Statement of Work. Notwithstanding all Authorized User's rights to license or purchase Supplier's products or Services under this Contract, an Authorized User is under no obligation to purchase or license from Supplier any of Supplier's products or Services. This Contract is non-exclusive and all Authorized Users may, at their sole discretion, purchase, license or otherwise receive benefits from third party suppliers of products and services similar to, or in competition with, the products and services provided by Supplier.

This Contract is not intended to be or to be used as a staff augmentation contract. Unless otherwise authorized in writing by VITA, no individual employee or contractor of Supplier, whether employed by Supplier or a contractor or subcontractor of Supplier, shall perform more than one thousand (1,000) hours of work for any one Authorized User during any six (6) month period; nor shall any such individual employee or contractor perform Supplier's Services for any one Authorized User for more than eight (8) months in any twelve (12) month period.

B. Subcontractors

Supplier shall not use subcontractors to perform the Services unless specifically authorized in writing to do so by the Authorized User. Supplier represents and warrants that any authorized subcontractors performing the Services shall perform the Services in accordance with the warranties set forth in this Contract. Supplier's use of subcontractors shall not result in an increase in the price, including pricing elements such as travel or additional miscellaneous costs, of any order issued pursuant to this Contract. Supplier shall not subcontract any Services pursuant to this Contract to any subcontractor that is a party excluded from Federal Procurement and Nonprocurement Programs.

C. Statement of Work (SOW)

An SOW shall be required for all consulting engagements, but shall not apply to Research and Advisory Services, which are ordered separately by individual Authorized

User Agencies. All Services shall be performed at the times and locations set forth in the applicable SOW and at the rates set forth in Exhibit D herein. Supplier personnel shall maintain daily time records of hours and tasks performed, which shall be submitted or made available for inspection by VITA upon forty-eight (48) hours advance written notice. Any total dollar amounts or not-to-exceed limitations appearing in an SOW shall be considered reasonably accurate estimates. All changes to the Services to be provided must be described in a written change request (template provided as Exhibit C), which includes any appropriate adjustments to the SOW. Either Party to an SOW may issue a change request that will be subject to written approval of the other Party before it becomes part of this Contract. An SOW from an Authorized User may contain additional terms and conditions; however, to the extent that the terms and conditions of the Authorized User's order are inconsistent with the terms and conditions of this Contract, the terms of this Contract shall supersede. In no event shall any SOW or any modification thereto require the Supplier to perform any work beyond the scope of this Contract as such scope is defined in Exhibit A hereto.

An SOW may designate certain of Supplier's personnel as Key Personnel or Project Managers. Supplier's obligations with respect to Key Personnel and Project Managers shall be described in the applicable SOW. Failure of Supplier to perform in accordance with such obligations may be deemed a default of this Contract.

An SOW may be written as follows:

1. **Time and Materials Type**

   A Time and Materials type SOW should be used when the Authorized User's requirements are not sufficiently defined as to allow for a fixed price to be developed. A Time and Material type SOW shall list the Services to be performed by labor category of personnel, and, for each labor category: a) the number of hours allocated thereto, b) the hourly rate, and c) an extended price. A Time and Materials SOW may also include line item funding for travel, incidentals, and materials, as applicable; however, any such travel, incidental, and material expenditures must be approved in advance by the Authorized User and reimbursement of such pre-approved travel expenses shall be in accordance with the then-current per diem amounts as published by the Virginia Department of Accounts (http://www.doa.virginia.gov/procedures/adminservices/capp/pdfdocs/20335.pdf, or a successor URL(s)).

   A Time and Materials SOW shall contain a Not to Exceed funding limitation. Supplier shall not be obligated to incur costs in excess of such limitation, and the Authorized User shall not be obligated to reimburse Supplier for costs in excess of such limitation.

2. **Fixed Price Type**

   A Fixed Price type SOW should be used when the Authorized User's requirements can be set forth in sufficient detail as to allow for a fixed price to be developed. A Fixed Price type SOW may include cost-reimbursable line items for such expenses as travel, incidentals, and materials; however, any such travel, incidental, and material expenditures must be approved in advance by the Authorized User and reimbursement of such pre-approved travel expenses shall be in accordance with the then-current per diem amounts as published by the Virginia Department of Accounts (http://www.doa.virginia.gov/procedures/adminservices/capp/pdfdocs/20335.pdf, or a successor URL(s)). A Fixed Price type SOW should also include Deliverables and a milestone payment schedule associated with such Deliverables.

Any SOW valued at or above US$50,000 shall be signed and approved by VITA and Supplier prior to Supplier's commencement of work pursuant to such SOW. If an SOW initially valued below US$50,000 is modified such that the total value of such SOW after modification is at or above US$50,000, the modification of such SOW must be signed by VITA and Supplier prior to Supplier's commencement of work pursuant to such modification.

In addition, any SOW with a period of performance of six (6) months or longer shall be signed and approved by VITA and Supplier prior to Supplier's commencement of work pursuant to such SOW. If an SOW with an initial period of performance of less than six (6) year is extended such that the period of performance is six (6) months or longer, the extension of the period of performance of such SOW must be signed by VITA and Supplier prior to Supplier's performance of work beyond six (6) months after the start of such period of performance.

D. Performance of Services

Supplier shall provide personnel qualified to perform the Services required by this Contract and any SOW issued hereunder. If any individual provided by Supplier is unable to perform at an acceptable level within a reasonable length of time, as determined by the ordering Authorized User, such Authorized User shall have the right to request that Supplier immediately remove such individual from performing on the SOW and replace such individual with a more qualified individual within two (2) days. In addition, for a time and materials type SOW, Authorized User may withhold payment for any hours billed by Supplier for such individual's performance of the Services. Any disputes arising from the foregoing shall be resolved in accordance with the Dispute Resolution section of this Contract.

E. Authorized User Responsibilities

Unless otherwise agreed in writing in an SOW, the Authorized User will provide, as required, access to project documentation and to any technical manuals and references during the normal performance of duties. If work is to be performed by Supplier at Authorized User's location, Authorized User shall also provide proper working facilities and consumable supplies commensurate with the task(s) to be performed.

F. Acceptance of Deliverables Under Consulting Statements of Work

Service(s) and Deliverables shall be deemed accepted by the Authorized User upon 15 days of their receipt. During this review period, the Authorized User shall determine whether or not such Service(s) and Deliverables meet the Requirements or written criteria set forth in the applicable SOW. At a minimum, Acceptance criteria for Services and Deliverables shall ensure that all of the functionality described in the Requirements set forth in Exhibit A and in the applicable Statement of Work has been delivered to the Authorized User. Any notice of non-acceptance must state in reasonable detail how the Deliverables did not conform to the Statement of Work and Supplier shall use its reasonable business efforts to correct any deficiencies in the Deliverables so that they conform to the Statement of Work. Authorized User shall not withhold any payment for Services except for material and substantial non-conformity with the Statement of Work. If applicable, Supplier shall be responsible for ensuring that any individual Deliverable functions properly with any other Deliverable provided pursuant to the Statement of Work. Should a previously Accepted Deliverable require further modification which falls within the scope of the applicable SOW in order to work properly with any other Deliverable, Supplier be responsible for all costs associated with such modification. Any modifications that are determined to be outside the scope of the SOW shall be subject to agreed-to additional costs.

The Authorized User agrees to commence Acceptance testing within a reasonable time period after receipt of the Service or Deliverable or within such other time period mutually agreed upon by the Parties to the SOW. Supplier agrees to provide to the Authorized User such assistance and advice as the Authorized User may reasonably require, at no additional cost, during such Acceptance testing. Any travel expenses not included in the total price of a fixed price type SOW must be pre-approved by the Authorized User and shall be reimbursable by such Authorized User at the then-current per diem amounts as published by the Virginia Department of Accounts (http://www.doa.virginia.gov/procedures/adminservices/capp/pdfdocs/20335.pdf, or a successor URL(s)).

G. Cure Period

Supplier shall correct any non-conformities identified hereunder and shall thereafter re-submit such previously non-conforming Service or Deliverable for re-testing within fourteen 14 days of the appropriate Authorized User's written notice of non-conformance, or as otherwise agreed between such Authorized User and Supplier. In the event that Supplier fails to deliver a Service or Deliverable which meets the Requirements, the Authorized User may, in its sole discretion: (i) reject the Service or Deliverable in its entirety and recover amounts previously paid hereunder; (ii) issue a "partial Acceptance" of the Service or Deliverable with an equitable adjustment in the price to account for such deficiency; or (iii) conditionally accept the applicable Service or Deliverable while reserving its right to revoke Acceptance if timely correction is not forthcoming. Failure of a Service or a Deliverable to meet, in all material respects, the specifications and performance standards after the second set of acceptance tests may constitute a default by Supplier. Notwithstanding the foregoing, VITA or the Authorized User shall be entitled to pursue any other remedies that are available to it under this Contract and at law or in equity.

H. Training and Documentation

Provision excluded by mutual agreement of the parties.

5. OWNERSHIP OF INTELLECTUAL PROPERTY

(a) <u>Supplier Consulting Services Deliverables</u>: Supplier represents and warrants that it is the sole and exclusive owner, or has the right to use, all Supplier's deliverables, measurement and benchmarking tools, templates, methodologies, questionnaires, Supplier-proprietary research and copyrighted material and Supplier data (collectively, "Supplier's Intellectual Property") that are used in the course of performing consulting Services, provided that Supplier's Intellectual Property was owned or licensed by Supplier prior to the effective date of this Contract or was developed, licensed, or obtained at Supplier's expense.

Supplier may, in the course of executing a Statement of Work, discover, create, or develop Work Product. All Work Product discovered, created or developed under this Contract shall be and remain the sole property of the Commonwealth and its assigns. Except as specifically set forth in writing and signed by both VITA and Supplier, and when deemed subject to Supplier's ownership and confidentiality rights subject to Section 11, "Confidentiality" of this Contract, Supplier agrees that the Commonwealth shall have all rights with respect to any Work Product discovered, created or developed under this Contract without regard to the origin of the Work Product.

If and to the extent that Supplier may, under applicable law, be entitled to claim any ownership interest in the Work Product, Supplier hereby transfers, grants, conveys, assigns and relinquishes exclusively to the Commonwealth any and all right, title and interest it now has or may hereafter acquire in and to the Work Product under patent, copyright, trade secret and trademark law in perpetuity or for the longest period otherwise permitted by law. If any moral rights are created. Supplier waives such rights in the Work Product. Supplier further agrees as to the Work Product to assist the Commonwealth in every reasonable way to obtain and, from time to time, enforce patents, copyrights, trade secrets and other rights and protection relating to the Work Product, and to that end, Supplier and its employees shall execute all documents for use in applying for and obtaining such patents, copyrights, trade secrets and other rights and protection with respect to such Work Product, as the Commonwealth may reasonable request, together with any assignments thereof to the Commonwealth or entities designated by it. Supplier's and its employees' obligations to assist the Commonwealth in obtaining and enforcing such rights shall continue beyond the termination of this Contract.

The Supplier hereby agrees that, notwithstanding anything else in this Contract, in the event of any breach of this Contract by VITA or any Authorized User, the Supplier's remedy shall not include any right to rescind, otherwise revoke, or invalidate the provisions of this Section. Similarly, no termination of the Contract by VITA, or a termination of any Statement of Work

by VITA or an Authorized User, shall have the effect of rescinding the provisions of this Section.

With the exception of the foregoing, Supplier shall retain sole and exclusive ownership of Supplier's Intellectual Property.

(b) Supplier's Research and Advisory Services:. Authorized Users acknowledge that the Research and Advisory Services Deliverables are owned and copyrighted by Supplier and/or its affiliates. Supplier reserves all rights to the Services not expressly granted to Authorized User hereunder.

6. USE OF DELIVERABLES APPLICABLE TO CONSULTING SERVICES AND FOR ACCESSING RESEARCH AND ADVISORY SERVICES

(A) Consulting Services: Supplier grants to each ordering Authorized User for internal purposes only a worldwide, royalty free, perpetual license to use, reproduce, display, distribute copies of, and prepare derivative works of the Deliverables. Authorized User shall not make the Deliverables available, in whole or in part, to anyone outside of Authorized User, or quote excerpts from the Deliverables to the public reference to links regarding Suppliers' Research Deliverables, without the prior written consent of Supplier. Notwithstanding the foregoing, Authorized User may use the Deliverables as follows: (i) Authorized User's internal purposes, (ii) in discussions/presentations with Commonwealth Agency Clients but only for the purpose of specifically conducting related business issues with Authorized User, where the subject matter of the particular Statement of Work in question is directly related to the business being conducted (and not for the Client Agency's independent use or re-distribution); (iii) third parties who have signed appropriate confidentiality agreements, and (iv) governmental or regulatory bodies as required by law or regulation. It is expressly understood that "perpetual" license rights shall commence upon delivery of the Service Deliverables to the Authorized User and shall exist in perpetuity unless otherwise terminated in accordance with the applicable provisions of the Contract.

No Authorized User or Authorized User client Agency shall make the Deliverables available, in whole or in part, to anyone outside of the Commonwealth, or quote excerpts from the Deliverables to the public, witbhout the prior written consent of Supplier. However, an Authorized User may make public any Supplier-provided data or Deliverables if such data or Deliverables are part of a solicitation developed with the consulting Services of the Supplier.

(B) Research and Advisory Services- Access and Internal/External Usage:

(1). Access to the Services. Access to the Services is restricted to the number of named individuals (each a "User") set forth in this Agreement. Authorized User may substitute a User without Supplier's prior approval if: (1) a User leaves Authorized User's employ, or (2) a User's job function has substantially changed, so that the User's access to the Services is no longer deemed necessary by Authorized User. If Authorized User wishes to substitute a User for any other reason, Authorized User must obtain Supplier's prior written approval to do so, which approval, if requested on an occasional and limited basis, will not be unreasonably withheld. Authorized User shall establish and enforce appropriate security measures to limit access to the Services to authorized Users. Subject to Section 5(b), of the Contract, the rights granted to Authorized User may not be sublicensed, sold or otherwise transferred.

(2) Use of the Services (i) Internal Use - Users may (i) print one copy of individual research documents for their business personal use, for the benefit of Authorized User; (ii) excerpt from individual research documents, on a non-routine basis, for internal presentations or reports to be shared with other Authorized Seat User personnel, provided the excerpt is within the limits of "fair use" under applicable copyright law. Such "fair use" compliance may include Team Leaders holding Seat licenses who share development of their project documents with stakeholder to explain and discuss Supplier's research notes or references that are included therein. Such references contained in developed Work Products must attribute all excerpts and quotes to the Supplier (Gartner, Inc.) for the purpose of their internal

use. Notwithstanding the foregoing, Authorized User(s) may not redistribute copies of individual research documents, by electronic means or otherwise, to non-Users

(ii) External Use –Authorized Purchaser Users may not reproduce or distribute the Services externally without Supplier's prior written permission, except for external distribution, in their entirety only, of reprints of individual documents purchased by Authorized User from Supplier. Authorized User may excerpt from the Services for external use only if Authorized User obtains the prior written approval of Supplier Vendor Relations, at *vendor.relations@Gartner.com*. Any approved external use of the Services must comply with Gartner's *Copyright and Quote Policy* which may be viewed on the Supplier Vendor Relations section of Gartner.com. Services may not be stored by Authorized User on any information storage and retrieval system. For any Commonwealth FOIA requests, all notifications must be directed to the Supplier's Point of Contact listed herein in order to comply with turnaround deadlines..

7. BENCHMARKING

Supplier may, in the course of providing Services pursuant to this Contract, obtain data related to the operations of one or more Authorized Users. Supplier may use such data in its proprietary data base in the development of benchmarking products for resale or for use in consulting engagements for the Commonwealth, any Authorized User, or any of Supplier's other customers, provided, however, that Supplier shall take all necessary steps to ensure that the data will be coded to preserve anonymity in a form or manner that does not include any identifying characteristics of the Commonwealth or any Authorized User. Notwithstanding the foregoing, an Authorized User shall have the right to restrict, in writing, use of its data by Supplier in benchmarking exercises and shall declare such restriction right to Supplier prior to any Statement of Work requiring benchmarking services.

8. SUPPLIER PERSONNEL

A. Selection and Management of Supplier Personnel

Supplier shall take such steps as may be necessary to ensure that all Supplier personnel provided under this Contract are competent and knowledgeable of the contractual arrangements and the applicable SOW between Authorized User and Supplier. Supplier shall be solely responsible for the conduct of its employees and subcontractors, including all acts and omissions of such employees and subcontractors, and shall ensure that such employees and subcontractors comply with the appropriate Authorized User's site security, information security and personnel conduct rules, as well as applicable federal, state and local laws, including export regulations. Authorized User reserves the right to require the immediate removal from such Authorized User's premises of any employee, subcontractor or agent of Supplier whom such Authorized User, in its sole discretion, believes has failed to comply or whose conduct or behavior is unacceptable or unprofessional or results in a security or safety breach.

B. Supplier Personnel Supervision

Supplier acknowledges that it shall be and is the sole employer of Supplier personnel, and shall have sole responsibility to supervise, counsel, discipline, review, evaluate, set the pay rates of and terminate the employment of Supplier personnel.

9. GENERAL WARRANTY

With respect to the Services provided by Supplier, Supplier represents and warrants the following:

A. Ownership

Supplier has the right to provide the Services, including Deliverables, without violating or infringing any law, rule, regulation, copyright, patent, trade secret or other proprietary right of any third party.

B. Performance

i). Supplier warrants to Authorized Purchasers that despite information from third parties in the Information Technology industry may have been obtained with or without faults, all Services shall be performed with care, skill and diligence, consistent with or above applicable professional standards currently recognized in its profession, and Supplier shall be responsible for the professional quality, technical accuracy, completeness and coordination of all plans, information, specifications, computer programs, software, Deliverables and Services furnished under this Contract;

ii). Services pursuant to a particular SOW or order shall be fit for the particular purposes specified by VITA or the ordering Authorized User and Supplier is possessed of superior knowledge with respect to the Services and is aware that the Authorized User is relying on Supplier's skill and judgment in providing the Services;

iii). The Services shall meet or exceed the Requirements;

iv). The Services shall be performed in a professional manner;

v). The documentation which Supplier is required to provide under this Contract shall be sufficient in detail and content to allow a user to understand fully the Deliverables without reference to any other materials or information.

C. Limited Warranty Period and Remedy

During the Warranty Period, Supplier warrants that the Deliverables do not contain any material errors and shall conform to the Requirements. Supplier shall correct all errors at no additional cost to any Authorized User. If Supplier is unable to make the Deliverable conform, in all material respects, to the Requirements within fourteen (14) days following written notification by an Authorized User, Supplier shall, at such Authorized User's request, accept return of such Deliverable and any other related Deliverable(s) rendered unusable, and return all monies paid by such Authorized User for the non-conforming Deliverable and such other related Deliverable(s) rendered unusable.

D. Malicious Code

Supplier has used its best efforts through quality assurance procedures to ensure that there are no Computer Viruses or undocumented feature in any materials delivered electronically or delivered in an electronic format to an Authorized User and that no media contain any embedded device or code (e.g., time bomb) that is intended to obstruct or prevent any Authorized User's use of the information contained thereon, nor shall Supplier disable any Authorized User's use of such media through remote access or otherwise.

E. Supplier's Viability

Supplier warrants that it has the financial capacity to perform and continue to perform its obligations under this Contract; that Supplier has no constructive or actual knowledge of an actual or potential legal proceeding being brought against Supplier that could materially adversely affect performance of this Contract; and that entering into this Contract is not prohibited by any contract, or order by any court of competent jurisdiction.

F. Supplier's Past Experience

Supplier warrants that the Services have been successfully performed for a non-related third-party without significant problems due to the Services or Supplier.

THE OBLIGATIONS OF SUPPLIER UNDER THIS GENERAL WARRANTY SECTION ARE MATERIAL. SUPPLIER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY CONCERNING MERCHANTABILITY OR FITNESS FOR ANY OTHER PARTICULAR PURPOSE. THE INFORMATION IN THE DELIVERABLES HAS BEEN OBTAINED FROM SOURCES THAT SUPPLIER BELIEVES TO BE RELIABLE. ALL DELIVERABLES SPEAK AS OF THE DATE OF DELIVERY TO AUTHORIZED USERS. SUPPLIER HAS NO OBLIGATION TO ADVISE AUTHORIZED USERS OF ANY CHANGE IN THE INFORMATION OR VIEWS CONTAINED IN THE DELIVERABLES.

G. Supplier Warranty Relating to Research and Advisory Services

Disclaimer of all other Warranties Relating to Research and Advisory Services

NOTWITHSTANDING THE PERFORMANCE WARRANTIES STATED IN ARTICLE 8(B) AUTHORIZED USER RECOGNIZE THE UNCERTAINTIES INHERENT IN ANY ANALYSIS OR INFORMATION THAT MAY BE PROVIDED AS PART OF THE SERVICES, AND ACKNOWLEDGES THAT THE SERVICES ARE NOT A SUBSTITUTE FOR ITS OWN INDEPENDENT EVALUATION AND ANALYSIS AND SHOULD NOT BE CONSIDERED A RECOMMENDATION TO PURSUE ANY COURSE OF ACTION. SUPPLIER SHALL NOT BE LIABLE FOR ANY ACTIONS OR DECISIONS THAT AUTHORIZED PURCHASER MAY TAKE BASED ON THE SERVICES OR ANY INFORMATION OR DATA CONTAINED THEREIN. AUTHORIZED PURCHASER UNDERSTANDS THAT IT ASSUMES THE ENTIRE RISK WITH RESPECT TO THE USE OF THE SERVICES.

EXCEPT FOR THE WARRANTIES SET FORTH IN THIS ARTICLE 9, CONTRACTOR EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND WARRANTIES AS TO ACCURACY, COMPLETENESS OR ADEQUACY OF INFORMATION.

10. ORDERS AND COMPENSATION

A. Request for Quote

Authorized Users of this Contract, depending on the complexity of services required and/or each supplier's available resources, have the option to select one or more suppliers to provide IT advisory and consulting services. In addition, an Authorized User may determine that a competitive process is required to ensure it receives the best value. In either or both of such circumstances, the Authorized User may, at its sole discretion, use a Request for Quote (RFQ) process to obtain services identical or similar to those provided by Supplier pursuant to this Contract. The process for obtaining a quote from Supplier, or for obtaining quotes from more than one supplier of IT advisory and consulting services will be as follows:

i). Authorized User will notify Supplier or suppliers of its requirement for services and will document such requirement in a written SOW in a form substantially similar to that in Exhibit B. Authorized User may request a time and materials and/or fixed price quote in response to such SOW. Authorized User shall include in its RFQ a due date for the submission of quotes in response to such RFQ. Should an Authorized User fail to include such due date, quotes shall be due fifteen (15) days after Authorized User's issuance of the RFQ.

ii). Supplier shall respond to the RFQ by providing a quote, including an estimated total price, and, if requested by the Authorized User, a proposal and documentation of the qualifications of the individual(s) proposed for providing services to the Authorized User. In no event shall Supplier's quote exceed Supplier's Contract pricing. Should Supplier be unable to respond to the RFQ due, for example, to resource constraints, Supplier shall notify Authorized User in writing of its inability to perform the work requested by such Authorized User, and provide the reasons for such inability to perform, prior to the due date for the submission of quotes in response to the RFQ.

iii). Authorized User will evaluate all quotes received and may, at its sole discretion: a) reject all quotes; b) negotiate with one or more suppliers to reach a satisfactory agreement on such items as price discounts, specific deliverables, acceptance and testing criteria, total price, controls, and guidelines; and/or c) place an order with one or more suppliers for all or any portion of the services described in the RFQ.

iv). Prior to issuing an order for services, Authorized User reserves the right to interview each individual proposed by a supplier to perform work on Authorized User's SOW and has the right of refusal, if it is determined, in such Authorized User's sole

judgment, that an individual lacks sufficient knowledge or experience to perform the required tasks.

v). Following issuance of an order for Supplier's Services, Supplier shall make available Key Personnel and Project Managers, if any, at the start of the period of performance identified in the associated SOW.

vi). Supplier shall not commence work until Authorized User has issued a written order to Supplier. Any cost reimbursable work performed or expenses incurred by Supplier prior to the effective date of the order shall not be billed to or reimbursed by the Authorized User.

B. Order

Supplier is required to accept any order placed by an Authorized User through the eVA electronic procurement website portal (http://www.eva.state.va.us). eVA is the Commonwealth of Virginia's e-procurement system. State agencies, as defined in §2.2-2006 of the Code of Virginia, shall order through eVA. All other Authorized Users are encouraged to order through eVA, but may order through the following means:

i). Purchase Order (PO): An official PO form issued by an Authorized User.

ii). Any other order/payment charge or credit card process, such as AMEX, MASTERCARD, or VISA under contract for use by an Authorized User.

This ordering authority is limited to issuing orders for the Services available under this Contract. Under no circumstances shall any Authorized User have the authority to modify this Contract. An order from an Authorized User may contain additional terms and conditions; however, to the extent that the terms and conditions of the Authorized User's order are inconsistent with the terms and conditions of this Contract, the terms of this Contract shall supersede.

Notwithstanding the foregoing, Supplier shall not accept any order from an Authorized User if such order is to be funded, in whole or in part, by federal funds and if, at the time the order is placed, Supplier is not eligible to be the recipient of federal funds as may be noted on any of the Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs.

C. Purchase Price and Price Protection

Exhibit D sets forth the fees and the appropriate Commonwealth discounts. Fees shall not increase and VITA discounts shall not decrease for a period of not less than two (2) years from the Effective Date. No such increase shall exceed the lesser of five percent (5%) or the annual increase in the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, All Items, not seasonally adjusted, as published by the Bureau of Labor Statistics of the Department of Labor (http://www.bls.gov/cpi/home.htm), for the effective date of the increase compared with the same index one (1) year prior. Any such change in price shall be submitted to all Authorized Users in writing in accordance with the above and shall not become effective for sixty (60) days thereafter. Supplier agrees to offer price reductions to ensure compliance with the Competitive Pricing Section.

D. Invoice and Payment Terms

All payment obligations under this Contract are subject to the availability of legislative appropriations at the federal, state, or local level, for this purpose. In the event of non-appropriation of funds, irrespective of the source of funds, for the items under this Contract, VITA may terminate this Contract, in whole or in part, or any order or Statement of Work, in whole or in part, or an Authorized User may terminate an order, in whole or in part, for those goods or services for which funds have not been appropriated. Written notice will be provided to the Supplier as soon as possible after legislative action is completed. Termination for lack of appropriations shall not affect any perpetual license granted to an Authorized User pursuant to this Contract, provided such Authorized User has already paid all fees for such license.

Supplier agrees that the total cost to the Authorized User for the performance of each order shall be within the "Not to Exceed" funding limitation set forth on the order. Supplier

shall notify the Authorized User in writing when billable amounts reach eighty percent (80%) of the funding limitation, and Supplier's notice shall include an estimate to complete the requirements of the order.

An Authorized User shall not be obligated to reimburse Supplier for costs in excess of the Not to Exceed funding limitation set forth on the order. For time and materials type orders, Supplier shall not be obligated to continue performance of an order or to incur costs in excess of the Not to Exceed funding limitation. In addition, for time and materials type orders, an Authorized User shall not be billed overtime rates in excess of the standard hourly rates identified in Exhibit D hereto.

Supplier is responsible for the accuracy of its billing information. Supplier agrees not to issue invoices hereunder until Services have been performed or milestones have met Acceptance criteria. Charges for Services accepted more than ninety (90) days prior to receipt of a valid invoice may not be paid, except in accordance with a milestone payment schedule. Should Supplier repeatedly over bill Authorized User, Authorized User may assess a one percent (1%) charge for the amount over billed for each month that such over billing continues.

If there are any disputed items, the appropriate Authorized User shall pay all undisputed charges and promptly notify Supplier in writing of any disputed amount. Supplier shall thereupon review its records, and, if it does not concur with such Authorized User, provide such Authorized User with documentation to support the charge. If such charges remain in dispute, such dispute shall be resolved in accordance with the Dispute Resolution section of this Contract. All payment terms are net 30 days after Acceptance, if applicable, or otherwise receipt of a valid invoice. All payments for Research and Advisory Services, which represent Subscription Services and not Consulting Services, shall commence immediately upon commencement of these Service.

E. Invoice Procedures

For an order with a period of performance not expected to exceed one (1) month, Supplier shall remit each invoice to the "bill-to" address provided with the order promptly after all Deliverables or Services have been accepted and in accordance with the milestone payment schedule, if any, in the applicable order. For a time and material type Statement of Work with a period of performance expected to exceed one (1) month, Supplier shall submit invoices to the ordering Authorized User monthly in arrears, unless otherwise specified in such Statement of Work. For a fixed price type Statement of Work, Supplier shall invoice in accordance with the milestone payment schedule, if any, in the applicable order; if such order does not include a milestone payment schedule, Supplier shall invoice after all Deliverables or Services have been accepted by the ordering Authorized User.

No invoice shall include any costs other than those identified in Exhibit D or the executed order or Statement of Work referencing this Contract. Without limiting the foregoing, all shipping costs are the Supplier's responsibility except to the extent such charges are identified in Exhibit D, or as noted in any executed order or Statement of Work referencing this Contract. Invoices issued by the Supplier shall identify at a minimum:

i). Deliverable or Service type, or project milestone, and description

ii). Quantity, charge and extended pricing for each Deliverable and/or Service item or milestone; or, for a time and materials type order, the name(s) of the assigned employee(s), the hourly rate(s), and the number of hours worked;

iii). Applicable order date or Statement of Work date

iv). This Contract number and the applicable order number

v). Supplier's Federal Employer Identification Number (FEIN).

ALL CONTRACTUAL OBLIGATIONS UNDER THIS CONTRACT IN CONNECTION WITH AN ORDER PLACED BY ANY AUTHORIZED USER ARE THE SOLE OBLIGATION OF SUCH AUTHORIZED USER AND NOT THE RESPONSIBILITY OF VITA UNLESS SUCH AUTHORIZED USER IS VITA.

F. Reimbursement of Expenses

The appropriate Authorized User shall pay, or reimburse Supplier, for all reasonable and actual travel-related expenses for greater than thirty (30) miles from portal to portal incurred by Supplier during the relevant period; provided, however, that such Authorized User shall only be liable to pay for Supplier's travel-related expenses, including transportation, meals, lodging and incidental expenses, that have been authorized by such Authorized User in advance and which will be reimbursable by such Authorized User at the then-current per diem amounts as published by the Virginia Department of Accounts (http://www.doa.virginia.gov/procedures/adminservices/capp/pdfdocs/20335.pdf, or a successor URL(s)). Authorized User will reimburse Supplier for out-of-state travel expenses only if such Authorized User agrees in writing that a specific individual employed by or under contract with Supplier who resides outside of the Commonwealth of Virginia is required for a particular SOW.

All reimbursed expenses will be billed to the Authorized User on a pass through basis without any markup by Supplier. At Authorized User's request, Supplier shall provide copies of receipts for all travel expenses over US$30.00.

This Contract does not provide for reimbursement of any relocation expenses incurred by Supplier.

G. Supplier's Report of Sales and Industrial Funding Adjustment

By the 10th day of every month, the Supplier shall submit the "Supplier Monthly Report of Sales". A template showing the format in which the report is to be submitted is available at http://www.vita.virginia.gov/procurement/supplierResources.cfm. The report shall be submitted via electronic mail to the VITA IFA Coordinator and the VITA Controller (contact information provided below), and shall report all invoices submitted by Supplier pursuant to the Contract to all Authorized Users during the preceding month. The report shall also show a cumulative record of all invoices submitted to all Authorized Users pursuant to the Contract.

The Supplier shall submit the Industrial Funding Adjustment (IFA) payment for the period covered by such "Supplier Monthly Report of Sales" within thirty (30) days of submitting the "Supplier Monthly Report of Sales". The IFA payment shall be submitted in the form of a check or electronic funds disbursement made payable to the Treasurer of Virginia. The IFA payment is equal to two percent (2%) of total sales under this Contract during the relevant month, as determined by the amount invoiced to Authorized Users. The IFA payment shall reference this Contract number, "report amounts", and "report period".

Supplier shall remit IFA payments made via check to VITA, Attention VITA Controller. Supplier shall also provide a copy of the IFA payment to the VITA IFA Coordinator via email or fax. Failure to comply with reporting and payment requirements of this section may result in default of Contract.

Contact Information

VITA Controller	VITA IFA Coordinator
110 South 7th Street, 3rd Floor	110 South 7th Street, 1st Floor
Richmond, VA 23219-3931	Richmond, VA 23219
VITAController@vita.virginia.gov	804-371-5980 (Phone)
	804-371-5969 (Fax)
	ifacoordinator@vita.virginia.gov

H. Small, Woman, and Minority-Owned Business (SWaM) Subcontracting Report

By the 10th day of every month, Supplier shall submit to VITA the Small, Woman, and Minority Owned Business (SWaM) Subcontracting Monthly Report (template available at

http://www.vita.virginia.gov/procurement/supplierResources.cfm). Supplier's report should include spend on all Supplier's contracts with second-tier suppliers which provide products or services under this Contract. The report should specify the amount of such spend provided to SWaM vendors, by SWaM category, regardless of such SWaM vendors' certification status. Supplier shall submit the report to SWaM@vita.virginia.gov.

11. COMPETITIVE PRICING

Supplier warrants and agrees that each of the charges, economic or product terms or warranties granted to VITA pursuant to this Contract with regards to comparable provisions, same or similar goods and services offered, and similar purchase volumes acquired by the VITA for a similar contract period are comparable to or better than the equivalent charge, economic or product term or warranty being offered to any commercial or government customer of Supplier. If Supplier enters into any arrangements with another customer of Supplier or with an Authorized User to provide Services for the same or similar goods and services offered and similar purchase volumes for a similar contract period to any other state or local government unit or commercial customers (with the exception of the Federal government and certain states who receive the Federal government's pricing as required by procurement law or statute) in the United States for a similar contract period during the term of this contract under more favorable prices, as the prices may be indicated on Supplier's current U.S. and International price list or comparable document, then this Contract shall be deemed amended as of the date of such other arrangements to incorporate those more favorable prices, and Supplier shall immediately notify VITA of such change.

12. CONFIDENTIALITY

A. Treatment and Protection

Each Party shall (i) hold in strict confidence all Confidential Information of any other Party, (ii) use the Confidential Information solely to perform or to exercise its rights under this Contract, and (iii) not transfer, display, convey or otherwise disclose or make available all or any part of such Confidential Information to any third-party. However, an Authorized User may disclose the Confidential Information as delivered by Supplier to subcontractors, contractors or agents of such Authorized User that are bound by non-disclosure contracts with such Authorized User. Each Party shall take the same measures to protect against the disclosure or use of the Confidential Information as it takes to protect its own proprietary or confidential information (but in no event shall such measures be less than reasonable care). In addition, an Authorized User may determine, in its sole discretion, that Work Product developed by Supplier, or any component of such Work Product, is or contains Confidential Information, and Supplier shall act accordingly to protect such Confidential Information.

B. Exclusions

The term "Confidential Information" shall not include information that is:

i). in the public domain through no fault of the receiving Party or of any other person or entity that is similarly contractually or otherwise obligated;

ii). obtained independently from a third-party without an obligation of confidentiality to the disclosing Party and without breach of this Contract;

iii). developed independently by the receiving Party without reference to the Confidential Information of the other Party; or

iv). required to be disclosed under The Virginia Freedom of Information Act (§§2.2-3700 et seq. of the Code of Virginia) or similar laws or pursuant to a court order.

C. Return or Destruction

Upon the termination or expiration of this Contract or upon the earlier request of the disclosing Party, the receiving Party shall (i) at its own expense, (a) promptly return to the disclosing Party all tangible Confidential Information (and all copies thereof except the record required by law) of the disclosing Party, or (b) upon written request from the disclosing Party, destroy such Confidential Information and provide the disclosing Party

with written certification of such destruction, and (ii) cease all further use of the other Party's Confidential Information, whether in tangible or intangible form.

D. Confidentiality Statement

All Supplier personnel, contractors, agents, and subcontractors performing Services pursuant to this Contract shall be required to sign a confidentiality statement or non-disclosure agreement. Any violation of such statement or agreement shall be shall be deemed a breach of this Contract and may result in termination of the Contract or any order issued hereunder.

13. LIABILITY AND INDEMNIFICATION

Supplier agrees to indemnify, defend and hold harmless VITA or any Authorized User, their officers, directors, agents and employees ("Commonwealth's Indemnified Parties") from and against any and all third party claims, demands, proceedings, suits and actions, including any related liabilities, obligations, losses, damages, fines, judgments, settlements, expenses (including attorneys' and accountants' fees and disbursements) and costs (each, a "Claim" and collectively, "Claims"), incurred by, borne by or asserted against any of Commonwealth's Indemnified Parties to the extent such Claims in any way relate to, arise out of or result from: (i) any intentional or willful conduct or negligence of any employee, agent, or subcontractor of Supplier, (ii) any act or omission of any employee, agent, or subcontractor of Supplier, (iii) breach of any representation, warranty or covenant of Supplier contained herein, (iv) any defect in the Services or Deliverables provided by Supplier, or (v) any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Services or Deliverables. Selection and approval of counsel and approval of any settlement shall be accomplished in accordance with all applicable laws, rules and regulations. For state agencies the applicable laws include §§ 2.2-510 and 2.2-514 of the Code of Virginia. In all cases the selection and approval of counsel and approval of any settlement shall be satisfactory to VITA or the Authorized User against whom the claim has been asserted.

In the even that a Claim is commenced against any of Commonwealth's Indemnified Parties alleging that use of any Deliverable that the provision of Services under this Contract infringes any third party's intellectual property rights and Supplier is of the opinion that the allegations in such Claim in whole or in part are not covered by this indemnification provision, Supplier shall immediately notify VITA and the affected Authorized User(s) in writing, via certified mail, specifying to what extent Supplier believes it is obligated to defend and indemnify under the terms and conditions of this Contract. Supplier shall in such event protect the interests of the Commonwealth's Indemnified Parties and secure a continuance to permit VITA and the affected Authorized User(s) to appear and defend their interests in cooperation with Supplier as is appropriate, including any jurisdictional defenses VITA or the affected Authorized User(s) may have.

In the even of a Claim pursuant to any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Services or Deliverables, and in addition to all other obligations of Supplier in this Section, Supplier shall at its expense, either (a) procure for all Authorized Users the right to continue use of such infringing Services or Deliverables, or any component thereof; or (b) replace or modify such infringing Services or Deliverables, or any component thereof, with non-infringing products or services satisfactory to VITA. And in addition, Supplier shall provide any Authorized User with a comparable temporary replacement Deliverable or reimburse VITA or any Authorized User for the reasonable costs incurred by VITA or such Authorized User in obtaining an alternative product in the event such Authorized User cannot use the affected Deliverable. If Supplier cannot accomplish any of the foregoing within a reasonable time and at commercially reasonable rates, then Supplier shall accept the return of the infringing component of the Services or Deliverable, along with any other components of any products rendered unusable by any Authorized User as a result of the infringing component, and refund the price paid to Supplier for such components.

IN NO EVENT SHALL ANY PARTY BE LIABLE TO ANY OTHER PARTY (OR THE INDEMNIFIED PARTIES OF SUCH PARTY) FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING (WITHOUT LIMITATION) LOSS OF PROFIT, INCOME OR SAVINGS, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. EXCEPT FOR LIABILITIES REGARDING (i) CLAIMS BASED ON PERSONAL INJURY OR PROPERTY DAMAGE RESULTING FROM WILLFUL NEGLIGENCE OR MISCONDUCT OF A PARTY, ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS;(ii) LIABILITY RESULTING FROM A PARTY'S INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS, AND (iii)THE INDEMNIFICATION AND CONFIDENTIALITY OBLIGATIONS, IN NO EVENT SHALL THE TOTAL LIABILITY OF EITHER PARTY EXCEED THE GREATER OF TWO HUNDRED THOUSAND DOLLARS ($200,000) OR ONE (1) TIME THE TOTAL VALUE OF THE FINANCIAL EVENT UNDER WHICH SUCH LIABILITY ARISES, WHICHEVER IS LESS, REGARLDESS OF THE CAUSE OF ACTION, IN TORT, CONTRACT OR OTHERWISE. EXCEPT FOR ACTIONS FOR PAYMENT, NO ACTION OR PROCEEDING ARISING OUT OF THIS CONTRACT MAY BE BROUGHT BEYOND THE STATUTE OF LIMITATION PERIOD IN THE COMMONWEALTH OF VIRGINIA AFTER THE EVENTS GIVING RISE THERETO.

14. INSURANCE

In addition to the insurance coverage required by law as specified in the URL identified in the Incorporated Contractual Provisions section of this Contract, Supplier shall carry errors and omissions insurance coverage in the amount of $2,000,000 per occurrence.

15. SECURITY COMPLIANCE

Supplier agrees to comply with all provisions of the relevant Authorized User's then current security procedures as are pertinent to Supplier's operation and have been supplied to Supplier by such Authorized User and further agrees to comply with all applicable federal, state and local laws and regulations. For any individual Authorized User location, security procedures may include but not be limited to: background checks, records verification, photographing, and fingerprinting of Supplier's employees or agents. Supplier may, at any time, be required to execute and complete, for each individual Supplier employee or agent, additional forms which may include non-disclosure agreements to be signed by Supplier's employees or agents acknowledging that all Authorized User information with which such employees and agents come into contact while at the Authorized User site is confidential and proprietary. Any unauthorized release of proprietary information by the Supplier or an employee or agent of Supplier shall constitute a breach of this Contract.

Supplier shall indemnify, defend, and hold VITA, the Authorized User, their officers, directors, employees and agents harmless from and against any and all fines, penalties (whether criminal or civil), judgments, damages and assessments, including reasonable expenses suffered by, accrued against, or charged to or recoverable from VITA, the Authorized User, their officers, directors, agents or employees, on account of the failure of Supplier to perform its obligations pursuant this Section.

16. BANKRUPTCY

If Supplier becomes insolvent, takes any step leading to its cessation as a going concern, fails to pay its debts as they become due, or ceases business operations continuously for longer than fifteen (15) business days, then VITA may immediately terminate this Contract on notice to Supplier unless Supplier immediately gives VITA adequate assurance of the future performance of this Contract. If bankruptcy proceedings are commenced with respect to Supplier, and if this Contract has not otherwise terminated, then VITA may suspend all further performance of this Contract until Supplier assumes this Contract and provides adequate assurance of performance thereof or rejects this Contract pursuant to Section 365 of the Bankruptcy Code or any similar or successor provision, it being agreed by the VITA and Supplier that this is an executory contract. Any such suspension of further performance by VITA pending Supplier's assumption or rejection shall not be a breach of this Contract, and shall not affect VITA's right to pursue or enforce any of its rights under this Contract or otherwise.

17. GENERAL PROVISIONS

A. Relationship Between VITA and Authorized User and Supplier

Supplier has no authority to contract for VITA or any Authorized User or in any way to bind, to commit VITA or any Authorized User to any agreement of any kind, or to assume any liabilities of any nature in the name of or on behalf of VITA or any Authorized User. Under no circumstances shall Supplier, or any of its employees, hold itself out as or be considered an agent or an employee of VITA or any Authorized User, and neither VITA nor any Authorized User shall have any duty to provide or maintain any insurance or other employee benefits on behalf of Supplier or its employees. Supplier represents and warrants that it is an independent contractor for purposes of federal, state and local employment taxes and agrees that neither VITA nor any Authorized User is responsible to collect or withhold any federal, state or local employment taxes, including, but not limited to, income tax withholding and social security contributions, for Supplier. Any and all taxes, interest or penalties, including, but not limited to, any federal, state or local withholding or employment taxes, imposed, assessed or levied as a result of this Contract shall be paid or withheld by Supplier or, if assessed against and paid by VITA or any Authorized User, shall be reimbursed by Supplier upon demand by VITA or such Authorized User.

B. Incorporated Contractual Provisions

The contractual provisions at the following URL are statutorily mandated provisions that are hereby incorporated by reference:
http://www.vita.virginia.gov/procurement/documents/StatutorilyMandatedTsandCs.pdf

The contractual claims provision §2.2-4363 of the Code of Virginia and the required eVA provisions at http://www.vita.virginia.gov/procurement/documents/eVATsandCs.pdf are also incorporated by reference.

The terms and conditions in documents posted to the aforereferenced URLs are subject to change pursuant to action by the legislature of the Commonwealth of Virginia or the adoption of revised eVA business requirements. If a change is made to the terms and conditions, a new effective date will be noted in the document title. Supplier is advised to check the URLs periodically.

C. Compliance with the Federal Lobbying Act

Supplier shall not, in connection with this Contract, engage in any activity prohibited by 31 USC 1352 (entitled "Limitation on use of appropriated funds to influence certain Federal Contracting and financial transactions") or by the regulations issued from time to time thereunder (together, the "Lobbying Act"), and shall promptly perform all obligations mandated by the Lobbying Act in connection with this Contract, including, without limitation, obtaining and delivering to the Commonwealth all necessary certifications and disclosures.

Supplier is hereby advised that a significant percentage of the funds used to pay Supplier's invoices under this Contract may be federal funds. Under no circumstances shall any provision of this Contract be construed as requiring or requesting the Supplier to influence or attempt to influence any person identified in 31 USC 1352(a)(1) in any matter.

Supplier's signed certification of compliance with the foregoing is incorporated as Exhibit E hereto.

D. Governing Law

This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without regard to that body of law controlling choice of law. Any and all litigation shall be brought in the circuit courts of the Commonwealth of Virginia. The English language version of this Contract prevails when interpreting this Contract. The United Nations Convention on Contracts for the International Sale of Goods and all other laws and international treaties or conventions relating to the sale of goods are expressly disclaimed. UCITA shall apply to this Contract only to the extent required by §59.1-501.15 of the Code of Virginia.

E. Dispute Resolution

In accordance with §2.2-4363 of the Code of Virginia, Contractual claims, whether for money or other relief, shall be submitted in writing to the public body from whom the relief is sought no later than sixty (60) days after final payment; however, written notice of the Supplier's intention to file such claim must be given to such public body at the time of the occurrence or beginning of the work upon which the claim is based. Pendency of claims shall not delay payment of amounts agreed due in the final payment. The relevant public body shall render a final decision in writing within thirty (30) days after its receipt of the Supplier's written claim.

The Supplier may not invoke any available administrative procedure under §2.2-4365 of the Code of Virginia nor institute legal action prior to receipt of the decision of the relevant public body on the claim, unless that public body fails to render its decision within thirty (30) days. The decision of the relevant public body shall be final and conclusive unless the Supplier, within six (6) months of the date of the final decision on the claim, invokes appropriate action under §2.2-4364, Code of Virginia or the administrative procedure authorized by §2.2-4365, Code of Virginia.

Upon request from the public body from whom the relief is sought, Supplier agrees to submit any and all contractual disputes arising from this Contract to such public body's alternative dispute resolution (ADR) procedures, if any. Supplier may invoke such public body's ADR procedures at any time and concurrently with any other statutory remedies prescribed by the Code of Virginia.

In the event of any breach by a public body, Supplier's remedies shall be limited to claims for damages and Prompt Payment Act interest and, if available and warranted, equitable relief, all such claims to be processed pursuant to this Section. In no event shall Supplier's remedies include the right to terminate any license or support services hereunder.

F. Advertising and Use of Proprietary Marks

Except for displaying this Contract online including posting award notice to eVA in accordance with VITA's procurement requirements, each, party may use the name of the other party, including VITA or any Authorized User's name or refer to VITA or any Authorized User or Supplier, directly or indirectly, in pre-approved announcements within the Commonwealth. This does not apply to any press release or formal advertisement outside of the Commonwealth without receiving prior written consent of VITA and the Supplier. In no event may the parties use a proprietary mark of the other party without receiving the prior written consent of Supplier and VITA.

G. Notices

Any notice required or permitted to be given under this Contract shall be in writing and shall be deemed to have been sufficiently given if delivered in person, or if deposited in the US mails, postage prepaid, for mailing by registered, certified mail, or overnight courier service addressed to the addresses shown on the signature page. VITA or Supplier may change its address for notice purposes by giving the other Party notice of such change in accordance with this Section.

H. No Waiver

Any failure to enforce any terms of this Contract shall not constitute a waiver.

I. Assignment

This Contract shall be binding upon and shall inure to the benefit of the permitted successors and assigns of VITA and Supplier. Supplier may not assign, subcontract, delegate or otherwise convey this Contract or any of its rights and obligations hereunder, to any entity without the prior written consent of VITA, and any such attempted assignment or subcontracting without consent shall be void. VITA may assign this Contract to any entity, so long as the assignee agrees in writing to be bound by the all the terms and conditions of this Contract.

If any law limits the right of VITA or Supplier to prohibit assignment or nonconsensual assignments, the effective date of the assignment shall be thirty (30) days after the Supplier gives VITA prompt written notice of the assignment, signed by authorized representatives of both the Supplier and the assignee. Any payments made prior to receipt of such notification shall not be covered by this assignment.

J. Captions

The captions are for convenience and in no way define, limit or enlarge the scope of this Contract or any of its Sections.

K. Severability

Invalidity of any term of this Contract, in whole or in part, shall not affect the validity of any other term. VITA and Supplier further agree that in the event such provision is an essential part of this Contract, they shall immediately begin negotiations for a suitable replacement provision.

L. Survival

The provisions of this Contract regarding Ownership of Intellectual Property, Use of Deliverables, Benchmarking, General Warranty, Confidentiality, Liability and Indemnification, Insurance, and Security Compliance and the General Provisions shall survive the expiration or termination of this Contract.

M. Force Majeure

No Party shall be responsible for failure to meet its obligations under this Contract if the failure arises from causes beyond the control and without the fault or negligence of the non-performing Party. If any performance date under this Contract is postponed or extended pursuant to this section for longer than thirty (30) calendar days, VITA, by written notice given during the postponement or extension, may terminate Supplier's right to render further performance after the effective date of termination without liability for that termination, and in addition an Authorized User may terminate any order affected by such postponement or delay.

N. Remedies

The remedies set forth in this Contract are intended to be cumulative. In addition to any specific remedy, VITA reserves any and all other remedies that may be available at law or in equity.

O. Right to Audit

VITA reserves the right to audit those Supplier records that relate to the Services rendered or the amounts due Supplier for such Services under this Contract. VITA's right to audit shall be limited as follows:

i). Three (3) years from Service performance date;

ii). Performed at Supplier's premises, during normal business hours at mutually agreed upon times; and

iii). Excludes access to Supplier cost information.

For licenses/usage rights granted pursuant to this Contract and to the extent permissible pursuant to the Confidentiality and Security provisions of this Contract, the following provisions shall apply regarding license/usage rights verification:

At Supplier's written request, not more frequently than annually, Authorized User shall furnish Supplier with a signed certification verifying such Authorized User's compliance with the license/usage rights provisions of this Contract, including any user and other limitations.

In no event shall Supplier have the right to audit, or require to have audited, VITA or any Authorized User, without reasonable cause. However, in the event that Supplier has reasonable cause to believe that an Authorized User has underreported the amount of

fees owed Supplier, Supplier may request and such Authorized User shall perform a self-audit and provide the results of such self-audit to Supplier. If Supplier has reasonable cause to challenge the validity of the self-audit results, such Authorized User shall permit Supplier to conduct an audit of such Authorized User's records related to any license/usage of Supplier's Services, as applicable, provided however that such audit:

i). is conducted following thirty (30) days written notice;

ii). is begun and concluded with reasonable diligence not to exceed thirty (30) days;

iii). is conducted by an independent certified public accountant ("Auditor") of such Authorized User's choosing who shall be bound by all necessary confidentiality provisions to protect any and all data which may be encountered by Auditor in the conduct of the audit;

iv). is conducted during such Authorized User's normal business hours and shall not unreasonably interfere with such Authorized User's business activities;

v). is conducted at Supplier's expense;

vi). may be conducted no more than once per twelve (12) month period; and

vii). shall be limited to an examination of records relating to activity in the most recent twelve (12) month period.

Under no circumstances shall Supplier or Auditor access data or information of the Authorized User other than that which is subject to the audit. Deliberate or negligent access by Supplier or Auditor to any other such Authorized User data or information shall constitute a breach by Supplier of this Contract. If Supplier or Auditor inadvertently and without negligence accesses such data or information, the terms and conditions of the Confidentiality section of the Contract shall apply with respect to Supplier and the terms of the confidentiality provisions to which Auditor is bound shall apply with respect to Auditor.

Not more than ten (10) days after completion of an audit, Supplier shall provide the Authorized User with a copy of the findings of such audit in the form of a written report. Such Authorized User shall have sixty (60) days to review such report and, if it does not agree with Supplier's findings, to submit a response. Supplier shall have thirty (30) days to review its records and either agree or disagree, in writing, with such Authorized User's response. Should Supplier disagree, such dispute shall be settled in accordance with the Disputes Resolution section of this Contract. If Supplier and such Authorized User agree that such Authorized User has underpaid fees to Supplier, such Authorized User shall be invoiced for such underpaid fees based on the price list in effect at the time the audit is completed, net of all applicable discounts. Underpaid fees shall refer to license/usage fees only, not any other Service fees. Such Authorized User shall have ninety (90) days to resolve any issues without penalty. If Supplier and Authorized User agree that such Authorized User has overpaid fees to Supplier, such Authorized User shall be entitled to a refund or credit memo, at such Authorized User's option, in the amount of such overpayment.

P. Offers of Employment

Each party agrees that the other party has invested substantial time and expense in recruiting, hiring, training and retaining their employees. Consequently, the parties mutually agree not to hire any of employees or agents of the other party who have substantially worked on any project covered by this Contract and for 12 months thereafter, without the consent of the other party. For purposes of this section "to hire" means to offer a position without public advertising and to hire as an employee or otherwise to engage or retain as an independent contractor or consultant.

Q. Contract Administration

Supplier agrees that at all times during the term of this Contract an account executive, at Supplier's senior management level, shall be assigned and available to VITA. Supplier reserves the right to change such account executive upon reasonable advance written notice to VITA.

R. Entire Contract

The following Exhibits, including all subparts thereof, are attached to this Contract and are made a part of this Contract for all purposes:

i). Exhibit A Service Requirements

ii). Exhibit B Statement of Work (SOW) Template

iii). Exhibit C Change Order Template

iv). Exhibit D Service Fees

v). Exhibit E Certification Regarding Lobbying

This Contract, its Exhibits, and any prior non-disclosure agreement constitute the entire agreement between VITA and Supplier and supersede any and all previous representations, understandings, discussions or agreements between VITA and Supplier as to the subject matter hereof. Any and all terms and conditions contained in, incorporated into, or referenced by the Supplier's Proposal shall be deemed invalid. The provisions of the Virginia Department of General Services, Division of Purchases and Supply Vendor's Manual shall not apply to this Contract or any order issued hereunder. This Contract may only be amended by an instrument in writing signed by VITA and Supplier. In the event of a conflict, the following order of precedence shall apply: contract, any executed statement of work, exhibit A, service requirements, exhibit D, service fees.

An Authorized User and Supplier may enter into an ordering agreement pursuant to this Contract. To the extent that such ordering agreement include any terms and conditions inconsistent with the terms and conditions of this Contract, such terms and conditions shall be of no force and effect.

VITA and Supplier each acknowledge that it has had the opportunity to review this Contract and to obtain appropriate legal review if it so chose.

Executed as of the last date set forth below by the undersigned authorized representatives of VITA and Supplier.

Supplier	VITA
By: _____ (Signature)	By: _____ (Signature)
Name: William F. Mohan, Jr. (Print)	Name: James T. Roberts (Print)
Title: Director, Government Contracts	Title: Director Finance & Administration
Date: 4-12-07	Date: 5/11/07
Address for Notice: GARTNER, INC. ATTN:- BILL MOHAN 4501 N. Fairfax Drive - 8th Floor Arlington, VA 22203	Address for Notice:

Attention: _____

Attention: Contract Administrator

EXHIBIT A
CONTRACT NUMBER VA-050711-GARG
BETWEEN
VIRGINIA INFORMATION TECHNOLOGIES AGENCY
AND
Gartner Inc.

	Research and Advisory Services	A	*B*
1.	***(M) Vendor Independence.*** *Supplier's proposal offers offer vendor-independent research and analysis. Specifically, does your company refuse to accept payment for support of technology products and services from other suppliers?*	*Y*	*Gartner does not accept payment for support of technology products or services from other suppliers.* *Gartner is a trusted advisor on how to leverage technology for business success. Independence is at the core of our business, and we manage it every day, with every analyst and every client. Our objectivity and independence are standards that are often tested, but never compromised. Gartner applies the following guiding principles to all of our relationships to ensure our independence:* *- Gartner analysts are not allowed to hold stock or make any other type of investment in the companies they cover.* *- Gartner analysts set the research agenda. They are not influenced by any other department within Gartner, by the Gartner board of directors or by Gartner clients.* *- Each piece of Gartner research goes through rigorous peer review by the worldwide analyst team and receives research director approval prior to publication.* *- There is no correlation between research coverage and client status. Gartner clients and non-clients alike are covered according to market performance or technology application.* *- When a firm or organization becomes a Gartner client, it is purchasing access to Gartner research and inquiry privileges with the analysts. Influence over research content or amount of research coverage is not, and never has been, for sale by Gartner.* *- Vendor briefing are a research tool of the analysts and are never a client deliverable.* *- Gartner performs no technology implementation whatsoever. We have no interest in seeing one technology solution succeed over another.* *- Gartner Consulting clients may commission*

	Research and Advisory Services	A	*B*
			projects or studies for internal use only. No commissioned results from Gartner consulting engagements may be used publicly. The only exception is that of multi-client studies in which teams of competing clients work together to create industry studies or standards for publication. This policy is strictly enforced by the Gartner Vendor Relations team. *- The Gartner name and published materials are subject to copyright protection. To use the Gartner name, excerpt research or quote analysts in all vendor materials requires the express written permission of Gartner Vendor Relations. Quotes from Gartner may not be used by companies to endorse a vendor or product, and they cannot be used to criticize a vendor's competitor. Gartner pursues violations until corrected.*
2.	**Research and Advice Breadth, Depth and Quality.** Provide a list and description of access to extensive current and archived research and advice on significant information technology subject/topics, for example, enterprise architecture, process management, supply chain management, IT management, IT asset management.	Y	*Core Research Reference and Advisor members, Gartner for IT Leaders Reference and Advisor members and Executive Programs Premier and CIO Signature members all have unlimited access the Gartner's Core Research database of current and archived reports. In addition, Gartner for IT Leaders and Executive Programs members have unlimited access to additional role-specific content (i.e. Tool Kits, Templates, etc). Executive Programs members also have access to research reports specifically written for their respective programs.*
3.	**Breadth.** Provide a comprehensive list of topics that illustrates the breadth of your research coverage.	Y	*Gartner Core Research currently covers, among others, the following topics: Application Development, Application Integration & Middleware, Business Intelligence & Data Integration, Business Process Management, Consumer Technologies, Customer Relationship Management, Emerging Trends & Technologies, Enterprise Architecture, Enterprise Systems Management, ERP & Supply Chain Management, High-Performance Workplace, IT Asset Management, IT Management, IT Services, Mobile & Wireless, Network Equipment, Network Services, Open Source, Outsourcing, PCs, Laptops & Handheld Devices, Regulatory Compliance, Security & Privacy, Servers & Storage, Web Services*
4.	**Depth/Quality.** Provide two research examples that demonstrate the depth and	Y	*Please see the two enclosed research examples in Appendix A concerning Enterprise Architecture:*

	Research and Advisory Services	A	*B*
	quality of research on a particular topic (preferred is a topic listed in #2).		*"Integrating Enterprise Architecture and Portfolio Management Processes in Government"* *"Advancing the Common Requirements Vision Deliverable"*
5.	**(M) Government relevant research**. Supplier's proposal includes government-relevant research on technical issues related to the proposed solution including research relevant to government policy setting, best practice advice, and technology selection recommendations.	Y	*Gartner is committed to Government and backs up that commitment with people, organization and industry specific research.* *Consider this:* *- The Gartner family includes over 175 analysts, consultants, sales and support personnel who are dedicated full time to our government clients. Many of those who work for Gartner formerly worked in the government sector.* *- During the past two years, Gartner analysts have published hundreds of research notes dedicated strictly to the government sector.* *- Thousands of state government employees within hundreds of departments in 48 states are Gartner clients.*
6.	**Research offerings.** Provide a list and description of government-related research offerings. Looking at information technology with government challenges in mind would be especially relevant. Please describe research areas and research approaches that demonstrate government relevance.	Y	*Gartner produces a vast amount of research dedicated to government clients. We have a section of our website expressly created for our government clients. It can be viewed by selecting "Government" under the "Industries" section on the gartner.com home page.* *Among other topics, government research is currently separated into the following segments on the government landing page:* *- Government in 2020* *- Management and Organization* *- Government Processes* *- Infrastructure and Applications* *- Customer Service and Operational Efficiency* *- Government Domain Solutions* *- Public Policy*
9.	***(M) Ability to Share Research.*** *Team leaders who hold research seats must be able to share, explain, and discuss your research with stakeholders who might not hold research seats.*	Y	*Our typical terms and conditions governing the sharing of research is as follows:* *Users may (i) print one copy of individual research documents for their personal use, for the benefit of Client; (ii) excerpt from individual research documents, on a non-routine basis, for internal presentations or reports to be shared with other Client personnel, provided the excerpt is within the limits of "fair use" under*

	Research and Advisory Services	A	*B*
			applicable copyright law. Client may not redistribute copies of individual research documents, by electronic means or otherwise, to non-Users unless specifically authorized in a Service Description.

No.	Research and Advisory Service Delivery	A	B
1.	**Unlimited Research Access**. Does your company provide unlimited access to on-line research to those who have basic service seats? Please describe.	Y	Licensed seat holders have unlimited access to the on-line written research reports that are included in their respective memberships.
2.	**Website Printing**. Does your company enable printer-friendly printing of research documents from the website? Please describe.	Y	Each Gartner research report is available from the website in a printer friendly format such as portable document format (.pdf) or Excel spreadsheet (.xls)
3.	**Daily Updates**. Does your company provide daily information technology news updates via email or on the company website? Please describe.	Y	Registered users can create a personalized, proactive system of Gartner Alerts (described in more detail in item 9 below). In addition, Gartner provides RSS feeds for many research areas on gartner.com. These feeds may be subscribed to by using an RSS reader or a version of an internet browser that supports RSS feed subscription (i.e. Internet Explorer 7). The gartner.com home page and Focus Area home pages are updated continuously as events and published research dictate.
5.	**Audio Updates**. Does your company provide periodic audio research updates that could be downloaded to an MP3 or other media? Please describe.	Y	GartnerVoice podcasts are typically released weekly and can be listened to in streaming format, downloaded in .mp3 format or subscribed to via RSS feed. Advisor level clients also receive our monthly Talking Technology CD's
6.	**Audio/Video Updates**. Does your company provide periodic audio/video updates that could be downloaded to an MP4 player or other media?	N	Gartner occasionally provides audio/visual (A/V) content on gartner.com in the form of 'webcasts' of event presentations or keynote speeches, etc. We also provide tutorials, product announcements, and/or research agenda information via webcast. Currently we

			offer the option to view these presentations on-line only. We are constantly considering the benefits of providing content to our clients via various means and will continue to evaluate downloadable A/V content as one of those means.
7.	**Searching**. Does your company provide multiple aids to searching for research including word searching and directory-type searching? Please describe.	Y	Gartner's research database is searchable by keyword, topic, author, title, document type, geographic region, industry and document format. Gartner's research database can also be browsed by topic, by author and by date
8.	**Boolean-type Logic for Searching**. Does your company provide Boolean-type searching capabilities as part of advanced searching (i.e., includes search using a combination of phrases, clarifying with parentheses, and use of "and," "or," and "not" operators.) If so, please describe.	Y	Gartner Search supports the basic Boolean operators AND, OR and NOT. Gartner Search assumes a phrase of two or more words is connected by AND, and returns documents containing all the words, but not necessarily together or in the order they were entered. While searching an exact phrase such as "best practice management," surround the phrase with double quotation marks to return only documents which contain the specific phrase.
9.	**Subscriber Tailored Updates**. Does your company provide periodic updates that are specifically tailored to a subscriber's interests and preferences? For example, providing weekly notification by email of new articles on mainframes at the request of a subscriber. If so, please describe.	Y	Registered users can create a personalized, proactive system of Gartner Alerts. Individual seat-holders will receive e-mail notification when new research matching their criteria has been published. Alerts can be pre-defined or user-defined. Each alert can be adjusted to send daily, weekly or monthly notification. The research is posted to each users personalized mailbox on the Gartner web and/or in their email. Individual users may also alert others to research of interest by forwarding a summary of the document by entering the person's e-mail address. Licensed users are then able to access the full version of the report. In addition, Gartner provides RSS feeds for many research areas on gartner.com. These feeds may be subscribed to by using an RSS reader or a version of an internet browser that supports RSS feed subscription (i.e. Internet Explorer 7).
10.	**Customization**. Does your company provide individual customer customization of their experience on their website? If so, please describe.	Y	Clients can customize their gartner.com experience in a number of ways, including: - Gartner for IT Leaders clients may select any of the role-based landing pages as their home page or they may choose "classic" gartner.com

			-Subscribing to RSS feeds to keep abreast of new -research on many available topics. -Subscribing to Alerts, either pre-defined or user-defined. -Choosing to receive Alerts via e-mail, on gartner.com only or both -Choosing to have the search engine return all research results or only research the client subscribes to. -Opting in or out of receiving promotional offers -Opting in or out of receiving Gartner surveys In addition, planned functional rollouts for the Gartner for IT Leaders areas will allow much greater personalization of home page content.
11.	**Resource Bookmarking**. Does your company enable client bookmarking of website library resources? If so, please describe.	Y	Each registered user on gartner.com may retrieve their own historical document usage through their profile. The usage reporting system allows clients to display all documents reviewed by type and by title (as well as by timeline). Links are provided in the title- based report allowing clients easy access to any document they have previously accessed. In addition, the Gartner Alerts system maintains links to all documents returned (until deleted by the client), whether the document has been reviewed by the client or not.
12.	**Alerts**. Does your company provided alerts when new content is posted? If so, please describe.	Y	Please see response to item 9
13.	**Customer Specified Alerts**. Does your company provide regular email or other notifications of trends and items of interest customized to customer interest? If so, please describe.	Y	Please see response to item 9
14.	**Intranet Posting of Research**. Does your company permit the posting of downloaded research selections on an intranet area for use by a government policy or standards workgroup? If so, please specify.	N	Gartner does not generally allow posting of downloaded research reports on an intranet area. Our typical terms and conditions governing the reproduction/use of research is as follows: Users may (i) print one copy of individual research documents for their personal use, for the benefit of Client; (ii) excerpt from individual research documents, on a non-routine basis, for internal presentations or reports to be shared with other Client personnel, provided the excerpt is within the limits of "fair use"

			under applicable copyright law. Client may not redistribute copies of individual research documents, by electronic means or otherwise, to non-Users unless specifically authorized in a Service Description.
15.	**Retiring Publications**. Does your company have a standard method for retiring publications? If so, please describe.	Y	Gartner typically places research older than 18 months into "archived" status. These documents may still be relevant so are still accessible and may be returned in search results, if desired, on gartner.com. However they are clearly marked "Archived" when viewed on the web site.
16.	**Updating Content**. Does your company have an established methodology for updating content within the major technology topic areas covered? If so, please describe.	Y	The Gartner methodology for developing research is fine-tuned and continually improved, adding to our credibility as the market's leading research and advisory service provider. Gartner continually audits the research and methodology to ensure that it is accurate, thought-provoking and leading-edge. The Gartner research process is geared largely to discovering likelihoods. Our clients want a picture of how current trends are likely to become future events, and what effect those events are likely to have on their technology investments and their businesses. Much of our research is driven by the insights stemming from such as inquiries, SAS, conference one-on-ones, etc. The spectrum of how clients can shape our agenda includes: Individual Analyst Interactions Inquiry & Web Analysis Focus Group & Survey Results Direct Agenda Feedback on gartner.com User Councils/Advisory Boards Dealing with change is a central principle of our agenda management process. Our agenda process focuses on quarterly reviews and recalibrations of our agendas. Of course, events can lead to instantaneous shifts in our agendas outside of the quarterly reviews. The goal is not to set agendas in stone. We recognize that agendas change due to any number of drivers: Evolving research insights - analysts are constantly testing their models, leading us to new insights and refined positions Market events – product/service announcements, mergers & acquisitions, etc.

			Shifting customer priorities & needs
17.	**Publication Examples.** Please provide as an example your two best articles or publications on the topic of protecting mobile or portable computing device content, which your company offered and made available to your subscribers in each of the last two years prior to November 1, 2006. (This request is for a total of four articles, two from each year). Alternatively, please provide representative articles on the relevant subject matter of your choice.	Y	Please see the four enclosed research examples in Appendix B titled: 2005 "Use the Three Laws of Encryption to Properly Protect Data" "Best Practices for Secure Data Tapes 2005" 2006 "Magic Quadrant for Mobile Data Protection - 1H06" "How to Ensure That PDAs and Smartphones Don't Compromise Business Security – 2006"
18.	**Audience-focused Content.** Does your company tailor information to specific audiences using one or several methods (e.g., newsletters, reports, summaries, target audience synopses, etc.) and provide the information on a regular basis? If so, please describe the audiences addressed, the methods used, and the frequency.	Y	Gartner targets specific audiences in various ways. All Gartner clients can tailor their experience to suit their specific needs through the use of Gartner Alerts, RSS Feeds, Gartner Events, etc. In addition, Gartner has several membership programs specifically designed with a target audience in minds. Examples of these include: - Gartner for IT Leaders aligns the client's role-specific activity cycle with Gartner analysts and insight, and connects clients to IT peers who share common business and technology issues. IT leaders and managers maximize the value of their Gartner relationship by spending more time applying Gartner insight to their business problems and less time finding it. Current Gartner for IT Leaders roles available include: - Application Management - Business Intelligence - Business Process Improvement - Enterprise Architecture - Infrastructure and Operations - Program and Portfolio Management - Security and Risk Management - Sourcing and Vendor Relationships - Executive Programs memberships include research and advice specifically tailored to the Chief Information Officer or equivalent. - Best Practice Councils are exclusive peer exchange communities focused on specific functional areas of IT. They help senior IT executives gain faster understanding of critical issues and avoid common pitfalls through action-oriented and practical member-driven

			research and peer collaboration. - Architecture & Planning - Emerging Technology Management - Enterprise Applications-SAP - Information Security - Infrastructure - IT Sourcing Management
19.	**Appropriate Ongoing Levels of Effort**. Does your company plan to continue research and analysis efforts in the same areas and produce research and analysis products at the same or greater levels of output in the next year as in the year past? (This assumes that the topic continues to be relevant.). If so, please describe the current and anticipated level of effort.	Y	Gartner anticipates continuing to produce research and analysis on an ongoing basis at levels comparable to current level for the foreseeable future on topics that remain relevant to our clients. This allows our clients to have access to the most up to date research on current technology. Gartner currently has approximately 650 analysts covering 27 technical disciplines, 9 IT roles and CIO issues. They produce thousands of research documents and participate in over 200,000 inquiry calls each year. The gartner.com website currently contains over 55,000 searchable documents.
20.	**Feedback**. Does your company have customer feedback (e.g., survey results) available for review on an ongoing basis? If so, please provide a sample.	Y	
21.	**Research Topic Continued Accessibility**. Does your company provide continued access to research within a topic area from year to year (with same depth and breadth)? For example, in year one a company provides access to all articles on wireless and in year two, the company divides articles into wireless use and wireless future trends but charges extra for the trend information. Please describe your policies regarding continued access to the same content.	Y	Gartner anticipates maintaining continued access within each topic area from year to year. We do intend to continue to evaluate opportunities to expand and adjust our product and service mix to better serve our clients. However, these changes normally result in additional report types and coverage areas rather than movement of existing deliverables from one service to another. Our intention is to create additional, more-valuable offerings while keeping the quality of the existing research products at the level our clients have become accustomed to.
22.	**Variety in Service Delivery Methods**. Does your company provide a wide range of service delivery methods? Examples	Y	Gartner Research and Advisory services are accessible in via a wide range of delivery methods. Among these are: Published research viewable on-line and

	include, printed reports, formal publications, white papers, toll free (800, etc.) telephone access to analysts, RSS feeds, email subscription services, member research preferences notification services, blogs, audio/video presentations, etc. Please note all available service delivery methods and describe any methods available that might improve accessibility by handicapped individuals.		downloadable, printable formats Standard Analyst Inquiry accessible via toll free access to Gartner's audio-conference bridge. Inquiry may be requested via telephone, e-mail or online submission. Gartner Alerts as described in item 9 above. RSS feeds (as described in item 9 above) are available on many areas of gartner.com Blogs are available on several topics and in each role-based service of Gartner for IT Leaders Podcasts are available on several topics and in each role-based service of Gartner for IT Leaders For Clients with Disabilities To support the work practices and needs of clients with disabilities, gartner.com publishes a Web site that complies with Section 508 of the U.S. Rehabilitation Act of 1973. Available worldwide, this site delivers Gartner research to clients who use assistive technologies. The site is updated each Wednesday night with research from the previous week. It also includes the past 12 months of research. It features an easy-to-navigate format and several indexes to simplify navigation. The Section 508-compliant site is available to anyone subscribed to Gartner Core Research or EXP services.
23.	**Research Analyst Phone Services**. Does your company provide access to information technology research analysts/experts by phone on subjects/topics you cover? This service would provide answers to brief phone questions regarding a specific issue or topic. If so, please describe.	Y	Named Advisor Users have access to analysts through Standard Analyst Inquiry, as required for their individual business purposes for the benefit of Client. Inquiry sessions are related to the interpretation or application of published Gartner Research and are based on applicable Research Service scope of coverage, as determined by Gartner. Typical inquiry sessions can take up to 30 minutes of an analyst's time, and can be extended at the analyst's discretion. Inquiries requiring additional analysis or research by the analyst are not included. Additionally, Standard Analyst Inquiry provides basic technology reviews of business-related documents that are 20 pages or less, and take up to 60 minutes of an analyst's time. Examples of documents include requests for

			proposals, marketing or business plans and procurement agreements.
24.	**Consultant Services**. Does your company provide consulting included in its basic research and advisory service? If so, please describe the consultant expertise and the amount of service. Also indicate if on site or by telecommunications.	Y	**Standard Analyst Inquiry, as defined above in item 23, is included as a part of Advisor and Executive level programs.** **Gartner can, on a per-project basis, priced separately, provide customized project consulting and strategic advice to CIOs and other senior business executives. Our consulting services are provided by 600+ consultants and focus on selected areas that are critical to clients today.** **These services are provided either on-site or via telecommunications as dictated by the needs of the engagement** **Unlike many competitors, Gartner does not offer implementation services that would compromise our independence and objectivity.**
25.	**Events**. Does your company provide events that are part of the basic research and advisory service (no additional cost to participants)? Examples might include webinars, peer group discussions by phone and Internet, or conference type events.	Y	**Advisor and Executive level program members are entitled to participate in teleconferences, webinars, etc. that are conducted periodically. These members also are eligible to attend a Gartner Event as part of their membership: Advisor level members receive a ticket that may be used to attend a Gartner "Summit" (tickets may be transferred to other client personnel, if desired). Executive Program Premier members receive complimentary attendance at one Gartner Symposium per year (this complimentary attendance is not transferable) and CIO Signature members receive complimentary attendance to up to two Symposia per year (one complimentary registration may be transferred to the member's designated deputy under the program)**
26.	**Telecommunications Services. Does your company provide the needed telecommunications and software for distance consultation services? For example, do you have audio teleconferencing capabilities?**	**Y**	**Inquiries and consulting project discussions take place on a Gartner-provided audio conference bridge.**

Ad Hoc Consulting Services

Provide the capability for specific IT advisory consulting for a fixed-price, time and materials, or not-to-exceed cap. Provide research services or consulting for more in depth study limited

to IT advisory services, not general projects or ongoing operational work. Respondents are not required to offer these services.

No.	Ad Hoc Consultation Services—Desired Attributes	A	*B*
1.	Research Analyst Document Review Services. Does your company provide quick turn-around reviews of policy, standard, strategic plan, or other information technology documents prepared by government groups? If so, please describe.	Y	*Clients that are entitled to Standard Analyst Inquiry are eligible to request basic technology reviews of business-related documents that are 20 pages or less, and take up to 60 minutes of an analyst's time. Examples of documents include requests for proposals, marketing or business plans and procurement agreements.*
2.	Focused Consulting on a Single Issue or Topic Services. Does your company offer information technology topic or issue consulting services either on site or by using audio or audio/video telecommunications facilities or webinars? For example, you may offer hourly consulting for a maximum of two hours with one week notice. If so, please describe.	Y	*Gartner offers single topic advice for smaller projects (from approximately 2 hours to 1-2 days) through our Strategic Advisory Services (SAS). SAS engagements are normally conducted with a Research and Advisory Analyst either on-site or via teleconference.* *Typically, SAS engagements should be scheduled 6 weeks in advance but every effort is made to accommodate clients needing faster turn-around times.* *In many cases, with analyst pre-approval, inquiry calls can be extended to one hour to accommodate inquiries that go beyond the typical 30-minute call.*
3.	*State or Local Government Expertise. Does your company offer analysts and consultants who have expertise in state and local government settings and who provide decision support consultations? If so, please describe.*	*Y*	*Gartner's Government Organization* *Some companies talk about how committed they are to the Government community, but when you look beyond the talk, there is little substance. Gartner is committed to Government and backs up that commitment with people, organization and industry specific research.* *Consider this:* *The Gartner family includes over 175 analysts, consultants, sales and sales support personnel who are dedicated full time to our government clients. Many of those who work for Gartner formerly worked in the government sector.* *During the past two years, Gartner analysts have published hundreds of research notes dedicated strictly to the government sector.* *Thousands of state government employees within hundreds of departments are Gartner clients.*

C. Event Services

For event services, the typical topic areas, breadth, depth, appropriateness to government work and target audiences are of interest. Respondents are not required to offer these services.

Events. Does your company offer opportunities for interacting with peers at company sponsored technology events such as conferences, seminars, hosted teleconference meetings, webinars, or similar events? Please provide a description of events. Please provide samples of content of 2 of your most popular seminars.	Y	*Gartner conferences are technology's most exclusive gatherings of senior IT and business strategists. As one of the largest organizers of professional conferences for IT professionals, we have a roster of more than 60 conferences throughout the US, Europe, Latin America and Asia-Pacific meeting the needs of more than 30,000 executives and hundreds of industry-leading technology exhibitors.* Gartner Technology Summits are focused on specific topics of interest, such as sourcing, security, wireless technology and more. And, our invitation-only Gartner Vision Events match technology vendors and buyers in a specific industry. Our flagship Symposium/ITxpo provides the broad view of the latest Gartner research and the latest productivity solutions at ITxpo, our tech showcase. G-CON: The Gartner Government Conference is the one conference that will provide you with the strategic insight and tactical solutions you need to succeed. G-CON is the unbiased, comprehensive conference built exclusively for today's government IT decision-makers.
***Events with Broad Peer Group Coverage**. Does your company offer events that would provide peer interaction to a variety of peer groups? If so, please indicate typical peer group types (e.g., developers, storage personnel, architects, hardware personnel, governance personnel, etc.)*	*Y*	*Gartner conducts many Summit events throughout the year that give peers the opportunity to interact. Examples include our Enterprise Architecture Summit, CIO Summit, Storage Planet and G-Con (the Government Conference)*

EXHIBIT B
CONTRACT NUMBER VA-050711-GARG
BETWEEN
VIRGINIA INFORMATION TECHNOLOGIES AGENCY
AND
Gartner Inc.

Exhibit B is hereby incorporated into and made an integral part of Contract Number VA-050711-GARG ("Contract") between the Virginia Information Technologies Agency ("VITA" or "Commonwealth" or "State") and Gartner, Inc. ("Supplier").

In the event of any discrepancy between this Exhibit B and Contract No. VA-050711-GARG, the provisions of Contract No. VA-050711-GARG shall control.

[Note: Instructions for using this template to draft a Statement of Work are in gray. These instructions should be deleted after the appropriate text has been added to the Statement of Work. Contractual language is not in gray and should remain in the document. Text that is highlighted in blue is contractual language that is variable based on the nature of the project. Text that is highlighted in green is deemed non-negotiable and may not be modified by the Authorized User without VITA's consent.]

18. STATEMENT OF WORK

This Time and Materials/Fixed Price Statement of Work is issued by VITA on behalf of Authorized User, hereinafter referred to as "Authorized User". The objective of the project described in this Statement of Work is for the Supplier to provide the Authorized User with [describe the services] services ("Services").

19. PROJECT SCOPE AND REQUIREMENTS

Provide information on the scope of the project and the Authorized User's requirements for this particular engagement including:

vi). general description of the Services

vii). project boundaries

viii).Authorized User-specific requirements

ix). special considerations for implementing technology at Authorized User's location(s)

x). other characteristics of this project that must be addressed to insure the success of the engagement

20. ADDITIONAL CONTRACT SERVICES TO SUPPORT THE REQUIREMENTS

1. Training and Knowledge Transfer

Provide an overview of training services to be provided to the Authorized User and any special requirements for specific knowledge transfer to support the Authorized User's successful utilization of Service Deliverables.

2. Support

Document the level of support, as available under the Contract, required by the Authorized User to utilize the Service Deliverables. This may include conversion support, legacy system integration, transition assistance, or other specialized consulting.

21. PROJECT EVENTS AND TASKS

Provide a high-level overview of project events and tasks to be accomplished to perform the required Services.

22. PERIOD OF PERFORMANCE

The period of performance for Services shall be [start date] to [end date] and may be extended, pursuant to and unless otherwise specified in the Contract.

23. PLACE OF PERFORMANCE

Tasks associated with this engagement will be performed at the Authorized User's location(s) in _____, Virginia, at Supplier's location(s) in Wherever, or other locations as required by the effort.

24. [FOR FIXED PRICE SOW] MILESTONES, DELIVERABLES, PAYMENT SCHEDULE, AND HOLDBACKS

The following table identifies milestone events and deliverables, the associated schedule, any associated payments, any retainage amounts, and net payments.

Milestone Event	Deliverable	Schedule	Payment	Retainage	Net Payment

The total price for Services shall not exceed $US XXX (Not to Exceed funding limitation).

Supplier's invoices shall show retainage of ten percent (10%). Following completion of Services, Supplier shall submit a final invoice to the Authorized User, for the final milestone payment amount plus the total amount retained by the Authorized User.

Required Deliverables are as follows: [Provide a description of all Deliverables for this engagement per statement of work.]

In addition, Supplier will provide copies of any briefing materials, presentations, or other information developed to support this engagement.

Any inventions, combinations, machines, methods, formulae, techniques, processes, improvements, software designs, computer programs, strategies, specific computer-related know-how, data and original works of authorship discovered, created, or developed by Supplier, or jointly by Supplier and an Authorized User(s) in the execution of this Statement of Work shall be deemed Work Product. Configuration of software shall not be deemed Work Product. All provisions of the Contract regarding Work Product shall apply to this Statement of Work.

If travel expenses are not included in the fixed price of the Services, such expenses shall be pre-approved by the Authorized User and shall be reimbursed in accordance with the then-current Commonwealth of Virginia travel policies as published by the Virginia Department of Accounts (http://www.doa.virginia.gov/procedures/adminservices/capp/pdfdocs/20335.pdf).

25. [FOR TIME AND MATERIALS SOW] LABOR CATEGORIES, HOURS, RATES, AND SOW PRICE

The following table identifies the labor categories, hourly rates, not-to-exceed (NTE) number of hours, and not-to-exceed (NTE) extended price.

Labor Category	Hourly Rate ($)	NTE # of Hours	NTE Price ($)

This SOW provides/does not provide for flexibility to move dollars and hours among all labor categories identified above.

The total price for Services shall not exceed $US xxx.xx (NTE funding limitation).

Supplier's invoices shall show retainage of ten percent (10%). Following completion of Services, Supplier shall submit a final invoice to the Authorized User, for the final payment amount plus the total amount retained by the Authorized User.

Supplier will provide copies of any briefing materials, presentations, or other information developed to support this engagement.

Any inventions, combinations, machines, methods, formulae, techniques, processes, improvements, software designs, computer programs, strategies, specific computer-related know-how, data and original works of authorship discovered, created, or developed by Supplier, or jointly by Supplier and an Authorized User(s) in the execution of this Statement of Work shall be deemed Work Product. Configuration of software shall not be deemed Work Product. All provisions of the Contract regarding Work Product shall apply to this Statement of Work.

All travel expenses must be pre-approved by the Authorized User and shall be reimbursed in accordance with the then-current Commonwealth of Virginia travel policies as published by the Virginia Department of Accounts (http://www.doa.virginia.gov/procedures/adminservices/capp/pdfdocs/20335.pdf).

26. TESTING AND ACCEPTANCE

A. User Acceptance Test Plan

Acceptance Criteria for Deliverables will be based on the Requirements set forth in Contract Exhibit A and Section 1 of this Statement of Work. Supplier shall design a written User Acceptance Test (UAT) Plan, acceptable to the Authorized User, which will ensure that all of the functionality required for the Deliverables been delivered. Supplier will provide the Authorized User with a detailed Acceptance check-list based on the Requirements. The UAT Plan, including the Acceptance check-list, will be incorporated as Attachment 1 to this Exhibit B.

B. Review / Testing of Deliverables

Following delivery / performance / completion of each Deliverable, on-site review/testing shall be conducted in accordance with the Acceptance test provisions of the Contract and the UAT Plan. The Authorized User shall provide Supplier with reasonable access to its premises, proper environmental and site conditions, any required test data in proper format, and the cooperation of its staff and any other contractors to assist Supplier during testing of the Deliverable.

C. Deliverable Acceptance Receipt

Each Deliverable provided by Supplier under this Statement of Work will be delivered to the Authorized User with a Deliverable Acceptance Receipt. This document will describe

the Deliverable and provide the Authorized User's Project Manager with space to indicate if the Deliverable is accepted, rejected, or partially accepted. For partially accepted Deliverables, the Authorized User's Project Manager shall list on the Deliverable Acceptance Receipt any deficiencies that must be corrected in order for the Deliverable to be accepted by the Project Manager. The Project Manager will have five (5) days, or such longer period as mutually agreed to by the Supplier and the Authorized User in advance, from the completion of review/testing to provide Supplier with the signed Acceptance Receipt. If no material variances from the Requirements are identified within such time period, the Deliverable shall be deemed accepted by the Authorized User.

D. Correction of Defects

Correction of defects and Cure Period shall be in accordance with the applicable provisions of the Contract. Supplier shall not be required to correct minor imperfections or defects that do not materially impair the operation or quality of the Deliverable.

27. ASSUMPTIONS AND PROJECT ROLES AND RESPONSIBILITIES

This section contains assumptions specific to this engagement.

State assumptions here.

The following roles and responsibilities have been defined for this engagement:

(Sample Responsibility Matrix)

Responsibility Matrix	Supplier	Authorized User
Infrastructure – Preparing the system infrastructure that meets the recommended configuration defined in Section 2B herein		√
Server Hardware		√
Server Operating		√
Server Network Connectivity		√
Relational Database Management Software (Installation and Implementation)		√

28. PERSONNEL [THIS SECTION IS OPTIONAL]

E. Key Personnel

Supplier acknowledges and agrees that Authorized User selected Supplier, and is entering into this Statement of Work, because of the special qualifications of certain of Supplier's personnel ("Key Personnel") identified below.

[Insert names and titles or Key Personnel]

Supplier's Key Personnel shall not delegate performance of their powers and responsibilities with respect to this SOW to another Supplier employee(s) without the prior written consent of the Authorized User. Further, Supplier shall not re-assign or transfer the Key Personnel to other duties or positions such that the Key Personnel are no longer available to provide the Authorized User with their expertise, experience, judgment, and personal attention, without the Authorized User's prior written consent to such re-assignment or transfer, which Authorized User shall not unreasonably withhold. Notwithstanding the foregoing, Supplier may replace Key Personnel without Authorized User's consent in the event any Key Personnel are no longer available due to death, illness or termination of employment with Supplier.

In the event Supplier requests that the Authorized User approve a re-assignment or transfer of the Key Personnel, or if Supplier must replace Key Personnel due to death, illness or termination of employment with the Supplier, the Authorized User shall have the

right to review the qualifications of and approve or disapprove the proposed replacement(s) for the Key Personnel. Any such replacement shall have substantially equivalent or better qualifications than the Key Personnel being replaced, and shall perform the Services in accordance with the warranties set forth in the Contract. Any replacement personnel approved by Authorized User shall thereafter be deemed a Key Personnel for purposes of this SOW and this SOW shall be deemed amended to include such Key Personnel.

[Use only for time and materials SOWs] Supplier shall not charge Authorized User and Authorized User shall not pay for any proposed replacement Key Personnel while such replacement acquires the necessary skills and project knowledge to proceed with the Services required hereunder; however, such period of non-charge may not exceed twenty-eight (28) calendar days, but shall last for a minimum of fourteen (14) calendar days, after which time Authorized User shall pay for such Key Personnel if Supplier demonstrates to Authorized User's satisfaction that such replacement has acquired the necessary skills and project knowledge to proceed with the Services required hereunder.

F. Project Manager

Supplier shall designate one of the Key Personnel as Project Manager for providing the Services to the Authorized User. The Project Manager shall be familiar with Authorized User's business operations and objectives, and shall perform the Services in accordance with the warranties set forth in the Contract. The Project Manager will participate with Authorized User in periodic review sessions and will provide, at the Authorized User's request, detailed progress reports that identify completed tasks and the status of the remaining Services.

29. SECURITY REQUIREMENTS

Provide (or reference as an Attachment) Authorized User's security requirements. For any individual Authorized User location, security procedures may include but not be limited to: background checks, records verification, photographing, and fingerprinting of Supplier's employees or agents. Supplier may, at any time, be required to execute and complete, for each individual Supplier employee or agent, additional forms which may include non-disclosure agreements to be signed by Supplier's employees or agents acknowledging that all Authorized User information with which such employees and agents come into contact while at the Authorized User site is confidential and proprietary. Any unauthorized release of proprietary information by the Supplier or an employee or agent of Supplier shall constitute a breach of the Contract.

At a minimum, Supplier shall adhere to all of VITA's standard security requirements.

30. RISK MANAGEMENT

Risk is a function of the probability of an event occurring and the impact of the negative effects if it does occur. Negative effects include schedule delay, increased costs, and poor quality of deliverables.

Depending on the level of risk of this project, as assessed by the Authorized User, this section may contain any or all of the following components, at a level of detail commensurate with the level of risk:

xi). Identification of risk factors.

xii). Initial risk assessment.

xiii). Risk management/mitigation plan, including determination of roles and responsibilities of the Authorized User and Supplier.

xiv). Risk monitoring plan, including frequency and form of reviews, project team responsibilities, steering and oversight committee responsibilities, documentation.

31. REPORTING

The following are examples of reporting requirements which may be included in the Statement of Work by the Authorized User. [Note: In an effort to help VITA monitor Supplier performance, it is strongly recommended that the Statement of Work include "Supplier Performance Assessments". These assessments may be performed at the discretion of the Authorized User and are not mandated by VITA.]

Weekly/Bi-weekly Status Update. The weekly/bi-weekly status report, to be submitted by Supplier to the Authorized User, should include: accomplishments to date as compared to the project plan; any changes in tasks, resources or schedule with new target dates, if necessary; all open issues or questions regarding the project; action plan for addressing open issues or questions and potential impacts on the project; risk management reporting.

Supplier Performance Self-Assessment. Within thirty (30) days of execution of the Statement of Work, the Supplier and the Authorized User will agree on Supplier performance self-assessment criteria. Supplier shall prepare a monthly self-assessment to report on such criteria. Supplier shall submit its self-assessment to the Authorized User who will have five (5) days to respond to Supplier with any comments. If the Authorized User agrees with Supplier's self-assessment, such Authorized User will sign the self-assessment and submit a copy to the VITA Supplier Relationship Manager.

Supplier Performance Assessments. The Authorized User may develop assessments of the Supplier's performance and disseminate such assessments to other Authorized Users of the Contract. Prior to dissemination of such assessments, Supplier will have an opportunity to respond to the assessments, and independent verification of the assessment may be utilized in the case of disagreement.

32. POINT OF CONTACT

For the duration of this project, the following project managers shall serve as the points of contact for day-to-day communication:

Authorized User: _____

Supplier: _____

This Statement of Work is issued pursuant to and, upon execution, shall become an incorporated exhibit to the Contract. In the event of conflict, the following order of precedence shall apply:

xv). The Contract

xvi). This Exhibit D

xvii). The User Acceptance Test Plan

By signing below, both parties agree to the terms of this Exhibit.

Supplier	VITA
By: _____	By: _____
(Signature)	(Signature)
Name: _____	Name: _____
(Print)	(Print)
Title: _____	Title: _____
Date: _____	Date: _____

EXHIBIT C
CONTRACT NUMBER VA-050711-GARG
BETWEEN
VIRGINIA INFORMATION TECHNOLOGIES AGENCY
AND
Gartner, Inc.

This Change Order hereby modifies and is made an integral part of Exhibit C of Contract Number VA-050711-GARG ("Contract") between the Virginia Information Technologies Agency ("VITA" or "Commonwealth" or "State") and Supplier ("Supplier").

In the event of any discrepancy between this Change Order to Exhibit C and Contract No. VA-050711-GARG, the provisions of Contract No. VA-050711-GARG shall control.

[Note: Instructions for using this template to draft a Change Order are in gray. These instructions should be deleted after the appropriate text has been added to the Change Order. Contractual language is not in gray and should remain in the document. Text that is highlighted in blue is contractual language that is variable based on the nature of the project.]

33. CHANGE ORDER

The following item(s) is/are hereby modified as follows: [Delete sections not modified]

34. PROJECT SCOPE AND REQUIREMENTS

The following is added/deleted from the project scope and requirements:

[Describe addition/deletion]

The following is changed with respect to the project scope and requirements:

From:

To:

35. PROJECT EVENTS AND TASKS

The following project event(s) and/or task(s) is/are added/deleted:

[Describe addition/deletion]

The following is project event(s) and/or task(s) is/are changed:

Event/Task #1:

From:

To:

36. PERIOD OF PERFORMANCE

The end of the period of performance is reduced/extended from Month/Day/Year to Month/Day/Year.

37. PLACE OF PERFORMANCE

The following site(s) is/are added/removed from the place of performance:

[Describe changes to place of performance]

38. [FOR FIXED PRICE SOW] MILESTONES, DELIVERABLES, PAYMENT SCHEDULE, AND HOLDBACKS

The following table identifies milestone events and deliverables, the associated schedule, any associated payments, any retainage amounts, and net payments.

Milestone Event	Deliverable	Schedule	Payment	Retainage	Net Payment

The fixed price is increased/decreased from $US XXX to $US XXX (NTE funding limitation).

Required Deliverables are as follows: [Provide a description of all Deliverables for this engagement.]

39. [FOR TIME AND MATERIALS SOW] LABOR CATEGORIES, HOURS, RATES, AND SOW PRICE

The following table identifies the labor categories, hourly rates, not-to-exceed (NTE) number of hours, and not-to-exceed (NTE) extended price.

Labor Category	Hourly Rate ($)	NTE # of Hours	NTE Price ($)

This SOW provides/does not provide for flexibility to move dollars and hours among all labor categories identified above.

The total price for Services is increased/decreased from $US XXX to $US XXX (NTE funding limitation).

40. PERSONNEL

The following individual(s) is/are removed from the SOW as Key Personnel:

[insert name(s)]

The following individual(s) is/are added to the SOW as Key Personnel:

[insert name(s)]

The following individual(s) is/are removed from the SOW as Project Manager(s):

[insert name(s)]

The following individual(s) is/are added to the SOW as Project Manager(s):

[insert name(s)]

41. POINT OF CONTACT

For the duration of this project, the following project managers shall serve as the points of contact for day-to-day communication:

Authorized User: _____

Supplier: _____

This Change Order is issued pursuant to and, upon execution, shall become an incorporated exhibit to the Contract. In the event of conflict, the following order of precedence shall apply:

xviii). The Contract

xix). Exhibit E, as amended by this and previous Change Orders, with the more current Change Orders superseding older Change Orders.

By signing below, both parties agree to the terms of this Exhibit.

Supplier	VITA
By: _____	By: _____
(Signature)	(Signature)
Name: _____	Name: _____
(Print)	(Print)
Title: _____	Title: _____
Date: _____	Date: _____

Base Research (Required and Desired)		Single User (Please note what is included)	Annual Discount Buckets (e.g. 2-5 seats, 6-10 seats, 11-20 seats) applies to all COVA and Public Bodies orders for a one year period as defined in the Code of Virginia
Line of Business / Product Family	Product Name	VITA Single-member price	VITA Multi-member price
Legacy Client Core Research	Advisor 1-9 seats		$17,822.04
Legacy Client Core Research	Advisor 10-24 seats		$10,217.97
Legacy Client Core Research	Advisor 25 +		$8,283.01
Legacy Client Core Research	Reference 1-9 seats		$10,693.22
Legacy Client Core Research	Reference 10-24 seats		$8,985.00
Legacy Client Core Research	Reference 25 +		$ 5,601.21
New Client Core Research	New member single-member Advisor	$24,990.00	
New Client Core Research	New Member multi-member Advisor		$16,830.00
New Client Core Research	New member single-member Reference	$16,014.00	
New Client Core Research	New Member multi-member Reference		$9,180.00
Gartner for IT Leaders	Reference single-member	$18,870.00	
Gartner for IT Leaders	Reference multi-member		$12,551.10
Gartner for IT Leaders	Advisor single-member	$27,030.00	
Gartner for IT Leaders	Advisor multi-member		$19,909.50
Gartner for IT Leaders	Premier single-member	$46,410.00	
Gartner for IT Leaders	Premier multi-member		$39,270.00
Higher Education - Core Research	Add-on Seats - Reference 1-9 users		$9,043.32
Higher Education - Core Research	Add-on Seats - Reference 10-24 users		$6,783.00
Higher Education - Core Research	Add-on Seats - Reference 25+ users		Special Bid
Higher Education - Core Research	Add-on Seats - Advisor 1-9 users		$15,259.20
Higher Education - Core Research	Add-on Seats - Advisor 10-24 users		$8,476.20
Higher Education - Core Research	Add-on Seats - Advisor 25+ users		Special Bid
Higher Education - Core Research	Campus Level Reference <4,999 FTE	$15,259.20	
Higher Education - Core Research	Campus Level Reference 5,000-9,999 FTE	$30,518.40	
Higher Education - Core Research	Campus Level Reference 10,000-24,999 FTE	$45,777.60	
Higher Education - Core Research	Campus Level Reference 25,000+ FTE	$61,036.80	
Higher Education - Core Research	Campus Level Reference - Community Colleges	$15,259.20	
Core Research	Inquiry Access 5 hours	$5,610.00	
Core Research	Inquiry Access 10 hours	$11,220.00	
Core Research	Inquiry Access 20 hours	$21,420.00	
Industry Advisory Services Banking	Industry Entry Model	$17,340.00	
Industry Advisory Services Banking	Industry Single User	$28,050.00	
Industry Advisory Services Banking	Industry Workgroup	$35,700.00	
Industry Advisory Services Banking	EXP Add-on Industry Advisor Seat	$13,260.00	
Industry Advisory Services Banking	EXP Add-on Industry Reference Seat	$9,180.00	
Industry Advisory Services Banking	EXP Add-on Industry Workgroup	$27,540.00	
Industry Advisory Services Insurance	Industry Entry Model	$17,340.00	
Industry Advisory Services Insurance	Industry Single User	$28,050.00	
Industry Advisory Services Insurance	Industry Workgroup	$35,700.00	
Industry Advisory Services Insurance	EXP Add-on Industry Advisor Seat	$13,260.00	
Industry Advisory Services Insurance	EXP Add-on Industry Reference Seat	$9,180.00	
Industry Advisory Services Insurance	EXP Add-on Industry Workgroup	$27,540.00	
Industry Advisory Services Investment Service	Industry Entry Model	$17,340.00	
Industry Advisory Services Investment Service	Industry Single User	$28,050.00	
Industry Advisory Services Investment Service	Industry Workgroup	$35,700.00	
Industry Advisory Services Investment Service	EXP Add-on Industry Advisor Seat	$13,260.00	
Industry Advisory Services Investment Service	EXP Add-on Industry Reference Seat	$9,180.00	
Industry Advisory Services Investment Service	EXP Add-on Industry Workgroup	$27,540.00	
Industry Advisory Services Energy & Utilities	Industry Entry Model	$17,340.00	
Industry Advisory Services Energy & Utilities	Industry Single User	$23,460.00	
Industry Advisory Services Energy & Utilities	Industry Workgroup	$26,520.00	
Industry Advisory Services Energy & Utilities	EXP Add-on Industry Advisor Seat	$13,260.00	
Industry Advisory Services Energy & Utilities	EXP Add-on Industry Reference Seat	$9,180.00	
Industry Advisory Services Energy & Utilities	EXP Add-on Industry Workgroup	$18,360.00	
Industry Advisory Services Manufacturing	Industry Entry Model	$17,340.00	
Industry Advisory Services Manufacturing	Industry Single User	$23,460.00	
Industry Advisory Services Manufacturing	Industry Workgroup	$26,520.00	
Industry Advisory Services Manufacturing	EXP Add-on Industry Advisor Seat	$13,260.00	
Industry Advisory Services Manufacturing	EXP Add-on Industry Reference Seat	$9,180.00	
Industry Advisory Services Manufacturing	EXP Add-on Industry Workgroup	$18,360.00	
Industry Advisory Services Media	Industry Entry Model	$17,340.00	
Industry Advisory Services Media	Industry Single User	$23,460.00	
Industry Advisory Services Media	Industry Workgroup	$26,520.00	
Industry Advisory Services Media	EXP Add-on Industry Advisor Seat	$13,260.00	
Industry Advisory Services Media	EXP Add-on Industry Reference Seat	$9,180.00	
Industry Advisory Services Media	EXP Add-on Industry Workgroup	$18,360.00	
Industry Advisory Services Retail	Industry Entry Model	$17,340.00	
Industry Advisory Services Retail	Industry Single User	$23,460.00	
Industry Advisory Services Retail	Industry Workgroup	$26,520.00	
Industry Advisory Services Retail	EXP Add-on Industry Advisor Seat	$13,260.00	
Industry Advisory Services Retail	EXP Add-on Industry Reference Seat	$9,180.00	

Industry Advisory Services Retail	EXP Add-on Industry Workgroup	$18,360.00	
Media Talking Technology	3 CD's	$1,632.00	
Media Talking Technology	5 CD's	$2,448.00	
Media Talking Technology	10 CD's	$4,284.00	
Media Talking Technology	15 CD's	$6,426.00	
Media Talking Technology	20 CD's	$8,058.00	
Media Talking Technology	50 CD's	$14,280.00	
Media Talking Technology	100 CD's	$29,070.00	
Media Talking Technology	150 CD's	$42,840.00	
Media Talking Technology	200 CD's	$47,940.00	
Media Talking Technology	500 CD's	$79,560.00	
Strategic Advisory Services SAS Worldwide	Client - Internal Use of Analyst Time	$10,710.00	
Strategic Advisory Services SAS Worldwide	Client - Remote Advisory Engagement	$6,630.00	
Strategic Advisory Services SAS Worldwide	Client - External Speaking Engagement	$15,300.00	
EXP Premier	EXP Premier single-member	$35,190.00	
EXP Premier	EXP Premier mutli-member		$31,620.00
CIO Signature	CIO Signature	$71,400.00	
Best Practice Councils	Architecture & Planning single-member	$25,296.00	
Best Practice Councils	Architecture & Planning multi-member		$22,746.00
Best Practice Councils	Emerging Technology single-member	$25,296.00	
Best Practice Councils	Emerging Technology multi-member		$22,746.00
Best Practice Councils	Enterprise Applications-SAP single-member	$25,296.00	
Best Practice Councils	Enterprise Applications-SAP multi-member		$22,746.00
Best Practice Councils	Information & Security single-member	$25,296.00	
Best Practice Councils	Information & Security multi-member		$22,746.00
Best Practice Councils	Infrastructure Executives single-member	$25,296.00	
Best Practice Councils	Infrastructure Executives multi-member		$22,746.00
Best Practice Councils	IT Sourcing Mg'mt Exec's single-member	$25,296.00	
Best Practice Councils	IT Sourcing Mg'mt Exec's multi-member		$22,746.00
CIO Academy	CIO EXP Premier Member (NA)	$6,630.00	
CIO Academy	CIO Signature Member (NA)	$6,069.00	
CIO Academy	List Price(NA)	$7,650.00	
Add-on-EXP Engagement Days	1 Day	$10,506.00	
Add-on-EXP On-Site Coaching Sessions	2 Days	$18,360.00	
Add-on-EXP On-Site Coaching Sessions	4 Days	$27,948.00	
Add-on-EXP Team Development	1 Session	$15,300.00	
Human Capital Management	EXP Human Resources single-member	$33,558.00	
Human Capital Management	EXP Human Resources multi-member		$30,396.00
Human Capital Management Workshop	Leadership Development Workshop	$53,550.00	
Human Capital Management Workshop	Leadership Development Workshop w EXPHR	$47,940.00	
Human Capital Management Workshop	Communications Strategy and Plan Workshop	$53,550.00	
Human Capital Management Workshop	Communications Strategy and Plan Workshop w/	$47,940.00	
Human Capital Management Workshop	HCM Assessment Workshop	$53,550.00	
Human Capital Management Workshop	HCM Assessment Workshop w EXPHR	$47,940.00	
Human Capital Management Workshop	Mission, Vision and Values Workshop	$53,550.00	
Human Capital Management Workshop	Mission, Vision and Values Workshop w EXPHR	$47,940.00	
Human Capital Management Workshop	Organization Alignment Workshop	$53,550.00	
Human Capital Management Workshop	Organization Alignment Workshop w EXPHR	$47,940.00	
Human Capital Management Workshop	Organization Design Workshop	$53,550.00	
Human Capital Management Workshop	Organization Design Workshop w EXPHR	$47,940.00	
Human Capital Management Job Family Comp	Applications Development Model	$13,464.00	
Human Capital Management Job Family Comp	Architecture & Planning Model	$13,464.00	
Human Capital Management Job Family Comp	Asset Management Model	$13,464.00	
Human Capital Management Job Family Comp	Business Analysis Model	$13,464.00	
Human Capital Management Job Family Comp	Business Continuance Model	$13,464.00	
Human Capital Management Job Family Comp	Business Intelligence Model	$13,464.00	
Human Capital Management Job Family Comp	Business Process Engineering Model	$13,464.00	
Human Capital Management Job Family Comp	Client Technology Model	$13,464.00	
Human Capital Management Job Family Comp	Computer Operations Model	$13,464.00	
Human Capital Management Job Family Comp	Customer SupportModel	$13,464.00	
Human Capital Management Job Family Comp	Data Analysis Model	$13,464.00	
Human Capital Management Job Family Comp	Database Administration Model	$13,464.00	
Human Capital Management Job Family Comp	ERP Applications Development Model	$13,464.00	
Human Capital Management Job Family Comp	ERP Business Solutions Analysis Model	$13,464.00	
Human Capital Management Job Family Comp	ERP Systems Administration Modle	$13,464.00	
Human Capital Management Job Family Comp	IT Leadership Model	$13,464.00	
Human Capital Management Job Family Comp	IT Security Model	$13,464.00	
Human Capital Management Job Family Comp	Network Management Model	$13,464.00	
Human Capital Management Job Family Comp	Project Management Modle	$13,464.00	
Human Capital Management Job Family Comp	Quality Assurance Model	$13,464.00	
Human Capital Management Job Family Comp	Quality Process Engineering Model	$13,464.00	
Human Capital Management Job Family Comp	Release Management Model	$13,464.00	
Human Capital Management Job Family Comp	Systems Administration Model	$13,464.00	
Human Capital Management Job Family Comp	Technical Writing Model	$13,464.00	
Human Capital Management Job Family Comp	Technology Consulting Model	$13,464.00	
Human Capital Management Job Family Comp	Telecommunications Model	$13,464.00	
Human Capital Management Job Family Comp	Vendor Relationship Management Model	$13,464.00	
Human Capital Management Job Family Comp	Web Administration Model	$13,464.00	
Human Capital Management Job Family Comp	Web Design Model	$13,464.00	
Symposium	Symposium Ticket	$2,040.00	
Themed Summit	Themed Summit Ticket	$1,218.90	
Human Capitol Management	IT Skills Inventory	See Account Executive	
Consulting	Strategy and Architecture	See Account Executive	

Consulting	Sourcing Execution and Management	See Account Executive	
Consulting	Risk Management	See Account Executive	
Consulting	Critical Program Management	See Account Executive	
Consulting	Performance Optimization	See Account Executive	

EXHIBIT E
CONTRACT NUMBER VA-050711-GARG
BETWEEN
VIRGINIA INFORMATION TECHNOLOGIES AGENCY
AND
Gartner, Inc.

EXHIBIT E: CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

xx). No Federal appropriated funds have been paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee or an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal Contract, grant, loan, or cooperative agreement.

xxi). If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

xxii). The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and Contracts under grants, loans and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____

Printed Name: **William F. Mohan, Jr.**
Director, Government Contracts

Organization: GARTNER

Date: 5-29-07