

## ADMINISTRATIVE AGREEMENT

### I. PARTIES

This Agreement dated March 31, 2014 (“Effective Date”), is made between Anthony R. Jimenez (“Jimenez”), and the United States Small Business Administration (“SBA”).

### II. PREAMBLE

A. MicroTechnologies, LLC (“MicroTech”) is a business incorporated in the Commonwealth of Virginia with its principal place of business located in Vienna, Virginia.

B. In a Notice of Proposed Debarment (“Notice”) issued on December 20, 2013, SBA proposed to debar MicroTech from future contracting with any agency of the Executive Branch of the United States Government under Section 9.406 of the Federal Acquisition Regulation (“FAR”).

C. Anthony Jimenez (“Mr. Jimenez”), MicroTech’s Chief Executive Officer (“CEO”), also received and was subject to the Notice.

D. The basis for SBA’s proposed debarment was set forth in SBA’s Notice, which is incorporated by reference herein. SBA’s proposed debarment was based on evidence compiled in SBA’s Administrative Record.

E. Mr. Jimenez submitted an application for SBA’s 8(a) Business Development (“8(a) BD”) program on behalf of MicroTech in April 2005. SBA’s 8(a) BD program provides companies meeting the qualifications for program participation additional opportunities to obtain Government contracts. The program provides these opportunities in order to assist in the overall business development of 8(a) BD participant firms. 8(a) BD participants are eligible for both set-aside and sole source contracts (collectively, “8(a) BD contracts”). 13 C.F.R. § 124.501(b). 8(a) BD participants, with exceptions not relevant to this matter, must be managed on a full-time basis by one or more disadvantaged individuals. 13 C.F.R. § 124.106(a)(1). SBA may deny admission to the 8(a) BD program if SBA learns that an applicant submitted false information during the application process, notwithstanding whether that information was material. 13 C.F.R. § 124.108(a)(5). Further, an applicant must be eligible at the time SBA issues its decision, and applicants have an affirmative duty to inform SBA of any changed circumstances that could affect its eligibility prior to SBA issuing its decision. 13 C.F.R. § 124.204(d) and (e).

F. SBA relies on the submission of applicants to determine eligibility for the program. Submission of false and misleading information impairs SBA’s ability to accurately and reasonably determine a firm’s eligibility. A firm’s submission may be considered false or misleading if documents and information that should be provided, or are requested, are not provided for SBA’s review.

During the 8(a) application process in 2005, SBA requested that MicroTech provide explanations of its relationship with two firms, MicroLink, LLC, and GovWare, LLC. The requests were sent to Mr. Jimenez as MicroTech’s CEO and the individual asserting that he controlled MicroTech. A consultant hired by Mr. Jimenez and MicroTech, submitted the responses. SBA and Mr. Jimenez now agree that the responses were not accurate. SBA believes that the failure of MicroTech and Mr. Jimenez to

provide SBA with an accurate description of these relationships prevented the SBA from fully evaluating MicroTech's eligibility for the 8(a) BD program. While the response was submitted by SourceTec, a company contracted by MicroTech, Mr. Jimenez as the CEO of the firm was ultimately responsible for the actions of the contracted company, and had a duty to ensure that as part of the 8(a) BD application that he submitted; all the material provided to SBA was complete and accurate.

G. During the 8(a) application process in 2005, SBA also requested specific documents related to the relationship between MicroTech, its owner and CEO, Mr. Jimenez, and GovWare, LLC. The request was also addressed to Mr. Jimenez. Specifically, SBA requested a copy of GovWare, LLC's Operating Agreement. In response to SBA's request, a copy of the Operating Agreement was provided to SBA. However, the members of GovWare, LLC, including Mr. Jimenez, and MicroTech's two minority owners, entered into a subsequent Shareholder Agreement. The Shareholder Agreement modified the terms of the Operating Agreement that was provided to SBA. The Shareholder Agreement was executed by the parties prior to MicroTech's acceptance into the 8(a) BD program. Mr. Jimenez agrees that SBA's regulations require that the Shareholder Agreement be provided to SBA as part of the application process, and was responsive to SBA's previous request for GovWare, LLC's Operating Agreement. The Shareholder Agreement was not provided to SBA prior to MicroTech's acceptance into the 8(a) BD program. This prevented SBA from properly evaluating MicroTech's eligibility for the 8(a) BD program, and deprived SBA of the ability to provide meaningful oversight of the 8(a) BD program in order to ensure only qualified firms and individuals received the benefits of the program.

H. Mr. Jimenez affirmatively states that at no time during MicroTech's participation in SBA's 8(a) BD program did Mr. David Truitt or Mr. Timothy Wharton, hold officer positions or titles in MicroTech, other than as stated in the Operating Agreement, as amended, whether formal or informal. Mr. Jimenez affirmatively states that these two individuals had no role in MicroTech's management, whether formal or informal during the term of MicroTech's participation in the 8(a) BD program.

I. In the Notice, SBA also alleged that MicroTech may not have been a small business for certain government contracts due to a possible affiliation with MicroLink, LLC and its owners and officers. Mr. Jimenez affirmatively states that MicroTech did not have any significant connection with MicroLink, LLC that would rise to affiliation under SBA's regulations, during its participation in the 8(a) BD program. In addition, Mr. Jimenez affirms that it has no knowledge of the specific revenues of MicroLink, LLC, and thus cannot opine as the size of MicroLink, LLC, under any revenue based size standard during the time period that MicroTech was in the 8(a) BD program. Mr. Jimenez further states that MicroTech was small under the appropriate NAICS code for every contract that it has been awarded in which it certified it was a small business.

J. Mr. Jimenez has expressed interest in taking the actions necessary to demonstrate that Mr. Jimenez may be trusted to deal fairly and honestly with the Government, and asserted that continuing the proposed debarment of Mr. Jimenez is not necessary if the terms and conditions set forth herein are duly and forthrightly implemented. The existence of this Agreement does not preclude SBA or the Government from taking further action based on additional information or evidence that was not at issue in the Notice.

K. Mr. Jimenez irrevocably waives and relinquishes any defense or objection to his Notice and shall not now or at any time hereafter contest or object to said Notice or its imposition by SBA.

However, SBA has determined that, based upon information currently known to SBA, Mr. Jimenez's prospective cooperation and transparency reflected in the terms and conditions of this Agreement, if fully and timely implemented and performed by Mr. Jimenez, provide adequate assurance that Mr. Jimenez's future dealings with the Government, if any, will be conducted responsibly during the term hereof and that continuing the proposed debarment of Mr. Jimenez is not necessary at this time to protect the Government's interests. Mr. Jimenez agrees to, accepts, and shall not challenge this Agreement and the duties, responsibilities, commitments and other terms and conditions undertaken by it and otherwise reflected herein.

### III. TERMS AND CONDITIONS

1. **TERM.** The period of this Agreement shall be three (3) years from the date of the execution of this Agreement by the SBA.
2. **EMPLOYEES.** The terms "employee" or "employees" as used in this Agreement include MicroTech's officers, permanent, temporary, and contract employees, full-time and part-time employees, and consultants.
3. **INVESTIGATIONS.** Nothing in this Agreement shall in any way affect, limit or waive, SBA's, SBA's OIG, or any other Government Agency's or instrumentality's ongoing right and discretion to investigate any matter or to review any evidence relating to Mr. Jimenez's business, conduct, or operations, and to take any enforcement, regulatory or other legal action any of the foregoing deem appropriate based upon such investigation or review.
4. **TRAINING AND RISK MITIGATION.** Mr. Jimenez agrees to participate in certain risk-management practices throughout the Company. Mr. Jimenez agrees that:
  - a. Upon execution of this Agreement, Mr. Jimenez shall review and sign acknowledging that he has read and understood the Company's Code of Ethics.
  - b. Mr. Jimenez agrees to participate in Government contracts compliance training course(s) and other Company training courses as directed by the Company, in accordance with the schedule of Company training in 2014 to be provided to the SBA by MicroTech.
5. **VOLUNTARY AND TEMPORARY RELINQUISHMENT OF CEO RESPONSIBILITIES.** On December 20, 2013, Mr. Jimenez was proposed for debarment by the SBA and listed on the Excluded Parties List System. Mr. Jimenez agreed on January 29, 2014 to temporarily voluntarily relinquish his responsibilities as CEO of the Company as a condition of the Company's Administrative Agreement with the SBA. Mr. Jimenez agrees to extend that period of relinquishment for an additional period of time until May 18, 2014, which is equal to a total of 150 calendar days from the Notice date, for a total period of exclusion and relinquishment that shall terminate on May 18, 2014 ("Exclusionary Period"). During the period of Mr. Jimenez's relinquishment of responsibilities as CEO of the Company, Mr. Jimenez will not be involved in the day-to-day operations or management of the Company regarding its customers, or employees. Notwithstanding the Exclusionary Period, Mr. Jimenez is specifically authorized during the period of his relinquishment of CEO responsibilities to meet with banking or other financial institutions, to meet with

distributors or manufacturing partners, and to perform other authorized actions. Mr. Jimenez will certify at the end of the Exclusionary Period that he was not involved in the day-to-day operations or management of the Company during the period of Mr. Jimenez's relinquishment of CEO responsibilities.

6. **COOPERATION:** Mr. Jimenez shall cooperate, to the extent requested by the SBA, in any SBA inquiry, investigation, or prosecution relating to his conduct while performing a Government contract or subcontract. Such cooperation shall include, but not be limited to, taking all reasonable steps to make himself available for interviews and to participate fully in those interviews, and to provide documents.
7. **REPORTS OF MISCONDUCT.** In addition to any disclosure to the agency Office of the Inspector General and the contracting officer required by FAR 3.1003(a)(2) and, as applicable, the contract clause set out in FAR 52.203-13, Mr. Jimenez shall report to SBA, within 15 business days of discovery by senior management, any suspected breach of this Agreement or any misconduct that senior management has reasonable grounds to believe may constitute a violation of criminal or civil law identified at FAR 3.1003(a)(2). Mr. Jimenez will investigate all reports of such misconduct and notify the SBA of the outcome of such investigation, impact on Mr. Jimenez, and any corrective actions. Mr. Jimenez will keep the SBA apprised of the status of all investigations until each matter is resolved.
8. **VOLUNTARY RELINQUISHMENT OF DUTIES.** Mr. Jimenez agrees that the relinquishment of the duties and responsibilities of any employee referenced herein was a voluntary action of the employee. Mr. Jimenez shall indemnify and hold the United States and all its agents and employees harmless, in their official and individual capacities, from any and all claims, demands, liabilities and damages which any employee or individual may have or may develop in the future arising from, related to, or in connection with, any employment action referenced herein.
9. **PRESENT RESPONSIBILITY.** Mr. Jimenez's compliance with the terms and conditions of this Agreement, and each of them, shall constitute an element of Mr. Jimenez's present responsibility for Government contracting. Mr. Jimenez's breach of or failure to meet any of his obligations pursuant to the terms and conditions of this Agreement constitutes a separate cause for suspension and/or debarment of Mr. Jimenez. Notwithstanding the foregoing, and contingent and conditioned upon the continuing, demonstrated truthfulness of Mr. Jimenez's representations and offers made herein, his ongoing, full, timely and complete compliance with this Agreement and all its obligations hereunder, and his ongoing demonstration of present responsibility to engage hereafter in all government contracting activities in accordance with applicable law. SBA agrees that during the term hereof, it shall not reimpose a suspension or debarment upon Mr. Jimenez based solely upon the evidence and grounds set forth in the Notice alone. By entering into this Agreement, SBA is not determining that Mr. Jimenez is presently responsible for any specific Government contract.
10. **TERMINATION OF PROPOSED DEBARMENT.** Contingent and conditioned upon the continuing, demonstrated truthfulness of Mr. Jimenez's representations and offers made herein, his ongoing, full, timely and complete compliance with this Agreement and all his obligations hereunder, and his ongoing demonstration of present responsibility to engage

hereafter in all government contracting activities in accordance with applicable law, SBA shall lift and terminate on May 18, 2014 and subject to the terms and conditions herein, the proposed debarment imposed on Mr. Jimenez, and shall thereupon promptly cause Mr. Jimenez's name to be removed from Sam.gov.

11. **WAIVER and RELEASE.** Mr. Jimenez hereby waives all claims, demands, or requests for monies from the Government, or any kind of relief against the Government as a result of these proceedings.
12. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall be an original, but all of which taken together, shall constitute one and the same agreement.
13. **SBA RELIANCE.** Mr. Jimenez represents that all written materials; statements, both verbal and written; and other information supplied to SBA by Mr. Jimenez, or his authorized representative during the course of discussions with SBA preceding this Agreement are true and accurate, to the best information and belief of Mr. Jimenez to this Agreement. Mr. Jimenez understands that this Agreement is executed on behalf of SBA in reliance upon the truth, accuracy, and completeness of all such representations. Any misrepresentation on the part of Mr. Jimenez or his agents in responding to the Notice will be considered a breach of this Agreement pursuant to paragraph 9.
14. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements and understandings, whether oral or written, relating to the subject matter hereof. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns.
15. **RESTRICTIONS ON USE.** Mr. Jimenez shall not use any term of this Agreement or the fact of the existence of this Agreement for any purpose related to the defense or litigation of, or in mitigation of any criminal, civil, or other administrative investigation or proceeding.
16. **BANKRUPTCY.** Bankruptcy proceedings shall not affect the enforcement of this Agreement in the interests of the Government.
17. **SEVERABILITY.** The terms of this Agreement in no way restrict SBA's ability, powers, rights and discretion to exercise any of its regulatory, enforcement or oversight functions with respect to any government contract or procurement matter whatsoever, including without limitation any such matter relating to Mr. Jimenez. This includes any authority available to SBA pursuant to statute and regulations, and it includes but is not limited to the ability of SBA to file a size protest pursuant to 13 C.F.R. Part 121. In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect other provisions of this Agreement.
18. **TIME.** Time is of the essence of this Agreement and with respect to the performance of, compliance with, and receipt of the benefit of, all rights, duties and obligations hereunder. If, pursuant to any request by Mr. Jimenez, in any particular circumstance, SBA provides Mr.

Jimenez additional time to comply with any specific deadline hereunder, such decision by SBA shall not act as a waiver or modification of this provision; nor shall it diminish or limit the application of this provision or of any deadline herein or SBA's right to timely performance, in any other circumstance or situation during the term hereof.

DATED: 3-31-14

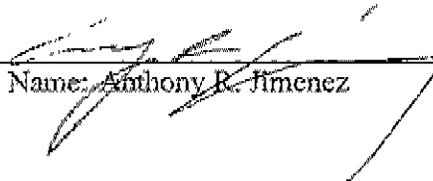
BY:



John W. Klein  
Associate General Counsel for Procurement Law  
Office of General Counsel  
U.S. Small Business Administration

DATED: 3/31/14

BY:



Name: Anthony R. Jimenez