



IT MASTER AGREEMENT

ADVANTAGE CONTRACT #: 25070100000000000001	ITP#: ITP-254907
COMMODITY/SERVICE DESCRIPTION: Data System – LEA Student Information Systems	
START DATE: 7/1/2025	END DATE: 6/30/2028

This Contract is between the following State of Maine Department and Provider:

STATE OF MAINE DEPARTMENT		
DEPARTMENT NAME: Office of State Procurement Services		
ADDRESS: 9 State House Station		
CITY: Augusta	STATE: ME	ZIP CODE: 04333
PROVIDER		
PROVIDER NAME: Edupoint Educational Systems		
ADDRESS: 1955 S Val Vista Dr. Suite 200		
CITY: Mesa	STATE: AZ	ZIP CODE: 85204
PROVIDER'S PROVIDER CUSTOMER #: VS0000020331		

Each signatory below represents that the person has the requisite authority to enter into this Contract.

Department Representative:  6/17/2026

BY: **Daniel A. Chuhta, Deputy
Commissioner** Date

Provider Representative:  7/2/26

BY: **Rob Wilson, President** Date

DAFS – Office of Information Technology:

DocuSigned by:

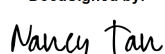


7/20/2026

BY: **Nicholas Marquis, CIO** Date

DAFS – Office of State Procurement Services:

DocuSigned by:



7/20/2026

BY: **Nancy Tan, Director of IT Procurements**
Date

The contract is fully executed when all parties sign and funds have been encumbered. Upon final approval by the Office of State Procurement Services, a case details page will be made part of this contract

DEPARTMENT AND PROVIDER POINT OF CONTACT

AGREEMENT ADMINISTRATOR: The following person is designated as the Agreement Administrator on behalf of the Department for this Contract.

NAME: Kimberly A Hall	
EMAIL: Kimberly.A.Hall@maine.gov	TELEPHONE: 207-816-0429

PROCUREMENT SERVICE MA MANGER: The Procurement Services MA Manager manages the MA contract documents. All other communication is to be with the agency the services were provided to.

NAME: Katie Boynton	
EMAIL: Katie.Boynton@maine.gov	TELEPHONE: 207-592-6989

PROVIDER CONTACT: The Provider contact person will help consumers place orders, inquire about orders that have not been delivered, all shipping issues, quality issues and any issues pertaining to the Master Agreement (MA) contract. All orders not submitted through a Delivery Order will be sent through the Provider contact person. The Provider contact person for this MA is:

NAME: Mark Wilson		
EMAIL: mwilson@edupoint.com		TELEPHONE: 480-633-7500
ADDRESS: 1955 S Val Vista Dr. Suite 200		
CITY: Mesa	STATE: AZ	ZIP CODE: 85204

Any changes to the individuals identified above may be changed at any time through written notice by either party.

TABLE OF RIDERS

The following riders are hereby incorporated into this Contract and made part of it by reference.	
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☒	RIDER B-IT – Payment and Other Provisions
☒	RIDER C – Exceptions
☒	RIDER G - Debarment, Performance, and Non-Collusion Certification
☒	RIDER H - Identification of Country in Which Contracted Work will be Performed
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RIDER A: SPECIFICATIONS OF WORK TO BE PERFORMED

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I. ACRONYMS/DEFINITIONS:

The following terms and acronyms shall have the meaning indicated below as referenced in this Master Agreement:

COMMONLY KNOWN ACRONYMS AND DEPARTMENT ABBREVIATIONS	
Master Agreement (MA)	Formal and legal binding agreement
DO	Delivery Order
Department	State of Maine Department Entering into this Master Agreement
Provider	Organization providing services under this Master Agreement
State	State of Maine
OIT	Office of Information Technology
District	Any school administrative unit (SAU) that purchases the Licensed Product. For the purposes of this Contract, the terms District, LEA, and SAU are synonymous.
Conforming Districts	An SAU is considered a conforming district if it is on the conforming district list. The Department will make the list available annually before June 1 st .

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SAU	School Administrative Unit as defined in 20-A M.R.S. §1(26) .
SIS	Student Information System. A software application for education establishments to manage student data.
SLA	Service level agreement
SSL	Single Socket Layer
CTE	Career and Technical Education
SIF	Systems Interoperability Framework
LEA	Local Education Agency is a public entity responsible for directing public education in a local geographic area. For the purposes of this Contract, the term LEA is inclusive of SAUs and schools in Maine accepting publicly funded students.
CEDS	Common Education Data Standards (CEDS) a key set of education data elements to streamline the exchange, comparison, and understanding of data within and across P-20W institutions and sectors.
MFA	Multi-factor authentication
MEDMS	Maine Education Data Management System
SOW	Statement of Work
NDA	Non-Disclosure Agreement
API	Application Programming Interface

II. INTRODUCTION/OVERVIEW:

The purpose of this master agreement (MA) is to procure student information system (SIS) services to provide state level student information and reporting for Maine School Administrative Units (SAUs). This master agreement defines the standard offer.

The Maine Department of Education participates in the financing of SIS for conforming districts. Maine DOE will cover the cost of Hosting, Licensing, Security Certificates and Maintenance & Support per these requirements.

In the State of Maine, there are approximately 559 public schools within 194 local education agencies operating schools, one magnet school, eight career and technical education (CTE) regions, and two state operated programs. Most SAUs in the State of Maine utilize a SIS. Information for approximately 172,000 public school students is being recorded on a daily basis.

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The following table details the statewide attending enrollment totals of all the public SAUs within each membership configuration and is provided for information only. These numbers were taken from the October 1, 2024 count.

Attending Enrollment	# of Public SAUs	# Conforming Districts
Less than 250	81	69
250 – 499	27	27
500-999	26	25
1000-1999	33	32
2000-3999	25	25
4000-6000	1	1
More than 6000	1	1

III. CONTRACT PERIOD:

Start 7/1/2025 through 6/30/2028

Following the initial term of the contract, the Department, at their discretion, may opt to extend / renew the contract for up to one (1) two (2) year and one (1) one (1) year extension periods.

- ☒ Initial Term
- ☐ First Renewal
- ☐ Second Renewal

IV. AUTHORIZED USER:

State of Maine Departments authorized to utilize this MA contract:

All State of Maine Departments, Agencies

Municipalities, political subdivisions, and school districts in Maine:

- ☐ Are NOT permitted to utilize this MA.

- ☒ Are permitted to utilize this MA as written.
- ☐ Are permitted to utilize this MA with the following conditions:

V. ORDERING PROCEDURES:

A. State Agencies

Delivery Orders (DO) will be created in AdvantageME for all orders from State Agencies. All DOs must include a quote for the commodities and/or services provided.

B. Conforming Districts

Quotes for annual licensing, hosting by environment, maintenance & support and Single Socket Layer (SSL) certificate (if needed) for conforming districts will be submitted annually to Maine DOE. DOs for each Provider and their conforming districts will be created annually by the Maine DOE Education Data Systems Manager for payment processing. DO's over \$5,000 will be emailed to the Provider's email address referenced on the MA as a .pdf file.

C. Other

Public school systems and/or municipalities will handle their own orders and will be responsible for all payments.

- **Responsibility for Orders:** Will handle their own orders independently.
- **Payment Responsibility:** Will be responsible for all payments related to orders.
- **Statement of Work (SOW):** For a quote that includes implementation services, a project specific SOW may be required to be attached to the Delivery Order (DO).
 - The Provider must enter into data sharing agreements with the conforming districts and all entities utilizing this agreement to ensure all student data privacy and security statutes and data sharing provisions are observed.

VI. SPECIFICATIONS/SCOPE OF WORK:

A. Provider Responsibilities

1. The Provider will provide a standard offer Student Information System configuration including, but not limited to, the requirements listed in this agreement for use by a conforming district or other Maine SAU (or entity eligible to purchase under this MA.)

B. Eligibility Requirements

1. Eligibility requirements to participate in the MA are as follows:
 - i. The State has specific **performance criteria**.
 - ii. Selected Providers may negotiate to configure or customize additional functionality beyond the requirements stated in this MA.
 - iii. This custom functionality will not be part of the MA and must be negotiated separately at the SAU level with the selected provider.

- iv. All selected Providers must accommodate any conforming district that contacts them. Once a Provider enters into a contract, they may not turn away any interested conforming district. Failure to accommodate may be grounds for **termination of eligibility under this MA**.

C. SIS Software Solutions

- 1. The Department seeks **Student Information System (SIS)** software solutions that can be hosted:
 - i. By qualified Provider or in the cloud.

D. Software Flexibility and Compliance

The software must be flexible to adapt to constantly changing legislative mandates, satisfy reporting obligations at **local, state, and federal** levels, and ensure effective oversight of SAUs in accordance with **Maine laws and regulations**.

VII. GENERAL REQUIREMENTS

A. Student Demographics

- 1. Basic Census Data: The system must capture basic census data, including:
 - i. Demographics
 - ii. Address
 - iii. Relationships
- 2. Student Level Data: The system must capture the following student-level data:
 - i. Legal Name
 - ii. Preferred Name
 - iii. Sex
 - iv. Date of Birth
- 3. Guardian Information: The system must allow for the indication of a guardian.
- 4. Guardian at 18 Years of Age: Provide an easily configurable way to identify the student as their own guardian once they turn 18 years of age.
- 5. Secondary Household Information: The system must allow for the indication of primary and secondary households.
- 6. Address Queries and Reporting: The system must facilitate easy querying and reporting of address information.
- 7. Homeless Student Identification: The system must allow for the indication that a student is homeless and does not have a fixed address.
- 8. Unique Student IDs: The system must allow for the association of students to unique state IDs and school student IDs.

B. Attendance:

- 1. Tracking Student Attendance:
 - i. The system must track students based on grade spans inclusive of early childhood, elementary & secondary.
- 2. Flexibility in Attendance Recording:
 - i. Provide flexibility in how attendance is taken, including the ability to record attendance by:
 - a. Time
 - b. Period

- c. Day
 - d. Using various attendance codes.
 - 3. At-Risk Students Identification:
 - i. The system must allow for identification of at-risk students based on:
 - a. Daily attendance
 - b. Period attendance
 - c. Historical data by student
 - 4. State Reporting:
 - i. Ability to report daily attendance data for state reporting.
- C. Custom Functionality:
 - 1. The system must allow for the addition of custom fields and functionality. SAUs can add user-defined fields at no additional cost. Custom fields and functionality added by Edupoint are at an additional cost.
- D. Grading:
 - 1. Customizable Grading and Scales:
 - i. The system must allow customization of grading and grading scales.
 - 2. Flexible Grading Posting:
 - i. Ability to post standard grades subjectively and flexibly, both calculated and uncalculated.
 - 3. Student/Standard-Centered Grading:
 - i. The system must be student and standard-centered for grading.
- E. Programs and Services:
 - 1. Career and Technical Education (CTE) Data:
 - i. The system must capture and report on State of Maine-specific Career and Technical Education (CTE) data at both enrollment and program levels.
 - 2. Special Education Data:
 - i. The system must capture and report on State of Maine required special education student data elements.
 - 3. Truancy Data:
 - i. The system must capture and report truancy data per State of Maine requirements.
 - 4. Behavior Data
 - i. The system must capture and report behavior data per State of Maine requirements.
 - 5. Restraint and Seclusion Data
 - i. The system must capture and report restraint & seclusion data per State of Maine requirements.
 - 6. Multilingual Learner Data
 - i. The system must capture and report multilingual learner data per State of Maine requirements.
- F. Scheduling Requirements:
 - 1. Schedule Structure Styles:
 - i. Support various schedule structure styles, including but not limited to:
 - a. Waterfall
 - b. Alternating block
 - c. Semesters
 - ii. **Note:** It is not expected that all structure styles will be utilized at the same time.

2. Attendance Accountability:
 - i. Ability to define which classes are accountable for attendance.
3. Grading Accountability:
 - i. Ability to define which classes are accountable for grading.
4. Schedule Editing:
 - i. The system must easily allow the creation or editing of student schedules after the initial scheduling.
5. Section Building:
 - i. The system must allow for easy section building and scheduling.
6. Basic Section Build Rules:
 - i. The system must provide basic rules for section building.
7. Course Requests:
 - i. Support course requests for/by students, including:
 - a. Students requesting specific courses
 - b. Guidance counselors/schedulers using this information to build schedules
 - c. An automatic system for building/loading schedules based on course requests
8. User-Friendly Schedule:
 - i. The system must provide an easy-to-use schedule for students and staff, including:
 - a. Printing
 - b. Mobile app
 - c. Online portal
9. Data Protection During Scheduling:
 - i. The system must include controls to prevent data loss during scheduling changes, such as:
 - a. Warnings/stopping users from deleting section information and losing grade or attendance data.

G. Student Enrollment:

1. State of Maine Reporting Requirements:
 - i. The system must comply with the State of Maine Reporting Requirements, which are currently available at: MEDMS Data Systems Support | Department of Education. [MEDMS Data Systems Support | Department of Education](#) . Requirements will always be linked off the Department's Helpdesk webpage and may change annually.

H. Transcripts:

1. Ease of Building Transcripts:
 - i. The system must provide a simple interface for manual entry of transcript items.
2. Customizable Transcripts:
 - i. The system must allow the creation of both proficiency/competency-based and traditional transcripts.
3. District and State Requirements:
 - i. Transcripts should be customizable to include district and school requirements, as well as state requirements.

VIII. TECHNICAL REQUIREMENTS:

- A. Accessibility: All IT products must be accessible to persons with disabilities and must comply with State Accessibility Policy and Standards and the Americans with Disabilities Act. All IT applications must comply with the Digital Accessibility Policy (<https://www.maine.gov/oit/sites/maine.gov/oit/files/inline-files/DigitalAccessibilityPolicy.pdf>).
- B. State IT Policies: All IT products and services delivered as part of this Agreement must conform to the State IT Policies, Standards, and Procedures (<https://www.maine.gov/oit/policies-standards>) effective at the time this Agreement is executed.
- C. The Provider shall have annual audits in accordance with Standards for Attestation Engagements (SSAE) Reporting on Controls at a Service Organization (SOC), including submission to OIT of the Provider's SOC 2 Type II, annually and upon request by OIT, performed on its operations. A copy of the SOC2 report is available with a signed non-disclosure agreement (NDA).
- D. Technical Assessment: The State of Maine requires Providers to demonstrate they have the appropriate security controls in place to protect sensitive and/or confidential information and compliance with State IT Policies. An assessment document and timeline for completion of the assessment document will be provided for this purpose. Providers must show either current StateRAMP certification or provide documentation that they have met all equivalent (to StateRAMP) cloud hosting technical requirements. Failure to demonstrate compliance by the required date may result in termination of the Agreement.
- E. Security and Role-Based Access:
 - 1. The system must provide:
 - i. User Access Management that includes future use of valid authentication and authorization mechanisms including multi-factor authentication (MFA) for secure login.
 - ii. Group and role-based security, down to individual fields for the following roles:
 - a. Teachers
 - b. Parents
 - c. Admins
 - d. Clerical Staff
 - e. Data/Technology Staff
 - iii. Audit logging of successful and unsuccessful login attempts to the system electronically through direct access or by using database reporting tools, including but not limited to:
 - a. User Login Location
 - b. History of user's activity within the system; and
 - c. All electronic access to the background review database.
 - iv. Scalable performance to reliably support 100 concurrent users under typical and peak operational conditions.

E. Device Operating System

1. The system must support access from commonly used desktop and mobile operating systems and must allow mobile access through mobile-enabled browsers, dedicated applications, or other compatible computing modules, in alignment with current industry standards and best practices. The system must support the following client desktop operating systems:

- i. Windows
- ii. Chrome OS
- iii. Mac OSX
- iv. iOS
- v. Android

F. API Integration

1. The system must provide support for both custom and standardized APIs to facilitate integration with external systems, adhering to agency-defined interface specifications, web services protocols, and applicable technical standards. API's are at an additional cost and based on an agreed upon scope of work.

G. Software Environments:

1. Production
2. Testing/Training

H. Approved Browsers

1. The solution must be fully web-based and operate using standard, supported web browsers without the need for additional client-side software, plug-ins, or components.

I. Data, Reporting, and Analysis

1. Data Upload from External Sources:
 - i. The application must allow the ingestion of data from external data sources using:
 - a. An integrated ETL (Extract, Transform, Load) tool
 - b. File upload, including SFTP
 - c. APIs
2. SQL Connectivity:
 - i. The application must allow specific SAU staff to access the database directly through scripting and custom links to SQL for reporting.
3. Ad-Hoc/Custom Reports:
 - i. The system must provide the ability to run/create ad-hoc/custom reports.
4. Read/Write Access to Backend Database:
 - i. The system must allow specific district staff to have read/write access to the back-end database.
5. Data Import/Export:
 - i. The application must support the import and export of data in various file formats, including but not limited to:
 - d. Excel
 - e. PDF

- f. XML
- g. CSV
- h. TXT

J. System Adaptability:

1. The system must be capable of evolving as changes occur in both State and Federal reporting requirements.
2. The Provider will be responsible for developing and implementing any changes mandated by state and federal law at no additional cost to the SAU. When changes to federal or state statute require changes to existing functionality, the Department will notify the provider by April 1 for the upcoming school year. The Department will work closely with the Provider to determine how best to implement required state or federal changes.
3. The system must provide complete solutions for all mandated Maine state reporting requirements.

K. Business Rules and Management

1. The system must provide configurable business rules and validation management to ensure data quality.

L. Operational Functionality

1. The System must:
 - i. Provide customizable workflows to support data collection, audit, and tracking processes
 - ii. Guide users through tasks with clear labels and instructions; detect and suggest corrections for input errors where appropriate
 - iii. Allow users to review, confirm, and correct information before finalizing actions
 - iv. Easily reverse or correct undesired actions and enable users to save partially completed work and resume it at a later time.

M. Data Handling and Format Requirements for SIF API:

1. Data must be sent according to the Maine SIF Profile using either SIF v2.7 or Unity protocols.
2. Record Transmission Format:
 - i. SIF 2.7: XML must be used as the record format.
 - ii. SIF Unity: PESC-JSON Notation should be used.
3. Near Real-Time Events:
 - i. Using either SIF 2.7 or SIF Unity, the SIS must emit Create/Update/Delete events as they occur. These events should contain complete and valid records, not just the part of the object that changed.
 - a. Example: If a student's first name changes, the entire StudentPersonal record should be sent as an UPDATE event.
4. Event Transmission via SIF Unity
 - i. For SIF Unity, batched events should be used, especially during high-load times, such as the beginning of terms. Unlike SIF 2.7, which is constrained to

sending only 1 record per event, SIF Unity allows for more efficient processing by sending multiple records in a single payload.

N. Request/Response Handling for SIF API:

1. SIF 2.7 Agents: The SIS should implement polling for handling asynchronous requests from providers.
2. SIF Unity Adapters: Both IMMEDIATE and DELAYED request/response types will be supported. Providers should specify their preference.

O. Authentication for SIF API:

1. For SIF Unity adapters, SIF HMAC SHA256 is supported for secure authentication.

P. State Student Identifier Updates for SIF API:

1. The system will integrate with SEA data integration platform for assigning State Identifiers to students.
 - i. When the system receives a student without a State ID, a request will be made to SEA data integration platform to assign a new one.
 - ii. This State ID update will be sent (via SIF) to the SIS.
2. SIF 2.7 Agent Integration
 - i. A SIF 2.7 Agent will receive a StudentPersonal UPDATE event containing the student's RefID and newly assigned State ID.
3. SIF Unity Adapter Integration
 - i. A SIF Unity adapter will receive a StudentPersonal UPDATE request with the student's RefID and newly assigned State ID.

Q. Compliance and Standards:

1. The Provider must enter into, and at all times be in compliance with, data sharing agreements with the conforming districts to ensure all student data privacy and security statutes and data sharing provisions are observed.
2. The SIS must comply with the following State and Federal compliance requirements:
 - i. **State of Maine Reporting Requirements:** Link to MEDMS Support [MEDMS Data Systems Support | Department of Education](#). Requirements will always be linked off the Department's Helpdesk webpage and may change annually.
 - ii. **FERPA:** Family Educational Rights and Privacy Act ([FERPA website](#))
 - iii. **HIPAA:** Health Insurance Portability and Accountability Act ([HIPAA])
3. The SIS must be in compliance with the following education data standards (if applicable):
 - i. **CEDS:** CEDS is a national collaborative effort to develop voluntary, common data standards for a key set of education data elements to streamline the exchange, comparison, and understanding of data within and across P-20W institutions and sectors. <http://ceds.ed.gov>
 - ii. **SIF Data Model:** Open-Source Data Model for representing and transmitting educational information.
 - iii. **SIF Infrastructure:** Protocol for transmitting educational information

4. The Provider is encouraged to adopt but the SIS is not required to utilize the following data models and standards:
 - i. **OSC SEDM** – Open-Source Community Special Education Data Model
 - ii. **One Roster** – A protocol and format for secure exchange of class roster information between applications

R. Changes in Operations or Architecture

1. The Provider must provide the SAUs with at least thirty (30) days' advance written notice of any planned material change to network operations or architecture. No material change may be implemented without prior written approval. A material change includes any significant modification that impacts system performance, increases complexity, reduces service quality, or otherwise affects user operations.

IX. DATA MIGRATION AND RETENTION

- A. In the case of new implementation, the current system must support the secure migration of operational data into a new platform, ensuring data integrity, consistency, and accessibility without loss. Data conversion is a part of implementation services which carry an additional cost.
- B. Migration processes must include thorough testing, validation, and error checking prior to go-live.
- C. The system must also provide capabilities for the secure retention and archiving of historical data, ensuring compliance with applicable laws, regulatory requirements, and reporting needs, with reliable retrieval for audit and operational purposes.

X. QUALITY ASSURANCE AND ACCEPTANCE

- A. Provide Quality Management, to ensure that the project satisfies the needs for which it was undertaken.
- B. Develop a plan for the overall system and user acceptance testing, to include but not be limited to:
 1. **Testing:** Prior to moving the proposed system to the production environment, test all aspects of the solution.
 2. **Test Plan:** In cooperation with the SAU, create a test plan. The Test Plan shall:
 - i. Describe the strategy for ensuring that new systems and all interfaces function properly when releasing new versions of any software application;
 - ii. Indicates at what point in a new release the SAU will receive access to new versions of software or applications; and
 - iii. Ensure all components of the application are tested in a non-production environment, to ensure that the application test responses represent the exact behavior that will be expected of the application in the production environment.
 3. **Test Execution:**
 - i. Schedule and coordinate all testing activities to ensure that each of the tests are prepared for and performed in accordance with the test plan.
 - ii. Train SAU personnel as appropriate to participate in the testing effort.

- iii. Unless specified otherwise within the test plan, provide all tools, testing materials, and resources necessary to effectively perform the required tests.
 - iv. Certify that the System is fully secure for all work provided under this procurement.
4. **Acceptance:** System acceptance of the solution will occur following:
- i. System implementation;
 - ii. Demonstration that the System successfully provides all the functionality required by the SAU; and
 - iii. The System meets or exceeds the performance standards in the contract.
5. The Provider must obtain a Go/No-Go decision from the district prior to making changes in the production environment.

XI. USER TRAINING AND DOCUMENTATION

- A. Provide Documentation and Training on Database Schema
- B. Provide training on the creation of custom fields and functionality.
- C. Provide training on basic application functionality, including annual training and onboarding training to ensure proficient use of the SIS functions available to SAU staff. Annual training shall include training on any new functionality being released. Additional training will be billed at standard daily professional service rates, and if delivered on-site, associated travel expenses will also apply.
- D. Provide online tutorials to assist users in learning the software.
- E. User Group: Providers shall offer to host, or agree to attend, periodic meetings of SIS user groups for their users. Attendance is expected to be no less than quarterly.

XII. CUSTOMER SUPPORT AND MAINTENANCE

- A. Customer Support Response Time: The Provider must guarantee a response time for technical support requests.
- B. Major Outage: A "Major Outage" is defined as one of the following: (i) a complete failure of the Edupoint Products that results in the inability by Licensee to use the Edupoint Products, (ii) the loss, corruption or unintended migration of Licensee Content related to Edupoint Products, (iii) the loss of an Edupoint Products function that supports an urgent business process (i.e. report card issuance), or (iv) an Edupoint Products interface failure that results in the inability by the Licensee to use the Edupoint Products.

"Response" is defined as contacting the Licensee in response to receipt of a trouble ticket and working with Licensee to solve the problem. Once a trouble ticket has been documented, updates will be provided to the Licensee a minimum of twice a day until a Major Outage has been resolved or the urgency level associated with the trouble ticket has been downgraded by the Licensee. Provider will work diligently to solve all Licensee problems; however, Provider cannot provide any guarantee as to when a Major Outage will be resolved. E-support response time is within two (2) business hours and phone support response time is within one (1) business hours

- C. **Non-Major Outage:** A “Non-Major Outage” is any outage that does not meet the criteria of a Major Outage defined above.

“Response” is defined as contacting the Licensee in response to receipt of a trouble ticket and working with the Licensee to solve the problem. Once a trouble ticket has been documented, updates will be provided to the Licensee on a reasonable ongoing basis until a Non-Major Outage is resolved. Company will work diligently to solve all Licensee problems; however, Company cannot provide any guarantee as to when a Non-Major Outage will be resolved. E-support response time is within two (2) business days and phone support response time is within one (1) business day.

D. Support Hours:

1. Customer support for system administrators must be available from at least 6AM to 6PM Eastern Standard Time and 7AM to 7PM Eastern Daylight Savings Time, Monday through Friday.

- E. Business Continuity: The Provider is responsible for providing a Disaster Recovery and Business Continuity Plan. The plan should include but not be limited to the following:

1. Parameters regarding system “downtime”
2. Identified system elements or components impacted and the overall impact to the system functionality.
3. Processes for data recovery if necessary
4. Communication strategies regarding system status and functionality

- F. The Provider will be required to perform a full disaster recovery test at least annually, to verify the plan’s effectiveness and readiness for any potential disasters.

G. Availability, Performance, Backup and Recovery:

1. The Provider is responsible for system backups. If the system has to be restored, it must be recovered in less than eight (8) hours or Recovery Time Objective (RTO), with no more than twenty-four (24) hours of data loss or Recovery Point Objective (RPO).
2. Maintain an availability metric of ninety-nine and a half percent (99.5 percent) of uptime in a calendar month, as measured by the number of actual hours available as a percentage of total hours. Expectation of 24/7 availability.
3. Provide a hosting environment with adequate capacity to always ensure prompt response.
4. Response Times: Response times are based on industry standard values. Many variable impact exact response times. Monitoring for variance beyond normal tolerance will be based on business impact and will be aware of variable such as peak/non-peak times/seasons or unforeseen circumstances.

RIDER B-IT: METHOD OF PAYMENT AND OTHER PROVISIONS

1. **INVOICES AND PAYMENTS.** Department will pay the Provider as follows: Payment terms are net 30 days from the date the State receives an error-free invoice with all necessary and complete supporting documents.

All invoices must include the following:

- A. Advantage Contract numbers for this contract
- B. Provider Code number assigned when registering as a Provider with the State of Maine. This number appears on all Contracts and Purchase Orders and can be acquired from the agency contact
- C. Itemizing all work performed during the invoice period, including the dates of service, rates of pay, hours of work performed, and any other information and/or documentation appropriate and sufficient to substantiate the amount invoiced for payment by the State.
- D. In cases where hourly rates of contracted resources are concerned, invoices must contain a copy or copies of time sheets associated with that invoice. Time sheets will need to be reviewed and approved by the State's contract administrator.

The Department may withhold a Retainage for project-based services in the following manner:

- i. The allowable payment amount from each project milestone payment will be multiplied by ten (10) percent, giving the amount that will be withheld from payment. Ninety (90) percent of the allowable project milestone payment amount will be paid to the Provider.
- ii. The Retainage will be held by the Department until the end of the warranty period.

2. **BENEFITS AND DEDUCTIONS.** If the Provider is an individual, the Provider understands and agrees that they are an independent contractor for whom no Federal or State Income Tax will be deducted by the Department, and for whom no retirement benefits, survivor benefit insurance, group life insurance, vacation and sick leave, and similar benefits available to State employees will accrue. The Provider further understands that annual information returns, as required by the Internal Revenue Code or State of Maine Income Tax Law, will be filed by the State Controller with the Internal Revenue Service and the State of Maine Bureau of Revenue Services, copies of which will be furnished to the Provider for their Income Tax records.
3. **INDEPENDENT CAPACITY.** In the performance of this Contract, the parties hereto agree that the Provider, and any agents and employees of the Provider, shall act in the capacity of an independent contractor and not as officers or employees or agents of the State.
4. **DEPARTMENT'S REPRESENTATIVE.** The Contract Administrator shall be the Department's representative during the period of this Contract. The Contract Administrator has authority to curtail services if necessary to ensure proper execution. They shall certify to the Department when payments under the Contract are due and the amounts to be paid. They shall make decisions on all claims of the Provider, subject to the approval of the Commissioner of the Department.

5. **CHANGES IN THE WORK.** The Department may order changes in the work, the Contract Amount being adjusted accordingly. Any monetary adjustment or any substantive change in the work shall be in the form of an amendment signed by both parties and approved by the State Purchases Review Committee. Said amendment must be effective prior to the execution of the changed work.
6. **SUB-CONTRACTORS.** The Provider may not enter into any subcontract for the work to be performed under this Contract without the express written consent of the Department. This provision shall not apply to contracts of employment between the Provider and its employees.

The Provider is solely responsible for the performance of work under this Contract. The approval of the Department for the Provider to subcontract for work under this Contract shall not relieve the Provider in any way of its responsibility for performance of the work.

All Subcontractors shall be bound by the terms and conditions set forth in this Contract. The Provider shall give the State immediate notice in writing of any legal action or suit filed, and prompt notice of any claim made against the Provider by any Subcontractor, which may result in litigation related in any way to this Contract, or which may affect the performance of duties under this Contract.

7. **SUBLETTING, ASSIGNMENT OR TRANSFER.** The Provider shall not sublet, sell, transfer, assign, or otherwise dispose of this Contract, or any portion thereof, or of its right, title, or interest therein, without the written request and written approval from the Department. Such approval shall not in any case relieve the Provider of its responsibility for performance of work or liability under this Contract.
8. **EQUAL EMPLOYMENT OPPORTUNITY.** During the performance of this Contract, the Provider certifies as follows:

- A. The Provider shall not discriminate against any employee or applicant for employment relating to this Contract because of race, color, religious creed, sex, national origin, familial status, ancestry, age, physical or mental disability, sexual orientation, or gender identity, unless related to a bona fide occupational qualification.

Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Provider agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- B. The Provider shall, in all solicitations or advertising for employees placed by, or on behalf of, the Provider, relating to this Contract, state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, familial status, ancestry, age, physical or mental disability, or sexual orientation, or gender identity.

- C. The Provider shall send to each labor union, or representative of the workers, with which it has a collective bargaining Contract, or other Contract or understanding, whereby it is

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furnished with labor for the performance of this Contract, a notice to be provided by the contracting agency, advising the said labor union or workers' representative of the Provider's commitment under this section, and shall post copies of the notice in conspicuous places, available to employees and applicants for employment.

- D. The Provider shall inform the contracting Department's Equal Employment Opportunity Coordinator of any discrimination complaints brought to an external regulatory body (Maine Human Rights Commission, EEOC, Office of Civil Rights, etc.) against their agency by any individual, as well as any lawsuit regarding alleged discriminatory practice.
- E. The Provider shall comply with all aspects of the Americans with Disabilities Act (ADA) in employment, and in the provision of service, to include accessibility and reasonable accommodations for employees and clients.
- F. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Contract so that such provisions shall be binding upon each Subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

9. **CONFLICT OF INTEREST.** The Provider warrants that no State employee has or will receive any direct or indirect pecuniary interest in or receive or be eligible to receive, directly or indirectly, any benefit that may arise from this Contract, for any employee who participated in any way in the solicitation, award or administration of this Contract according to [Title 5 MRS §18-A, \(2\)](#) and in harmony with [Title 17 MRS §3104](#). Any contract made in violation of these sections is void.

The Provider certifies that it presently has no interest and shall not acquire any interest which would conflict in any manner or degree with the performance of its services hereunder. The Provider further certifies that in the performance of this Contract, no person having any such known interests shall be employed.

10. **EMPLOYMENT AND PERSONNEL.** The Provider shall not engage on a full-time, part-time or other basis during the period of this Contract, any executive employee who participated in any way in the solicitation, award or administration of this Contract according to [Title 5 MRS §18-A, \(2\)](#) and in harmony with [Title 17 MRS §3104](#). Any contract made in violation of these sections is void.

11. **NON-COLLUSION.** The Provider warrants that it has not employed or contracted with any company or person, other than for assistance with the normal study and preparation of a proposal, to solicit or secure this Contract, and that it has not paid, or agreed to pay, any company or person, other than a bona fide employee working solely for the Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from, the award of this Contract.

And, the Provider has not entered into a prior understanding, agreement, or connection with any corporation, firm, or person submitting a response for the same materials, supplies, equipment, or services, and this proposal is in all respects fair and without collusion or fraud. The above-mentioned entities understand and agree that collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards.

For breach or violation of this provision, the Department shall have the right to terminate this Contract without liability or, at its discretion, to otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

12. ACCOUNTING, RECORDS, AND AUDIT.

- A. The Provider shall maintain all books, documents, payrolls, papers, accounting records, and other evidence pertaining to this Contract, including interim reports and working papers, and make such materials available at its offices at all reasonable times during the period of this Contract, and for a period of five (5) years following termination or expiration of the Contract. If any litigation, claim or audit is started before the expiration of the 5-year period, the records must be retained until all litigation, claims or audit findings involving the Contract have been resolved.
- B. Unless the Department specifies in writing a shorter period of time, the Provider agrees to preserve and make available all documents and records pertaining to this Contract for a period of five (5) years from the date of termination of this Contract.
- C. Records involving matters in litigation shall be kept for one year following the termination of litigation, including all appeals.
- D. Authorized Federal and State representatives shall have access to, and the right to examine, all pertinent documents and records during the five-year post-Contract period. During the five-year post-Contract period, delivery of, and access to, all pertinent documents and records will be at no cost to the Department.
- E. The Provider shall be liable for any State or Federal audit exceptions, if applicable, that arise out of any action, inaction, or negligence by the Provider. In the event of an audit exception for which the Provider is liable, the Provider shall have thirty (30) days to remedy that exception. If the Provider fails to remedy that exception within this time period, the Provider shall immediately return to the Department all payments made under this Contract which have been disallowed in the audit exception.
- F. Authorized State and Federal representatives shall at all reasonable times have the right to enter the premises, or such other places, where duties under this Contract are being performed, to inspect, monitor, or otherwise evaluate, the work being performed. All inspections and evaluations shall be performed in such a manner that will not compromise the work unreasonably.
- G. ACCESS TO PUBLIC RECORDS - As a condition of accepting a contract for services under this section, a contractor must agree to treat all records, other than proprietary information, relating to personal services work performed under the contract as public records under the freedom of access laws to the same extent as if the work were performed directly by the department or agency. For the purposes of this subsection, "proprietary information" means information that is a trade secret or commercial or financial information, the disclosure of which would impair the competitive position of the contractor and would make available information not otherwise publicly available. Information relating to wages and benefits of the employees performing the personal services work under the contract and information

concerning employee and contract oversight and accountability procedures and systems are not proprietary information. The Provider shall maintain all books, documents, payrolls, papers, accounting records and other evidence pertaining to this Contract and make such materials available at its offices at all reasonable times during the period of this Contract and for such subsequent period as specified under Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP) rules. The Provider shall allow inspection of pertinent documents by the Department or any authorized representative of the State of Maine or Federal Government, and shall furnish copies thereof, if requested. This subsection applies to contracts, contract extensions and contract amendments executed on or after October 1, 2009.

13. TERMINATION. The performance of work under this Contract may be terminated by the Department, whenever for any reason the Contract Administrator shall determine that such termination is in the best interest of the Department. Any such termination shall be affected by the delivery to the Provider of a Notice of Termination specifying the date on which such termination becomes effective.

Either party may terminate this Contract for cause by providing a written notice of termination stating the reason for the termination, a minimum of thirty (30) calendar day ahead of the effective date of the termination. As part of the thirty (30) calendar days written notice of termination, the defaulting party shall have fifteen (15) calendar days to cure the default. If the default is of such a nature that it cannot be cured within fifteen (15) calendar days, the defaulting party shall have such additional time, as the parties may agree to, to cure the default, provided the defaulting party has taken steps to cure the default within the initial fifteen (15) calendar days.

Upon termination, the Department shall pay the Provider for work performed by the Provider prior to the date of Notice of Termination.

14. GOVERNMENTAL REQUIREMENTS. The Provider warrants and represents that it will comply with all applicable governmental ordinances, laws, and regulations.

15. GOVERNING LAW. This Contract shall be governed in all respects by the laws, statutes, and regulations of the United States of America and of the State of Maine. Any legal proceeding against the State regarding this Contract shall be brought in the State of Maine administrative or judicial forums. The Provider consents to personal jurisdiction in the State of Maine.

16. STATE HELD HARMLESS. The Provider shall indemnify and hold harmless the Department and its officers, agents, and employees from and against any and all third party claims, liabilities, and costs, including reasonable attorney fees, for any or all injuries to persons or property or claims for money damages, including claims for violation of intellectual property rights, arising from the negligent acts or omissions of the Provider, its employees or agents, officers or Subcontractors in the performance of work under this Contract; provided, however, the Provider shall not be liable for claims arising out of the negligent acts or omissions of the Department, or for actions taken in reasonable reliance on written instructions of the Department.

17. NOTICE OF CLAIMS. The Provider shall give the Contract Administrator immediate notice in writing of any legal action or suit filed related in any way to this Contract , or which may affect the performance of duties under this Contract , and prompt notice of any claim made against the

Provider by any Subcontractor, which may result in litigation related in any way to this Contract , or which may affect the performance of duties under this Contract .

18. APPROVAL. This Contract must be approved by the State Controller and the State Purchases Review Committee before it can be considered a valid enforceable document.

19. INSURANCE REQUIREMENTS. The Provider shall procure and maintain insurance against claims for injuries to persons, or damages to property, which may arise from, or in connection to, the fulfillment of this Contract, by the Provider, its agents, representatives, employees, or Subcontractors. The insurance shall be secured by the Provider, at the Provider's expense, and maintained in force, at all times during the term of this Contract, and, for any claims-made (as opposed to occurrence-based) policy(ies), for a period of not less than two (2) years thereafter.

A. Minimum Coverage

- i. Errors & Omissions, or Professional Liability Insurance, or Insurance by any other name, covering the following:
 - a) All acts, errors, omissions, negligence, infringement of intellectual property (except patent and trade secret) in an amount not less than \$1,000,000 per occurrence, and as an annual aggregate;
 - b) Network security and privacy risks, including, but not limited to, unauthorized access, failure of security, breach of privacy, wrongful disclosure, collection, or other negligence in the handling of confidential information, related regulatory defense, and penalties in an amount not less than \$1,000,000 per occurrence, and as an annual aggregate;
 - c) Data breach expenses, in an amount not less than (see NOTE below and insert the appropriate limit based upon the number of Personally Identifiable Information records), \$1,000,000 and payable, whether incurred by the Department or the Provider; for and on behalf of the Department, including, but not limited to:
 - C.1) Consumer notification, whether or not required by law;
 - C.2) Forensic investigations;
 - C.3) Public relations and crisis management fees; and
 - C.4) Credit or identity monitoring, or similar remediation services.

The policy shall affirm coverage for contingent bodily injury and property damage arising from the failure of the Provider's technology services, or an error, or omission, in the content of, and information from, the Provider. If a sub-limit applies to any element of the coverage, the certificate of insurance must specify the coverage section and the amount of the sub-limit.

NOTE: Personally Identifiable Information (PII) is information that can be used to identify a single person, such as name, social security number, date and place of birth, mother's maiden name, driver's license, biometrics, etc. Maine State law also has a more specific definition in 10 M.R.S. §1347(6).

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The Data Breach component of the Insurance (per occurrence) is pegged to the number of PII records that are the subject of this Contract.

Number of PII Records	Insurance per Occurrence
<i>1 through 3,000</i>	<i>\$400,000</i>
<i>3,001 through 100,000</i>	<i>\$1,000,000</i>
<i>100,001 through 1,000,000</i>	<i>\$5,000,000</i>
<i>Greater than 1,000,000</i>	<i>\$10,000,000</i>

- ii. Workers' Compensation and employer's liability, as required by law;
 - iii. Property (including contents coverage for all records maintained pursuant to this Contract): \$1,000,000 per occurrence;
 - iv. Automotive Liability of not less than \$400,000 per occurrence single limit if the Provider will use vehicles to fulfill the contract;
 - v. Crime, in an amount not less than \$1,000,000 (The total monetary amount potentially at risk due to this contract; or Cash Currency and Negotiable Securities actually entrusted to this Provider); and
 - vi. Business Interruption, in an amount that would allow the Provider to maintain operations in the event of a Property loss.
- B. Other Provisions - Unless explicitly waived by the Department, the insurance policies shall contain, or be endorsed to contain, the following provisions:
- i. The Provider's insurance coverage shall be the primary and contributory. Any insurance or self-insurance maintained by the Department for its officers, agents, and employees shall be in excess of the Provider's insurance and shall not contribute to it.
 - ii. The Provider's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 - iii. The Provider shall furnish the Department with certificates of insurance, and with those endorsements, if any, affecting coverage, required by these Insurance Requirements. The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by the Department before this Contract commences. The Department reserves the right to require complete, certified copies of all required insurance policies at any time.
 - iv. All policies should contain a revised cancellation clause allowing thirty (30) days notice to the Department in the event of cancellation for any reason, including nonpayment.
 - v. The Department will not grant the Provider, or any sub-contractor of the Provider, "Additional Insured" status and the Department will not grant any Provider a "Waiver of Subrogation".

20. NON-APPROPRIATION. Notwithstanding any other provision of this Contract, if the State does not receive sufficient State, Federal, or other sources of funds to fund this Contract and other obligations of the State, if funds are de-appropriated, or if the State does not receive legal

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authority to expend funds from State or Federal legislative, executive or judicial bodies, then the State is not obligated to make payment under this Contract.

21. SEVERABILITY. The invalidity or unenforceability of any particular provision, or part thereof, of this Contract shall not affect the remainder of said provision, or any other provisions, and this Contract shall be construed in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

22. ORDER OF PRECEDENCE. In the event of a conflict between the documents comprising this Contract, the Order of Precedence shall be:

Rider C Exceptions

Rider B-IT Payment and Other Provisions

Rider A Specifications of Work to Be Performed

Rider G Debarment, Performance, and Non-Collusion Certification

Rider H Identification of Country in which contracted work will be performed

ATTACHMENT A: Confidentiality and Non-Disclosure Agreement

ATTACHMENT B: Price Sheet

Notice: No terms on provider's invoices, ordering documents, website, browse-wrap, shrink-wrap, click-wrap, click-through or other non-negotiated terms and conditions provided with any of the contract activities will constitute a part or amendment of this contract or is binding on the State for any purpose. All such other terms and conditions have no force and effect and are deemed rejected by the State, even if access to or use of the contract activities requires affirmative acceptance of such terms and conditions.

23. FORCE MAJEURE. The performance of an obligation by either party shall be excused in the event that performance of that obligation is prevented by an act of God, act of war, riot, fire, explosion, flood, pandemic or other catastrophe, sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, or strike or labor dispute, provided that any such event and the delay caused thereby is beyond the control of, and could not reasonably be avoided by, that party.

24. SET-OFF RIGHTS. The State shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any monies due to the Provider under this Contract, up to any amounts due and owing to the State with regard to this Contract, any other Contract with any State department or agency, including any Contract for a term commencing prior to the term of this Contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Controller.

25. ENTIRE CONTRACT. This document contains the entire Contract of the parties, and neither party shall be bound by any statement or representation not contained herein. No waiver shall be deemed to have been made by any of the parties unless expressed in writing and signed by the waiving party. The parties expressly agree that they shall not assert in any action relating to the

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Contract that any implied waiver occurred between the parties, which is not expressed in writing. The failure of any party to insist in any one or more instances upon strict performance of any of the terms or provisions of the Contract, or to exercise an option or election under the Contract, shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option or election, but the same shall continue in full force and effect, and no waiver by any party of any one or more of its rights or remedies under the Contract shall be deemed to be a waiver of any prior or subsequent rights or remedy under the Contract or at law.

26. AMENDMENT. No changes, modifications, or amendments in the terms and conditions of this Contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Provider.

27. DEBARMENT AND PERFORMANCE CERTIFICATION. By signing this Contract, the Provider certifies to the best of Provider's knowledge and belief that the aforementioned organization, its principals and any subcontractors named in this Contract:

- A. Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from bidding or working on contracts issued by any governmental agency.
- B. Have not within three years of submitting the proposal for this contract been convicted of or had a civil judgment rendered against them for:
 - i. Fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state or local government transaction or contract.
 - ii. Violating Federal or State antitrust statutes or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
 - iv. Have not within a three (3) year period preceding this proposal had one or more federal, state or local government transactions terminated for cause or default.

28. STATE PROPERTY. The Provider shall be responsible for the proper custody, care and return of any Department or State-owned property furnished or state-funded for the Provider's use in connection with the performance of this Contract, and the Provider will reimburse the Department for its loss or damage, normal wear and tear excepted.

29. CYBERSECURITY AND PROHIBITED TECHNOLOGIES: Through the execution of this contract, the Provider certifies that the aforementioned organization, its principals and any subcontractors named in this Contract:

- A. is not a foreign adversary business entity, <https://www.maine.gov/oit/prohibited-technologies>, [Title 5 M.R.S. §2021 \(3\)](#); and
- B. is not on the list of prohibited companies or does not obtain or purchase any information or communications technology or services included on the list of prohibited information and communications technology and services <https://www.maine.gov/oit/prohibited-technologies>, [Title 5 M.R.S. §2030-B](#).

Contracts entered into by a state agency in violation of [Title 5 M.R.S. §2030-B](#) are void. A person who executes this contract in violation of this section commits a civil violation for which a fine may be adjudged in an amount that is twice the amount of this contract or \$250,000, whichever is greater, ([Title 5 M.R.S., §2030-A](#)).

30. CONFIDENTIALITY.

- A. Subject to the Maine Freedom of Access Act (FOAA), [Title 1 M.R.S. §400](#) et seq., “confidential information” means non-public information designated as protected from disclosure under state or federal law. Confidential information given to the Provider by the Department, or acquired by the Provider on behalf of the Department, whether in verbal, written, electronic, or any other format, shall be subject to the requirements herein. The term “confidential information” does not include any information or documentation that is subject to disclosure under FOAA.
- B. In conformance with applicable Federal and State statutes, regulations, and ethical standards, the Provider and the Department shall take all necessary steps to protect confidential information regarding all persons served by the Department, including the proper care, custody, use, and preservation of records, papers, files, communications, and any such items that may reveal confidential information about persons served by the Department, or whose information is utilized in order to accomplish the purposes of this Contract.
- C. In the event of a breach of this confidentiality provision, the Provider shall notify the Contract Administrator immediately.
- D. The Provider shall comply with the [Maine Public Law, Title 10, Chapter 210-B \(Notice of Risk to Personal Data Act\)](#).

31. LIMITATION OF LIABILITY. The Provider’s liability to the Department, for damages sustained by the Department, as the result of Provider’s default, or acts, or omissions, in the performance of work under this Contract, whether such damages arise out of breach, negligence, misrepresentation, or otherwise, greater of any actual direct damages, up to the limits of the insurance required herein, or three times the value of the Product or Service that is the subject of this Contract, up to a maximum of \$25,000,000, but not less than \$400,000.

For instance, if this Contract is valued at \$15,000,000, then the Provider's liability is up to \$25,000,000. But if this Contract is valued at \$100,000, then the Provider's liability is no greater than \$400,000.

Notwithstanding the above, Provider shall not be liable to the Department for any indirect or consequential damages not covered by any of the insurances required herein.

32. INTERPRETATION OF THE CONTRACT.

- A. Reliance on Policy Determinations - The Department shall determine all program policy. The Provider may, from time to time, request the Department to make policy determinations, or to issue operating guidelines required for the proper performance of this Contract, and the Contract Administrator shall respond in writing in a timely manner. The Provider shall be

entitled to rely upon, and act in accordance with, such written policy determinations and operating guidelines, unless subsequently amended, modified, or changed in writing by the Department, and shall incur no liability in doing so unless the Provider acts negligently, maliciously, fraudulently, or in bad faith. Nothing contained in this Contract, or in any Contract, determination, operating guideline, or other communication from the Department shall relieve the Provider of its obligation to keep itself informed of applicable State and Federal laws, regulations, policies, procedure, and guidelines, to be in complete compliance and conformity therewith.

- B. Titles Not Controlling - Titles of sections and paragraphs used in this Contract are for the purpose of facilitating ease of reference only and shall not be construed to imply a contractual construction of the language.
- C. No Rule of Construction - This is a negotiated Contract and no rule of construction shall apply that construes ambiguous or unclear language in favor of or against any party.

33. PERIOD OF WORK. Work under this Contract shall begin no sooner than the date on which this Contract has been fully executed by the parties and approved by the Controller and the State Purchases Review Committee. Unless terminated earlier, this Contract shall expire on the date set out on the first page of this Contract, or at the completion and acceptance of all specified tasks, and delivery of all contracted products and services as defined in this Contract, including performance of any warranty and/or maintenance Contracts, whichever is the later date.

34. NOTICES. All notices under this Contract shall be deemed duly given: 1) upon delivery, if delivered by hand against receipt, or 2) five (5) business days following posting, if sent by registered or certified mail, return receipt requested. Either party may change its address for notification purposes by giving written notice of the change and setting forth the new address and an effective date.

35. ADVERTISING AND PUBLICATIONS. The Provider shall not publish any statement, news release, or advertisement pertaining to this Contract without the prior written approval of the Contract Administrator. Should this Contract be funded, in whole or in part, by Federal funds, then in compliance with the Steven's Amendment, it will be clearly stated when issuing statements, press releases, requests for proposals, bid solicitations, and other documents: (1) the percentage of the total cost that was financed with Federal moneys; and (2) the dollar amount of Federal funds.

36. LOBBYING.

- A. Public Funds - No Federal or State-appropriated funds shall be expended by the Provider for influencing, or attempting to influence, an officer or employee of any agency, a member of Congress or State Legislature, an officer or employee of Congress or State Legislature, or an employee of a member of Congress or State Legislature, in connection with any of the following covered actions: the awarding of any Contract; the making of any grant; the entering into of any cooperative Contract; or the extension, continuation, renewal, amendment, or modification of any Contract, grant, or cooperative Contract. Signing this Contract fulfills the requirement that Providers receiving over \$100,000 in Federal or State funds file with the Department on this provision.

- B. Federal Certification - Section 1352 of Title 31 of the US Code requires that funds appropriated to a Federal agency be subject to a requirement that any Federal Provider or grantee (such as the Department) certifies that no Federal funds will be used to lobby or influence a Federal officer or member of Congress.

The certification the Department has been required to sign provides that the language of this certification shall be included in the award documents for all sub-awards at all tiers (including sub-agreements, sub-grants, and contracts under grants, loans, and cooperative Contracts) and that all sub-recipients shall verify and disclose accordingly. The certification also requires the completion of Federal lobbying reports and the imposition of a civil penalty of \$10,000 to \$100,000 for failing to make a required report. As a sub-recipient, the Provider understands and agrees to the Federal requirements for certification and disclosure.

- C. Other Funds - If any non-Federal or State funds have been or will be paid to any person in connection with any of the covered actions in this section, the Provider shall complete and submit a "Disclosure of Lobbying Activities" form to the Department.

37. PROVIDER PERSONNEL.

- A. The parties recognize that the primary value of the Provider to the Department derives directly from its Key Personnel assigned in the performance of this Contract. Key Personnel are deemed to be those individuals whose résumés were offered by the Provider in the Proposal. Therefore, the parties agree that said Key Personnel shall be assigned in accordance with the time frames in the most recent mutually agreed upon project schedule and work plan, and that no re-deployment or replacement of any Key Personnel may be made without the prior written consent of the Contract Administrator. Replacement of such personnel, if approved, shall be with personnel of equal or greater abilities and qualifications.
- B. The Department shall retain the right to reject any of the Provider's employees whose abilities and qualifications, in the Department's judgment, are not appropriate for the performance of this Contract. In considering the Provider's employees' abilities and qualifications, the Department shall act reasonably and in good faith.
- C. During the course of this Contract, the Department reserves the right to require the Provider to reassign or otherwise remove any of its employees found unacceptable by the Department. In considering the Provider's employees' acceptability, the Department shall act reasonably and in good faith.
- D. In signing this Contract, the Provider certifies to the best of its knowledge and belief that it, and all persons associated with this Contract, including any Subcontractors, including persons or corporations who have critical influence on or control over this Contract, are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any Federal or State department or agency.
- E. During the course of this Contract, the Department reserves the right to require a background check on any of the Provider's personnel (employees and Subcontractors) that are in any way involved in the performance of this Contract.

38. PATENT, COPYRIGHT, AND OTHER PROPRIETARY RIGHTS.

- A. The Provider certifies that all services, equipment, software, supplies, and any other products provided under this Contract do not, and will not, infringe upon or violate any patent, copyright, trade secret, or any other proprietary right of any third party. In the event of any claim by a third party against the Department, the Department shall promptly notify the Provider and the Provider, at its expense, shall defend, indemnify, and hold harmless the Department against any loss, cost, expense, or liability arising out of such claim, including reasonable attorney fees.
- B. The Provider may not publish or copyright any data without the prior approval of the Department. The State and the Federal Government, if applicable, shall have the right to publish, duplicate, use, and disclose all such data in any manner, and for any purpose whatsoever, and may authorize others to do so.

39. PRODUCT WARRANTY. The Provider expressly warrants its products and services for one full year from their final written acceptance by the Department. The responsibility of the Provider with respect to this warranty is limited to correcting deficiencies in any deliverable using all the diligence and dispatch at its command, at no additional cost to the Department. The Provider is also responsible for correcting and/or updating any documentation affected by any operational support performed under this warranty provision.

40. COVER. If, in the reasonable judgment of the Contract Administrator, a breach or default by the Provider is not so substantial as to require termination, and reasonable efforts to induce the Provider to cure the breach or default are unavailing, and the breach or default is capable of being cured by the Department or by another contractor without unduly interfering with the continued performance by the Provider, then the Department may provide or procure the services necessary to cure the breach or default, in which event the Department shall withhold from future payments to the Provider the reasonable costs of such services.

41. OWNERSHIP.

- A. All data (including Geographical Information Systems data), notebooks, plans, working papers and other works produced, and equipment and products purchased in the performance of this Contract are the property of the Department, or the joint property of the Department and the Federal Government, if Federal funds are involved. The State (and the Federal Government, if Federal funds are involved) shall have unlimited rights to use, disclose, duplicate, or publish for any purpose whatsoever all information and data developed, derived, documented, or furnished by the Provider under this Contract, or equipment and products purchased pursuant to this Contract. The Provider shall furnish such information and data, upon the request of the Department, in accordance with applicable Federal and State laws.
- B. Upon termination of this Contract for any reason, or upon request of the Department, the Provider agrees to convey to the Department good titles to purchased items free and clear of all liens, pledges, mortgages, encumbrances, or other security interests.

42. CUSTOM SOFTWARE. For all custom software furnished by the Provider as part of this Contract, the following terms and conditions shall apply:

- A. The Department shall own all custom software. The Department shall grant all appropriate Federal and State agencies a royalty-free, non-exclusive, and irrevocable license to reproduce, modify, publish, or otherwise use, and to authorize others to do so, all custom software. Such custom software shall include, but not be limited to, all source, object and executable code, operating system instructions for execution, data files, user and operational/administrative documentation, and all associated administrative, maintenance, and test software that are relevant to this Contract.
- B. A fundamental obligation of the Provider is the delivery to the Department of all ownership rights to the complete system, free of any claim or retention of rights thereto by the Provider. The Provider acknowledges that this system shall henceforth remain the sole and exclusive property of the Department, and the Provider shall not use or describe such software and materials without the written permission of the Department. This obligation to transfer all ownership rights to the Department on the part of the Provider is not subject to any limitation in any respect.

43. OFF-THE-SHELF (OTS) SOFTWARE. For all OTS software purchased by the Provider as part of this Contract, the following terms and conditions shall apply.

- A. This Contract grants to the Department a non-exclusive and non-transferable license to use the OTS software and related documentation for its business purposes. The Department agrees that the Provider may, at its own expense, periodically inspect the computer site in order to audit the OTS software supplied by the Provider, installed at the Department's site, at mutually agreed upon times. In the event that a separate license Contract accompanies the OTS software, then the terms of that separate license Contract supersede the above license granted for that OTS software.
- B. This Contract does not transfer to the Department the title to any intellectual property contained in any OTS software. The Department will not decompile or disassemble any OTS software provided under this Contract, or modify any OTS software that bears the copyright notice of a third party. The Department will make and maintain no more than one archival copy (for back-up purpose) of each OTS software, and each copy will contain all legends and notices, and will be subject to the same conditions and restrictions as the original.
- C. If the CPU on which any OTS software is licensed becomes temporarily unavailable, use of such OTS software may be temporarily transferred to an alternative CPU until the original CPU becomes available.

44. SOFTWARE AS SERVICE. When the software is fully owned, hosted, and operated by the Provider, and the Department uses said software remotely over the Internet, the following terms and conditions shall apply:

- A. The Provider, as depositor, shall enter into an escrow contract, upon terms acceptable to the Department, with a recognized software Escrow Agent. The escrow contract must provide for the Department to be an additional party/beneficiary. The Provider shall deposit with the Escrow Agent the software, all relevant documentation, and all of the Department's

data, and all updates thereof (the "Deposit Materials"), in electronic format. Deposits will occur no less frequently than once a month.

- B. The escrow contract shall provide for the retention, administration, and controlled access of the Deposit Materials, and the release of the Deposit Materials to the Department, upon receipt of a joint written instruction from the Department and the Provider, or upon receipt of written notice from the Department that:
 - i. The Provider has failed to carry out its obligations set forth in this Contract; or
 - ii. A final, non-appealable judicial determination that the Provider has failed to continue to do business in the ordinary course; or
 - iii. The Provider has filed a voluntary petition in bankruptcy, or any voluntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors, or becomes subject to an involuntary petition in bankruptcy, which petition or proceeding is not dismissed or unstayed within sixty (60) days from the date of filing; or
 - iv. The Provider is in material breach of its maintenance and support obligations and has failed to cure such breach within thirty (30) days from the date of receipt by the Provider of written notice of such breach; or
 - v. A condition has occurred that materially and adversely impacts the Provider's ability to support the software and the Provider has failed to cure such condition within thirty (30) days from the date of receipt by the Provider of written notice of such condition.
- C. The Provider is responsible for all fees to be paid to the Escrow Agent.
- D. The Escrow Agent may resign by providing advance written notice to both the Department and the Provider at least thirty (30) calendar days prior to the date of resignation. In such an event, it is the obligation of the Provider to establish a new escrow account with a new Escrow Agent.

45. PRICE PROTECTION.

- A. The Provider shall ensure that all prices, terms, and warranties included in this Contract are comparable to, or better than, the equivalent terms being offered by the Provider to any present customer meeting the same qualifications or requirements as the Department. If, during the term of this Contract, the Provider enters into Contract(s) that provide more favorable terms to other comparable customer(s), the Provider shall provide the same terms to the Department.
- B. If Federal funding is used for the acquisition of products and/or services under this Contract, interest cannot be paid under any installment purchase or lease-purchase Contract entered into as a part of this Contract.

46. IRREVOCABLE LETTER OF CREDIT. In order to assure the Provider's faithful adherence to the terms and conditions of this Contract, the Provider shall submit an irrevocable letter of credit, acceptable to the Department, that is payable on demand. This letter of credit will be procured at the expense of the Provider, naming the Department as the beneficiary, in the entire Contract amount. In lieu of this requirement, the Department will accept a commitment letter from a recognized financial institution or investment fund stating that the Provider has sufficient capital to fund the obligations, and has legally committed such capital to fund the obligations, in accordance with this Contract. The letter of credit, or the equivalent commitment letter, shall specifically refer

STATE OF MAINE | IT MASTER AGREEMENT

to this Contract, and shall bind the parties to all the terms and conditions of this Contract. The Provider shall have fifteen (15) calendar days from the date of execution of this Contract to furnish the letter of credit or the equivalent commitment letter. Should the Provider fail to comply with this section, then the Department shall have the right to terminate this Contract without liability.

47. TARIFFS. Any price increases implemented by the provider due to the imposition of tariffs shall remain in effect only for the duration that such tariffs are in place. In the event of the repeal or reduction of any applicable tariff(s), the provider shall immediately return to the original price list or make a proportional reduction in the price to reflect the decrease in tariff(s). Price adjustments under this clause shall be made in good faith and without undue delay upon confirmation via documents reflecting tariff changes.

RIDER C: EXCEPTIONS TO RIDER B-IT

Rider B-IT Item #7 – SUBLETTING, ASSIGNMENT OR TRANSFER is amended to read as follows:

7. SUBLETTING, ASSIGNMENT OR TRANSFER. The Provider shall not sublet, sell, transfer, assign, or otherwise dispose of this Contract, or any portion thereof, or of its right, title, or interest therein, without the written request and written approval from the Department. Notwithstanding the foregoing, Provider may assign this Agreement or its rights, interest or obligations under this Agreement to a successor in interest to Provider, whether by way of asset sale, merger or other transfer of Provider or its business, without Licensee's consent. Such approval shall not in any case relieve the Provider of its responsibility for performance of work or liability under this Contract.

Rider B-IT Item #12 – ACCOUNTING, RECORDS, AND AUDIT is amended to read as follows:
12. ACCOUNTING, RECORDS, AND AUDIT.

- A. The Provider shall maintain all books, documents, payrolls, papers, accounting records, and other evidence pertaining to this Contract, including interim reports and working papers, and make such materials available at its offices at all reasonable times during the period of this Contract, and for a period of five (5) years following termination or expiration of the Contract. If any litigation, claim or audit is started before the expiration of the 5-year period, the records must be retained until all litigation, claims or audit findings involving the Contract have been resolved.
- B. Unless the Department specifies in writing a shorter period of time, the Provider agrees to preserve and make available all documents and records pertaining to this Contract for a period of five (5) years from the date of termination of this Contract.
- C. Records involving matters in litigation shall be kept for one year following the termination of litigation, including all appeals.
- D. Authorized Federal and State representatives shall have access to, and the right to examine, all pertinent documents and records during the five-year post-Contract period. During the five-year post-Contract period, delivery of, and access to, all pertinent documents and records will be at no cost to the Department.
- E. The Provider shall be liable for any State or Federal audit exceptions, if applicable, that arise out of any action, inaction, or negligence by the Provider. In the event of an audit exception for which the Provider is liable, the Provider shall have thirty (30) days to remedy that exception. If the Provider fails to remedy that exception within this time period, the Provider shall immediately return to the Department all payments made under this Contract which have been disallowed in the audit exception.
- F. Authorized State and Federal representatives shall at all reasonable times have the right to enter the premises, or such other places, where duties under this Contract are being performed, to inspect, monitor, or otherwise evaluate, the work being performed. All

inspections and evaluations shall be performed in such a manner that will not compromise the work unreasonably.

- G. **ACCESS TO PUBLIC RECORDS** - As a condition of accepting a contract for services under this section, a contractor must agree to treat all records, other than proprietary information, relating to personal services work performed under the contract as public records under the freedom of access laws to the same extent as if the work were performed directly by the department or agency. For the purposes of this subsection, "proprietary information" means information that is a trade secret or commercial or financial information, the disclosure of which would impair the competitive position of the contractor and would make available information not otherwise publicly available. ~~Information relating to wages and benefits of the employees performing the personal services work under the contract and information concerning employee and contract oversight and accountability procedures and systems are not proprietary information.~~ The Provider shall maintain all books, documents, payrolls, papers, accounting records and other evidence pertaining to this Contract and make such materials available at its offices at all reasonable times during the period of this Contract and for such subsequent period as specified under Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP) rules. The Provider shall allow inspection of pertinent documents by the Department or any authorized representative of the State of Maine or Federal Government, and shall furnish copies thereof, if requested. This subsection applies to contracts, contract extensions and contract amendments executed on or after October 1, 2009.

Rider B-IT Item #31 – LIMITATION OF LIABILITY is amended to read as follows:

- 31. LIMITATION OF LIABILITY.** The Provider's liability to the Department, for damages sustained by the Department, as the result of Provider's default, or acts, or omissions, in the performance of work under this Contract, whether such damages arise out of breach, negligence, misrepresentation, or otherwise, shall be the total amount of all payments made under this Agreement by the Department to the Provider during the 365 days preceding the cause of action. ~~greater of any actual direct damages, up to the limits of the insurance required herein, or three times the value of the Product or Service that is the subject of this Contract, up to a maximum of \$25,000,000, but not less than \$400,000.~~

~~For instance, if this Contract is valued at \$15,000,000, then the Provider's liability is up to \$25,000,000. But if this Contract is valued at \$100,000, then the Provider's liability is no greater than \$400,000.~~

~~Notwithstanding the above, Provider shall not be liable to the Department for any indirect or consequential damages not covered by any of the insurances required herein.~~

Rider B-IT Item #39 – PRODUCT WARRANTY is amended to read as follows:

- 39. PRODUCT WARRANTY.** The Provider expressly warrants its products and services for one full year commencing on the date the Provider places the Edupoint Products into production for either pilot or general deployment, whichever first occurs ~~from their final written acceptance by the Department.~~ The responsibility of the Provider with respect to this warranty is limited to correcting deficiencies in any deliverable using all the diligence and dispatch at its command, at no additional cost to the Department. The Provider is also responsible for

correcting and/or updating any documentation affected by any operational support performed under this warranty provision.

Rider B-IT Item #40 – COVER is amended to read as follows:

40. COVER. If, in the reasonable judgment of the Contract Administrator, a breach or default by the Provider is not so substantial as to require termination, and reasonable efforts to induce the Provider to cure the breach or default are unavailing, and the breach or default is capable of being cured by the Department or by another contractor without unduly interfering with the continued performance by the Provider, then the Department may provide or procure the services necessary to cure the breach or default, ~~in which event the Department shall withhold from future payments to the Provider the reasonable costs of such services.~~

Rider B-IT Item #41 – OWNERSHIP is amended to read as follows:

41. OWNERSHIP.

- A. All data (including Geographical Information Systems data), notebooks, plans, working papers and other works produced, and equipment and products purchased in the performance of this Contract are the property of the Department, or the joint property of the Department and the Federal Government, if Federal funds are involved. The State (and the Federal Government, if Federal funds are involved) shall have unlimited rights to use, disclose, duplicate, or publish for any purpose whatsoever all information and data developed, derived, documented, or furnished by the Provider under this Contract, ~~or equipment and products purchased pursuant to this Contract.~~ The Provider shall furnish such information and data, upon the request of the Department, in accordance with applicable Federal and State laws.
- B. Upon termination of this Contract for any reason, or upon request of the Department, the Provider agrees to convey to the Department good titles to purchased items free and clear of all liens, pledges, mortgages, encumbrances, or other security interests.

Rider B-IT Item #42 – CUSTOM SOFTWARE is struck in full:

42. CUSTOM SOFTWARE. ~~For all custom software furnished by the Provider as part of this Contract, the following terms and conditions shall apply:~~

- ~~A. The Department shall own all custom software. The Department shall grant all appropriate Federal and State agencies a royalty free, non-exclusive, and irrevocable license to reproduce, modify, publish, or otherwise use, and to authorize others to do so, all custom software. Such custom software shall include, but not be limited to, all source, object and executable code, operating system instructions for execution, data files, user and operational/administrative documentation, and all associated administrative, maintenance, and test software that are relevant to this Contract.~~
- ~~B. A fundamental obligation of the Provider is the delivery to the Department of all ownership rights to the complete system, free of any claim or retention of rights thereto by the Provider. The Provider acknowledges that this system shall henceforth remain the sole and exclusive property of the Department, and the Provider shall not use or describe such software and materials without the written permission of the Department. This obligation to transfer all~~

ownership rights to the Department on the part of the Provider is not subject to any limitation in any respect.

Rider B-IT Item #44 – SOFTWARE AS SERVICE is struck in full:

44. SOFTWARE AS SERVICE. When the software is fully owned, hosted, and operated by the Provider, and the Department uses said software remotely over the Internet, the following terms and conditions shall apply:

- ~~A. The Provider, as depositor, shall enter into an escrow contract, upon terms acceptable to the Department, with a recognized software Escrow Agent. The escrow contract must provide for the Department to be an additional party/beneficiary. The Provider shall deposit with the Escrow Agent the software, all relevant documentation, and all of the Department's data, and all updates thereof (the "Deposit Materials"), in electronic format. Deposits will occur no less frequently than once a month.~~
- ~~B. The escrow contract shall provide for the retention, administration, and controlled access of the Deposit Materials, and the release of the Deposit Materials to the Department, upon receipt of a joint written instruction from the Department and the Provider, or upon receipt of written notice from the Department that:

 - ~~i. The Provider has failed to carry out its obligations set forth in this Contract; or~~
 - ~~ii. A final, non-appealable judicial determination that the Provider has failed to continue to do business in the ordinary course; or~~
 - ~~iii. The Provider has filed a voluntary petition in bankruptcy, or any voluntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors, or becomes subject to an involuntary petition in bankruptcy, which petition or proceeding is not dismissed or unstayed within sixty (60) days from the date of filing; or~~
 - ~~iv. The Provider is in material breach of its maintenance and support obligations and has failed to cure such breach within thirty (30) days from the date of receipt by the Provider of written notice of such breach; or~~
 - ~~v. A condition has occurred that materially and adversely impacts the Provider's ability to support the software and the Provider has failed to cure such condition within thirty (30) days from the date of receipt by the Provider of written notice of such condition.~~~~
- ~~C. The Provider is responsible for all fees to be paid to the Escrow Agent.~~
- ~~D. The Escrow Agent may resign by providing advance written notice to both the Department and the Provider at least thirty (30) calendar days prior to the date of resignation. In such an event, it is the obligation of the Provider to establish a new escrow account with a new Escrow Agent.~~

Rider B-IT Item #46 – PRICE PROTECTION is struck in full:

45. PRICE PROTECTION.

- ~~A. The Provider shall ensure that all prices, terms, and warranties included in this Contract are comparable to, or better than, the equivalent terms being offered by the Provider to any present customer meeting the same qualifications or requirements as the Department. If, during the term of this Contract, the Provider enters into Contract(s) that provide more favorable terms to other comparable customer(s), the Provider shall provide the same terms to the Department.~~

~~B. If Federal funding is used for the acquisition of products and/or services under this Contract, interest cannot be paid under any installment purchase or lease purchase Contract entered into as a part of this Contract.~~

Rider B-IT Item #46 – IRREVOCABLE LETTER OF CREDIT is struck in full:

~~**46. IRREVOCABLE LETTER OF CREDIT.** In order to assure the Provider's faithful adherence to the terms and conditions of this Contract, the Provider shall submit an irrevocable letter of credit, acceptable to the Department, that is payable on demand. This letter of credit will be procured at the expense of the Provider, naming the Department as the beneficiary, in the entire Contract amount. In lieu of this requirement, the Department will accept a commitment letter from a recognized financial institution or investment fund stating that the Provider has sufficient capital to fund the obligations, and has legally committed such capital to fund the obligations, in accordance with this Contract. The letter of credit, or the equivalent commitment letter, shall specifically refer to this Contract, and shall bind the parties to all the terms and conditions of this Contract. The Provider shall have fifteen (15) calendar days from the date of execution of this Contract to furnish the letter of credit or the equivalent commitment letter. Should the Provider fail to comply with this section, then the Department shall have the right to terminate this Contract without liability.~~

RIDER G: DEBARMENT, PERFORMANCE, AND NON-COLLUSION CERTIFICATION

By signing this document, I certify to the best of my knowledge and belief that the aforementioned organization, its principals, and any subcontractors named in this proposal:

- a. Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from bidding or working on contracts issued by any governmental agency.*
- b. Have not within three years of submitting the proposal for this contract been convicted of or had a civil judgment rendered against them for:*
 - i. fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state or local government transaction or contract.*
 - ii. violating Federal or State antitrust statutes or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;*
 - iii. are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and*
 - iv. have not within a three (3) year period preceding this proposal had one or more federal, state or local government transactions terminated for cause or default.*
- c. Have not entered into a prior understanding, agreement, or connection with any corporation, firm, or person submitting a response for the same materials, supplies, equipment, or services and this proposal is in all respects fair and without collusion or fraud. The above-mentioned entities understand and agree that collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards.*

- Failure to provide this certification may result in the disqualification of the Bidder’s proposal, at the discretion of the Department.**

To the best of my knowledge all information provided in the enclosed proposal, both programmatic and financial, is complete and accurate at the time of submission.

Name:	Title:
Authorized Signature:	Date:

RIDER H: IDENTIFICATION OF COUNTRY IN WHICH CONTRACTED WORK WILL BE PERFORMED

Please identify the country in which the services purchased through this contract will be performed:

☒ **United States. Please identify state: Maine**

☐ **Other. Please identify country: Enter Country**

Notification of Changes to the Information:

The Provider agrees to notify the Office of State Procurement Services of any changes to the information provided above.



STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
OFFICE OF INFORMATION TECHNOLOGY (OIT)

ATTACHMENT A: CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

RFP / CONTRACT #: 25070100000000000001

THIS AGREEMENT is hereby executed between the State of Maine ("State"), acting by and through the Maine Office of Information Technology ("OIT") and Edupoint Educational Systems having a principal place of business at 1955 S Val Vista Drive, Suite 200, Mesa, AZ 85204 ("Provider"), and the participating LEA's, in relation to services and/or products to be provided by the Provider pursuant to 25070100000000000001 ("Contract") as of July 1, 2025 ("Effective Date").

1. Definitions

A. Authorized Person

"Authorized Person" is defined as a person authorized by OIT as having a need to receive, possess, store, access, view and/or use Confidential Information for an Authorized Use.

B. Authorized Use

"Authorized Use" is defined as the use of Confidential Information by the Provider or Authorized Persons, solely for the purpose of performing the Contract. Disclosure, display, use, duplication, storage or transmittal of Confidential Information, in any form, for any purpose other than that set forth in the Contract, including extrapolation or retention of summary information, data or business processes, even if without specific identifiers, shall be deemed an "unauthorized use."

C. Confidential Information

"Confidential Information" shall mean any information that OIT or the State, regardless of form or medium of disclosure (e.g., verbal, observed, hard copy, or electronic) or source of information (e.g., OIT, other state agencies, state employees, electronic systems, or third-party contractors) provides to Provider, or which Provider obtains, discovers, derives or otherwise becomes aware of as a result of Provider's performance of the Contract. It includes any sensitive information that may be protected from disclosure pursuant to a federal or state statutory or regulatory scheme intended to protect that information, or pursuant to an order, resolution or determination of a court or administrative board or other administrative body. In addition, information concerning OIT's information technology infrastructure, systems and software and procedures will be considered Confidential Information. It also includes a Provider's Service Organization Control audit report (SOC 2 Type 2) when submitted upon request to OIT and labeled as confidential.

Confidential Information shall not include information which the Provider can clearly demonstrate to OIT's reasonable satisfaction is:

- (a) information that is previously rightfully known to the Provider on a non-confidential basis without restriction on disclosure;
- (b) information that is or becomes, from no act or failure to act on the part of the Provider, generally known in the relevant industry or in the public domain; and
- (c) information that is independently developed by Provider without the use of Confidential



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Information.

At all times the State shall be the owner of any and all Confidential Information.

D. Services

“Services” is defined as the services to be performed by the Provider in connection with the operation or management of the Contract.

E. Provider

“Provider” is defined to include the Provider and the Provider’s respective employees, agents and subcontractors assigned by Provider and approved by the State to perform obligations under the Contract (all of the foregoing collectively referred to as “Representatives”).

2. Duty to Protect Confidential Information; Reporting Requirements

In consideration for the ability to perform the Services, the Provider shall hold all Confidential Information in confidence and protect that Confidential Information with the same standard of care required to keep its own similar information confidential. The Provider must abide by all commercially reasonable administrative, physical, and technical standards for maintaining this information confidential, which materially conform with standards established by the National Institute of Standards and Technology (“NIST”). Provider will provide OIT with a current SOC 2 Type II report annually and upon request from OIT. In addition, the Provider must safeguard all Confidential Information from unauthorized access, loss, theft, destruction, and the like. The Provider may not, without prior consent from OIT, disclose any Confidential Information to any person for any reason at any time; provided, however it is understood that the Provider may disclose Confidential Information to its Representatives and its business, financial and legal advisors who require the Confidential Information for the purpose of evaluating or performing the Services on the condition that, prior to such disclosure, the Representatives and advisers have been advised of the confidential and non-public nature of the Confidential Information and are subject to a written confidentiality agreement that contains restrictions and safeguards at least as restrictive as those contained in this Agreement. The Provider shall be responsible for any breach of this Agreement by any of the Provider’s Representatives or advisors.

The Provider shall promptly report any activities by any individual or entity that the Provider suspects may compromise the availability, integrity, security, or privacy of any Confidential Information. The Provider shall notify OIT immediately upon becoming aware that Confidential Information is in the possession of, or has been disclosed to, an unauthorized person or entity.

3. Discovery and Notification of Breach of Confidential Information

In addition to the requirements set forth in any applicable Business Associate Agreement as may be attached to this Contract, in the event of a breach of security or suspected security incident, intrusion, unauthorized use or disclosure involving Confidential Information, the Provider shall notify OIT by telephone call (207-624-7700) and email to the OIT information security team (Security.Infrastructure@maine.gov) within the following timeframes:

- A. Upon the discovery of a breach of security or suspected security incident involving Confidential Information in electronic, or any other medium if the information was, or is reasonably believed to have been, acquired by an unauthorized person; or



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- B. Within twenty-four (24) hours of the discovery of any suspected security incident, intrusion, unauthorized use or disclosure of Confidential Information in violation of this Agreement, or potential loss of Confidential Information affecting this Agreement.

Notification shall also be provided to the OIT Contract Manager and the OIT Information Security Officer. The Provider shall provide a written report of all information known at the time. The Provider shall take:

- A. Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment; and
- B. Any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.

4. Written Report

In addition to the report required above, the Provider shall provide a written report of the investigation to the OIT Chief Information Security Officer within ten (10) working days of the discovery of the breach of security or suspected security incident, or unauthorized use or disclosure involving Confidential Information. The report shall include, but not be limited to, the information specified above, as well as a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure.

5. Notification to individuals.

The Provider shall notify individuals of the breach or unauthorized use or disclosure of Confidential Information when notification is required under state or federal law and shall pay any costs of such notifications, as well as any costs associated with the breach. Any notification provided must first be approved by the OIT Chief Information Security Officer, who shall approve the time, manner and content of any such notifications prior to their release.

6. Use Restriction

Provider shall not receive, possess, store, access, view and/or use Confidential Information for any purpose other than an Authorized Use. Provider shall not permit unauthorized persons or entities to gain access to Confidential Information and shall not divulge methods of accessing Confidential Information to unauthorized persons.

7. Security Obligations

The Provider agrees to comply with the following security obligations as well as any other such obligations specified in the contract, including requirements set forth in any applicable Business Associate Agreement as may be attached to this Contract, or conveyed to him/her during the course of the Agreement. The Provider agrees to comply with the following security obligations:

- A. Implement administrative, physical and technical safeguards materially conforming with NIST standards that reasonably and appropriately protect the confidentiality, integrity and availability of any Confidential Information that is created, received, maintained, used, possessed, stored, accessed, viewed and/or transmitted on behalf of OIT or through OIT or any agency, instrumentality or political subdivision of the State of Maine Government. and provide to OIT annually and upon request a current SOC 2 Type II report;
- B. Unless otherwise authorized by OIT, Confidential Information may NOT be stored on personal (non-State) computing or other electronic or mobile storage devices or taken or removed in any form from OIT or the State;



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- C. Provider shall comply with all applicable federal and state laws governing confidentiality and/or privacy of information;
- D. Provider shall comply with all applicable OIT policies and procedures including but not limited to those that provide for accessing, protecting, and preserving State assets;
- E. Access to any and all Confidential Information will be limited to only those authorized persons who need the Information to perform the services required under the Contract;
- F. Obtain fingerprint-based criminal history record checks for all Provider's employees, agents and subcontractors when requested by OIT pursuant to federal and state statutory and regulatory directives, at the expense of the Provider;
- G. Provider shall instruct all personnel having access to Confidential Information about the confidential nature of the Information, the safeguards required to protect the Information, and the sanctions specified in federal and state law for unauthorized disclosure of said Information; and
- H. Provider shall use only those access rights granted by OIT.

8. Certification by Provider of Return of Confidential Information, Electronic Information and Tangible Property

Promptly following the written request of OIT, and immediately upon termination of the Services, the Provider shall return all Confidential Information stored in any format to OIT, or destroy any Confidential Information that Provider possesses in a format that cannot be returned. Further, Provider agrees to submit to OIT on Provider's letterhead a "CERTIFICATION OF RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION, ELECTRONIC INFORMATION, AND TANGIBLE PROPERTY" certifying that all copies of Confidential Information, electronic property and tangible property belonging to the State or OIT have been returned, or if necessary, destroyed using the form provided in Appendix A.

9. Termination

Provider's Authorized Use of Confidential Information shall terminate automatically upon: (a) breach of this Agreement as determined solely by OIT, (b) completion or termination of Provider's Services, or, (c) termination of Provider's Contract, whichever occurs first. Provider's indemnification, confidentiality, and related assurances and obligations hereunder shall survive termination of the Agreement.

10. Compliance

If Provider breaches or threatens to breach this Agreement, the State shall have all equitable and legal rights (including the right to obtain injunctive relief and specific performance) to prevent such breach and/or to be fully compensated (including litigation costs and reasonable attorney's fees) for losses or damages resulting from such breach. Provider acknowledges that compensation for damages may not be sufficient and that injunctive relief to prevent or limit any breach of confidentiality may be the only viable remedy to fully protect the Confidential Information. Provider shall hold OIT harmless from, and indemnify OIT for any claims, losses, expenses and/or damages arising out of the unauthorized disclosure by the Provider, its Representatives, or third party partners, of Confidential Information or other unauthorized use of the Confidential Information, including but not limited to, paying the State any costs of enforcing this Agreement, securing appropriate corrective action, returning Information furnished hereunder, as well as any other costs reasonably incurred by the State in enforcing the terms of this Agreement.

11. Governing Law



STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
OFFICE OF INFORMATION TECHNOLOGY (OIT)

This Agreement shall be governed by and construed in accordance with the laws of the State of Maine. The place of this Agreement, its situs and forum, shall be Kennebec County, Maine, where all matters, whether sounding in contract or in tort, relating to its validity, construction, interpretation, and enforcement shall be determined. Provider agrees and submits, solely for matters relating to this Agreement, to the jurisdiction of the courts of the State of Maine, and stipulates that the State Courts in Kennebec County shall be the proper venue for all matters. If any provision of the Agreement is declared by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the other provisions shall remain in full force and effect.

12. Entire Agreement

This Agreement constitutes the entire agreement with respect to the Confidential Information disclosed hereunder and supersedes all prior or contemporaneous oral or written agreements concerning such Confidential Information.

IN WITNESS WHEREOF, the Parties have executed this Agreement through their duly authorized representatives effective as of the Effective Date set forth above.

Edupoint Educational Systems:

By: _____

Printed: _____

Title: _____

Date: _____

State of Maine /Office of Information Technology:

By: _____

Printed: _____

Title: _____

Date: _____

APPENDIX A TO CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

CERTIFICATION OF RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION, ELECTRONIC INFORMATION, AND TANGIBLE PROPERTY BY PROVIDER PURSUANT TO PROVIDER CONFIDENTIALITY & NONDISCLOSURE AGREEMENT DATED __

Pursuant to the Provider Confidentiality and Non-Disclosure Agreement between the State of Maine, acting by and through the Office of Information Technology ("OIT") and _____ ("Provider") dated _____, Provider acknowledges his/her responsibility to return or destroy all Confidential Information upon termination of the Provider's services to OIT. This document certifies that all copies of Confidential Information, electronic property and tangible property belonging to the State of Maine or OIT have been returned, or if necessary, destroyed, as described below:

Description of *returned* Confidential Information, electronic information or tangible property:

Description of *destroyed* Confidential Information, electronic information or tangible property:

Provider Signature

Provider Name

Date

ATTACHMENT B: PRICE SHEET

Edupoint Price Sheet IT Master Agreement

Modules	Rate Per Student					Price Min.	
	1 - 555	556 - 1,999	2,000 - 3,333	3,334 - 5,000	5,000+		
Licensing - SIS, ME State Reporting, TeacherVUE/Gradebook, ParentVUE and StudentVUE with Streams, and MSB	\$ 6.55	\$ 6.55	\$ 6.55	\$ 6.55	\$ 6.55	\$ 2,000	Cloud
Hosting	\$ 1.05	\$ 1.05	\$ 1.05	\$ 1.05	\$ 1.05	\$ 2,000	
Support	Included	Included	Included	Included	Included	\$ 2,000	
Maintenance	Included	Included	Included	Included	Included	\$ 2,000	
Total Rate Per Student	\$ 7.60	\$ 7.60	\$ 7.60	\$ 7.60	\$ 7.60		
Modules	Rate Per Student					Price Min.	
	1 - 555	556 - 1,999	2,000 - 3,333	3,334 - 5,000	5,000+		
Licensing - SIS, ME State Reporting, TeacherVUE/Gradebook, ParentVUE and StudentVUE with Streams, and MSB	\$ 7.55	\$ 7.55	\$ 7.55	\$ 7.55	\$ 7.55	\$ 5,500	Premium
Hosting	\$ 2.05	\$ 2.05	\$ 2.05	\$ 2.05	\$ 2.05	\$ 5,500	
Support	Included	Included	Included	Included	Included	\$ 5,500	
Maintenance	Included	Included	Included	Included	Included	\$ 5,500	
Total Rate Per Student	\$ 9.60	\$ 9.60	\$ 9.60	\$ 9.60	\$ 9.60		
Modules	Rate Per Student					Price Min.	
	1 - 555	556 - 1,999	2,000 - 3,333	3,334 - 5,000	5,000+		
Licensing - SIS, ME State Reporting, TeacherVUE/Gradebook, ParentVUE and StudentVUE with Streams, and MSB	\$ 9.10	\$ 9.10	\$ 9.10	\$ 9.10	\$ 9.10	\$ 40,000	Premium +
Hosting	\$ 3.60	\$ 3.60	\$ 3.60	\$ 3.60	\$ 3.60	\$ 40,000	
Support	Included	Included	Included	Included	Included	\$ 40,000	
Maintenance	Included	Included	Included	Included	Included	\$ 40,000	
Total Rate Per Student	\$ 12.70	\$ 12.70	\$ 12.70	\$ 12.70	\$ 12.70		
Optional Modules	Rate Per Student					Price Min.	
	1 - 555	556 - 1,999	2,000 - 3,333	3,334 - 5,000	5,000+		
Online Registration	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00	\$ 300	
Waitlist/Lottery (Requires Online Registration)	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00	\$ 300	
Athletics (Secondary Only)	\$ 2.40	\$ 2.40	\$ 2.40	\$ 2.40	\$ 2.40	\$ 300	
LMS	\$ 1.75	\$ 1.75	\$ 1.75	\$ 1.75	\$ 1.75	\$ 300	
Assessment	\$ 1.75	\$ 1.75	\$ 1.75	\$ 1.75	\$ 1.75	\$ 300	
MTSS	\$ 2.75	\$ 2.75	\$ 2.75	\$ 2.75	\$ 2.75	\$ 300	
OneRoster Integration	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00	\$ 300	
Analytics	\$ 3.75	\$ 3.75	\$ 3.75	\$ 3.75	\$ 3.75	\$ 300	
Special Education	\$ 1.95	\$ 1.95	\$ 1.95	\$ 1.95	\$ 1.95	\$ 300	
Video Conference Integration	\$ 0.50	\$ 0.50	\$ 0.50	\$ 0.50	\$ 0.50	\$ 300	
ST Tool Set	\$ 1.25	\$ 1.25	\$ 1.25	\$ 1.25	\$ 1.25	\$ 25,000	
Distance Learning Portal (DLP)	\$ 0.50	\$ 0.50	\$ 0.50	\$ 0.50	\$ 0.50	\$ 300	
Inspect +	\$ 2.53	\$ 2.53	\$ 2.53	\$ 2.53	\$ 2.53	\$ 300	
GradeCam	\$ 0.80	\$ 0.80	\$ 0.80	\$ 0.80	\$ 0.80	\$ 300	

STATE OF MAINE | IT MASTER AGREEMENT

Additional Module Hosting	Rate Per Student					
	1 - 555	556 - 1,999	2,000 - 3,333	3,334 - 5,000	5,000+	
Online Registration						
Waitlist/Lottery	\$ 0.05	\$ 0.05	\$ 0.05	\$ 0.05	\$ 0.05	
Athletics	\$ 0.05	\$ 0.05	\$ 0.05	\$ 0.05	\$ 0.05	
LMS	\$ 0.25	\$ 0.25	\$ 0.25	\$ 0.25	\$ 0.25	
Assessment	\$ 0.27	\$ 0.27	\$ 0.27	\$ 0.27	\$ 0.27	
MTSS	\$ 0.05	\$ 0.05	\$ 0.05	\$ 0.05	\$ 0.05	
OneRoster Integration	\$ 0.05	\$ 0.05	\$ 0.05	\$ 0.05	\$ 0.05	
Analytics	\$ 0.27	\$ 0.27	\$ 0.27	\$ 0.27	\$ 0.27	
Special Education	\$ 0.05	\$ 0.05	\$ 0.05	\$ 0.05	\$ 0.05	
Video Conference Integration	\$ 0.25	\$ 0.25	\$ 0.25	\$ 0.25	\$ 0.25	
ST Tool Set	\$ 0.05	\$ 0.05	\$ 0.05	\$ 0.05	\$ 0.05	
Distance Learning Portal (DLP)						
Inspect +						
GradeCam						
Additional Hosting Items	Rate Per Student					Amount Minimum
	1 - 555	556 - 1,999	2,000 - 3,333	3,334 - 5,000	5,000+	
Additional Environment	\$ 0.25	\$ 0.25	\$ 0.25	\$ 0.25	\$ 0.25	\$ 7,500.00
Additional Terabytes	\$3,750/TB	\$3,750/TB	\$3,750/TB	\$3,750/TB	\$3,750/TB	\$ 3,750.00
3rd Party Connections	\$ 0.035	\$ 0.035	\$ 0.035	\$ 0.035	\$ 0.035	\$ 500.00

Cloud hosting does not allow specific district staff to have read/write access to the back-end database or to access the database directly through scripting and custom links to SQL for reporting. Should this level of access be needed Premium or Premium Plus hosting should be selected.

An integrated ETL (Extract, Transform, Load) tool, the ability to upload documents for storage and retrieval and API's are available at an additional cost based on an agreed upon scope of work

Annual cost per SAU utilizing SIF will be \$2,000 per year.

Professional Services	Rate
Executives	\$2,000/Day
Senior Technical Experts	\$2,000/Day
Project Managers	\$1,750/Day
Technical Experts	\$1,500/Day
Subject Matter Experts	\$1,500/Day
Developers	\$1,500/Day
Data Conversion Specialists	\$1,500/Day
Product Specialists	\$1,500/Day
Trainers	\$1,500/Day
Administrative Support	\$750/Day
Implementation cost varies based on LEA size, modules implemented and the scope of work required for the project	



Certificate Of Completion

Envelope Id: 7FDCDDC5-0CCE-8B21-829F-8867694CEE49
Subject: Complete with Docusign: Edupoint District SIS Agreement 6.16.26.docx
Source Envelope:
Document Pages: 48
Certificate Pages: 1
AutoNav: Enabled
Envelopeld Stamping: Disabled
Time Zone: (UTC-05:00) Eastern Time (US & Canada)

Status: Completed

Envelope Originator:
Daniel A. Chuhta
Daniel.Chuhta@maine.gov
IP Address: 20.236.201.102

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Status: Original
6/17/2026 10:43:33 AM
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Holder: Daniel A. Chuhta
Daniel.Chuhta@maine.gov
Pool: StateLocal

Location: DocuSign

Signer EventsSignatureTimestamp

Daniel A. Chuhta
Daniel.Chuhta@maine.gov
Deputy Commissioner
Maine Department of Education
Security Level: Email, Account Authentication (Optional)



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Freeform Signing

Electronic Record and Signature Disclosure:
Not Offered via Docusign

In Person Signer EventsSignatureTimestamp

Editor Delivery EventsStatusTimestamp

Agent Delivery EventsStatusTimestamp

Intermediary Delivery EventsStatusTimestamp

Certified Delivery EventsStatusTimestamp

Carbon Copy EventsStatusTimestamp

Witness EventsSignatureTimestamp

Notary EventsSignatureTimestamp

Envelope Summary EventsStatusTimestamps

Envelope Sent
Certified Delivered
Signing Complete
Completed

Hashed/Encrypted
Security Checked
Security Checked
Security Checked

6/17/2026 10:43:35 AM
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6/17/2026 10:44:53 AM

Payment EventsStatusTimestamps