

**MASTER SERVICES AGREEMENT
FOR SERVICES PROVIDED TO
STATE OF MAINE**

This Master Services Agreement (this "Agreement"), dated the _____ day of _____, 20____ (the "Effective Date"), is made by and between GuideSoft, Inc. dba Knowledge Services with an address of 5875 Castle Creek Parkway, Suite 400, Indianapolis, IN 46250, ("Knowledge Services") and _____ with an address of _____ ("Vendor").

WHEREAS, Knowledge Services desires to engage the Vendor to provide certain temporary information technology staffing services ("Services") as described herein to the State of Maine (the "the State");

WHEREAS, Vendor desires to undertake such work;

WHEREAS, the parties mutually desire to set forth the terms and conditions under which such Services shall be provided;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Knowledge Services and Vendor agree as follows:

1. **Services.**

- a. Vendor shall provide Services in accordance with the specifications set forth in this Agreement, including all Exhibits attached to this Agreement, and as specifically set forth in the dotStaff™ vendor management system ("VMS"). By executing this Agreement, Vendor represents that it has the requisite expertise to satisfactorily perform the Services as described in this Agreement.
- b. Vendor acknowledges and agrees that any existing contractual relationship between the State and Vendor for the Services to be performed under this Agreement, if any, shall automatically terminate upon execution of this Agreement, and thereafter the terms of this Agreement shall control. All currently billing and future temporary labor ("Resource" or "Resources") of Vendor shall be entered into the VMS for time entry, invoicing and payment purposes.
- c. This Agreement inures to the benefit of the State, and the State may separately rely upon and enforce the provisions of this Agreement against Vendor. Any modifications to this Agreement shall require the prior approval of the State.
- d. The relationship established by this Agreement is nonexclusive. In the event that Knowledge Services deems it necessary and appropriate, Knowledge Services may obtain Services and Resources other than through Vendor.

2. **License; Ownership of Software.**

- a. Knowledge Services shall administer and manage the process of identifying and acquiring Resources through Vendor using the VMS, in accordance with the terms of this Agreement; provided that the State shall make the final selection of any Resources presented by Vendor.
- b. For the Term (as defined below), Knowledge Services hereby grants to Vendor a non-exclusive, non-transferable, non-assignable worldwide, license to access and use the VMS hosted on the dotStaff™ website, located at www.dotstaff.com, in conjunction with the terms of this Agreement.
- c. The parties hereby acknowledge and agree that (i) all rights, title and interest in and to the VMS and the documentation are, and shall remain, vested solely in the applicable owner.
- d. Knowledge Services maintains information about Vendor and the fulfillment of Services on servers and/or database systems either used or owned by Knowledge Services. This information includes, but is not limited to, Vendor information, bids, resumes, budget and other information. Vendor agrees that Knowledge Services may use such information in an anonymous, aggregate form for marketing and promotional uses only. Knowledge Services will not sell or otherwise distribute Vendor email addresses, financial information, or any other such information. Knowledge Services shall exercise all reasonable efforts to maintain and preserve the privacy of Vendor. Knowledge Services may, however, disclose Vendor account information in the good faith belief that such action is reasonably necessary to: (1) comply with a legal order, or (2) enforce this Agreement. Vendor is entirely responsible for any and all activities that occur in connection with Vendor accounts and passwords.

Vendor agrees to keep its password(s) confidential, and to notify Knowledge Services promptly if Vendor has any reason to believe that the security of a Vendor account has been compromised.

- e. Vendor warrants that: (1) it has the authority and the right to enter into this Agreement, to perform Services hereunder, and that its obligations hereunder are not in conflict with any other obligations; (2) its Resources have the proper skill, training and background necessary to accomplish assigned tasks; and (3) all Services will be performed in a competent and professional manner, by qualified personnel and will conform to the requirements hereunder.
- f. Knowledge Services makes and Vendor receives **NO EXPRESS OR IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
- g. Vendor agrees that it is solely responsible for all actions and communications undertaken or transmitted under Vendor account. Knowledge Services assumes no responsibility or liability for any content entered or otherwise transmitted by Vendor, the State, Resources or any other third parties. Knowledge Services assumes no liability for any mistakes, defamation, slander, libel, falsehoods, omissions, obscenity or pornography that Vendor might encounter through the use of this service.
- h. Knowledge Services reserves the right, but does not have the obligation, to remove any content or materials that it deems objectionable at any time. Knowledge Services may delete Vendor content and/or terminate Vendor accounts which Knowledge Services believes (1) involve fraudulent or illegal content; (2) are the subject of complaints regarding conduct or performance; or (3) are the subject of a government complaint or investigation. Knowledge Services may periodically delete stored resumes and/or other information if it becomes necessary, or in its own discretion, determines is obsolete.
- i. Knowledge Services reserves the right to perform periodic modifications to the VMS including but not limited to customary maintenance, bug fixes, and upgrades, as Knowledge Services deems necessary or desirable. Such modifications do not require prior notification of Vendor, and may involve the temporary interruption of the VMS, for which Knowledge Services expressly disclaims any liability or responsibility. Knowledge Services will, however, make all reasonable efforts not to disrupt Vendor's access to the VMS for an unreasonable period of time.

3. **Rates and Payment Procedures.**

- a. Maximum hourly rates will be developed and provided to Vendor. These rates represent the maximum or "not to exceed" rates only, and Vendor shall bid on positions competitively through the VMS. In full and complete consideration for the Services provided hereunder, Vendor shall be compensated in accordance with the rate chart presented in Exhibit A.
- b. The "Posting and Response Process," attached as Exhibit B, defines the job requisition and resume submittal procedures that Vendor shall follow.
- c. Vendor shall ensure that its Resources enter time weekly in the VMS, for approval by the State. The State shall receive invoices for approved time from Knowledge Services, and shall submit payment to Knowledge Services for such invoices. In the event of Resource conversions, Vendor shall enter all such information in the VMS, and the State shall remit payment to Knowledge Services for such invoices.
- d. Knowledge Services shall charge Vendor a fee ("Fee") in the amount of one point eight seven percent (1.87%) of each invoice. Knowledge Services shall remit payment to Vendor within ten (10) business days of its receipt of payment from the State (excluding national bank holidays), after deducting the Fee. The hourly rates presented in Exhibit A includes the Fee.
- e. Vendor shall enter all pre-approved, reimbursable expenses into the VMS for payment by the State, but such expenses shall not be subject to the Fee. Expenses may be pre-approved only by the State, and will not be reimbursable unless indicated on the job posting that such expenses may be reimbursed in accordance with the rules and regulations applicable to the State employee travel.
- f. Knowledge Services shall only pay Vendor upon the receipt of payment from the State. In the event that the State withholds payment with respect to a Resource for any reason, Knowledge Services shall have no obligation to pay Vendor unless and until Knowledge Services is first paid by the State. Knowledge Services' sole obligation shall be to exercise commercially reasonable efforts to collect payment from the State. If collection efforts fail, Knowledge Services may assign the receivable to Vendor before seeking formal legal action against the State, and Vendor shall remain liable for Fees in the event that payment is collected from the State. If for any reason the State refuses or fails to make payment to Knowledge Services for Services rendered, Knowledge Services shall not

be liable to make payment to the Vendor, and the Vendor shall not be liable to pay the related Fee to Knowledge Services. Vendor bears the risk of the State's non-payment, regardless of cause, including but not limited to, the State's financial failure, bankruptcy, reorganization or other financial difficulty. In the event of the State's said non-payment, Vendor will be paid a pro rata share of the amount actually recovered from the State after deducting Knowledge Services' actual costs of recovery including attorneys' fees. No other fees, expenses, or benefits of any kind shall be paid by Knowledge Services or made available to Vendor unless expressly authorized and agreed to by Knowledge Services.

- g. Knowledge Services may alter its pricing schedule upon thirty (30) days' notice to Vendor. In the event that Knowledge Services alters its pricing schedule, such alteration shall affect only new transactions. All pre-contracted and ongoing transactions or resource placements shall operate under the prevailing Fee schedule at the time of bid selection or assignment/project start.
 - h. Vendor shall notify Knowledge Services of any payment discrepancies within promptly upon receipt of its payment from Knowledge Services for Services. Vendor has sixty (60) days from the date in which time was worked to enter time, or correct time denied by the State, in the VMS. Payment discrepancies not brought to the attention of Knowledge Services within such sixty (60) day period are deemed waived by Vendor, with the exception of payment claims involving fraud or overpayment to Vendor. It is Vendor's sole responsibility to enter pre-approved shift, bill rate differential, expense and/or sales tax information, if applicable, in the VMS prior to invoicing. Knowledge Services is not responsible for errors or omissions made by Vendor, and will not retroactively modify time entries or invoices to correct Vendor errors or omissions if not within the above defined time period.
 - i. All rates and fees are quoted in US dollars, and all payments shall be made in US dollars. Knowledge Services reserves the right to modify its accounting policies from time to time.
4. **Intellectual Property.** All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by Vendor prior to execution of this Agreement, but specifically developed under this Agreement shall be considered "work for hire," and Vendor transfers any ownership claim to Knowledge Services, who shall transfer any ownership claim to the State and whereby all such materials will be the property of the State. Use of these materials, other than related to Agreement performance by Vendor, without the prior written consent of Knowledge Services and the State, is prohibited. During the performance of this Agreement, Vendor shall be responsible for any loss of or damage to these materials developed for or supplied by the State and used to develop or assist in the services provided while the materials are in the possession of Vendor. Any loss or damage thereto shall be restored at Vendor's expense. Vendor shall provide Knowledge Services with full, immediate, and unrestricted access to the work product during the term of this Agreement, and Knowledge Services will in turn provide such full, immediate and unrestricted access to the work product to the State.
5. **Subcontractors.** Vendor may not enter into any subcontract for the work to be performed under this Agreement without the express written consent of Knowledge Services. This provision shall not apply to contracts of employment between Vendor and its employees.

Vendor is solely responsible for the performance of work under this Agreement. The approval of Knowledge Services for Vendor to subcontract for work under this Agreement shall not relieve Vendor 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 Agreement. Vendor shall give Knowledge Services immediate notice in writing of any legal action or suit filed, and prompt notice of any claim made against Vendor by any Subcontractor, which may result in litigation related in any way to this Agreement, or which may affect the performance of duties under this Agreement. Vendor shall indemnify and hold harmless Knowledge Services and the State from and against any such claim, loss, damage, or liability as set forth in Section 18, the State held Harmless.

6. **Pre-Employment Screening.** Vendor shall comply, at its own expense, with all background check policies, set forth in Exhibit C, prior to the applicable start date for any Resource provided to the State. In addition, Vendor shall comply with any other pre-employment screening or activities as specified by specified by the State.

7. **Resource Validation and Temporary Worker Agreement.** Vendor shall complete the attached Exhibit D, “Knowledge Services MSP Resource Employment Status Validation Form,” for each Resource that is selected to work on behalf of the State prior to the start of Resource’s assignment. Vendor shall upload this form into the VMS as specified by Vendor prior to the start of Resource’s assignment.
8. **Information Safeguard, Security, Background Checks, Debarment and Subcontractors.** Vendor, and all subcontractors, shall comply with information security requirements presented in Exhibit E – IRS Safeguard Contract Language – Technology Services, Exhibit F – State of Maine Information Technology Nondisclosure Agreement and Exhibit G - Debarment Form. These contract terms shall be included in all subcontractor agreements.

If Knowledge Services or the State advises Vendor that an IT Resource provided through this Agreement will have access to Federal Tax Information, Vendor may not enter into any subcontract or payroll agreement for the work to be performed by the IT Resource under this agreement without the express written consent of the State which will include the appropriate 45-day notification to the IRS. The 45-day notification process will be coordinated and executed by the State of Maine, Maine Revenue Services. This provision shall not apply to contracts of employment between Vendor and its employees. This provision shall not apply to engagements for IT Resources not handling Federal Tax Information.

9. **Subletting, Assignment or Transfer.** Vendor shall not sublet, sell, transfer, assign, or otherwise dispose of this Agreement, or any portion thereof, or of its right, title, or interest therein, without the written approval of Knowledge Services. Such approval shall not in any case relieve Vendor of its responsibility for performance of work under this Agreement.
10. **Equal Employment Opportunity.** During the performance of this Agreement, Vendor certifies as follows:
 - a. Vendor shall not discriminate against any employee or applicant for employment relating to this Agreement because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to a *bona fide* occupational qualification. Vendor shall take affirmative action to ensure that applicants are employed, and employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation.
 - b. 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. Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - c. Vendor shall, in all solicitations or advertising for employees placed by, or on behalf of, the Vendor, relating to this Agreement, state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.
 - d. Vendor shall send to each labor union, or representative of the workers, with which it has a collective bargaining agreement, or other agreement or understanding, whereby it is furnished with labor for the performance of this Agreement, a notice to be provided by the contracting agency, advising the said labor union or workers' representative of Vendor's commitment under this section, and shall post copies of the notice in conspicuous places, available to employees and applicants for employment.
 - e. Vendor shall inform the State’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 itself by any individual, as well as any lawsuit regarding alleged discriminatory practice.
 - f. Vendor 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 the State.
 - g. Vendors and its Subcontractors with contracts in excess of \$50,000 shall also pursue in good faith affirmative action programs.
 - h. Vendor shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement 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.

11. **Employment and Personnel.** Vendor shall not engage any person in the employ of any the State or Agency in a position that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. Vendor shall not engage on a full-time, part-time, or any other basis, during the period of this Agreement, any personnel who are, or have been, at any time during the period of this Agreement, in the employ of any the State or Agency, except regularly retired employees, without the written consent of the State Purchases Review Committee. Further, Vendor shall not engage on this project on a full-time, part-time, or any other basis, during the period of this Agreement, any retired employee of the State, who has not been retired for at least one year, without the written consent of the State Purchases Review Committee. Vendor shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement, 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.
12. **State Employees Not to Benefit.** No individual employed by the State at the time this Agreement is executed, or any time thereafter, shall be admitted to any share or part of this Agreement, or to any benefit that might arise there from, directly or indirectly, that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. No other individual employed by the State at the time this Agreement is executed, or any time thereafter, shall be admitted to any share or part of this Agreement, or to any benefit that might arise there from, directly or indirectly, due to his employment by, or financial interest in, Vendor, or any affiliate of Vendor, without the written consent of the State Purchases Review Committee. Vendor shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement 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.
13. **Accounting, Records and Audit.**
 - a. Vendor shall maintain all books, documents, payrolls, papers, accounting records, and other evidence pertaining to this Agreement, including interim reports and working papers, and make such materials available at its offices at all reasonable times during the period of this Agreement, and for a period of five (5) years following termination or expiration of the Agreement. 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 agreement have been resolved.
 - b. Unless Knowledge Services or the State specifies in writing a shorter period of time, Vendor agrees to preserve and make available all documents and records pertaining to this Agreement for a period of five (5) years from the date of termination of this Agreement.
 - 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-Agreement period, with reasonable notice to Vendor. During the five-year post-Agreement period, delivery of, and access to, all pertinent documents and records will be at no cost to the State.
 - e. Vendor shall be liable for any the State or Federal audit exceptions, if applicable, that arise out of any action, inaction, or negligence by Vendor. In the event of an audit exception for which Vendor is liable, Vendor shall have thirty (30) days to remedy that exception. If Vendor fails to remedy that exception within this time period, Vendor shall immediately return to the State all payments made under this Agreement 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 Agreement are being performed, to inspect, monitor, or otherwise evaluate, the work being performed, with reasonable notice to Vendor. All inspections and evaluations shall be performed in such a manner that will not compromise the work unreasonably.
14. **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. Vendor shall maintain all books, documents, payrolls, papers, accounting records and other evidence pertaining to this Agreement and make such materials available at its offices at all reasonable times during the period of this Agreement and for such subsequent period as specified under Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP) rules. Vendor shall allow inspection of pertinent documents by the State 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.

15. **Termination.** The performance of work under this Agreement may be terminated by Knowledge Services in whole or in part, whenever, for any reason Knowledge Services shall determine that such termination is in the best interests of Knowledge Services or the State. Any such termination shall be effected by the delivery to Vendor of a Notice of Termination specifying the extent to which the performance of work under this Agreement is terminated, and the date on which such termination becomes effective.

Upon receipt of the Notice of Termination, Vendor shall:

- a. Stop work under this Agreement on the date and to the extent specified in the Notice of Termination;
- b. Take such action as may be necessary, or as Knowledge Services may direct, for the protection and preservation of the property, information, and data related to this Agreement, which is in the possession of Vendor, and in which Knowledge Services the State has, or may acquire, an interest;
- c. Terminate all orders to the extent that they relate to the performance of the work terminated by the Notice of Termination;
- d. Assign to the State in the manner, and to the extent directed by the Knowledge Services, all of the rights, titles, and interests of Vendor under the orders so terminated, in which case the State shall have the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders;
 1. With the approval of Knowledge Services, settle all outstanding liabilities and claims, arising out of such termination of orders, the cost of which would be reimbursable in whole or in part, in accordance with the provisions of this Agreement;
 2. Transfer title to the State (to the extent that title has not already been transferred) and deliver in the manner, at the times, and to the extent directed by the Agreement Administrator, equipment and products purchased pursuant to this Agreement, and all files, source code, data manuals, or other documentation, in any form, that relate to all the work completed, or in progress, prior to the Notice of Termination;
 3. Complete the performance of such part of the work as shall not have been terminated by the Notice of Termination; and
 4. Proceed immediately with the performance of the preceding obligations, notwithstanding any delay in determining or adjusting the amount of any compensation under this section.

Notwithstanding the above, nothing herein shall limit the right of Knowledge Services to pursue any other legal remedies against Vendor.

16. **Governmental Regulations.** Vendor shall comply with all applicable governmental ordinances, laws, and regulations.
17. **Governing Law.** This Agreement shall be governed by, interpreted, and enforced in accordance with the laws, statutes, and regulations of the State of Maine, without regard to conflicts of law provisions. The provisions of the United Nations Convention on Contracts for the International Sale of Goods and of the Uniform Computer Information Transactions Act shall not apply to this Agreement. Any legal proceeding against Knowledge Services regarding this Agreement shall be brought in the State of Maine in a court of competent jurisdiction.
18. **State Held Harmless.** Vendor shall indemnify and hold harmless Knowledge Services and its officers, agents, and employees from and against any and all 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 Vendor, its employees or agents, officers or Subcontractors in

the performance of work under this Agreement; provided, however, Vendor shall not be liable for claims arising out of the negligent acts or omissions of Knowledge Services, or for actions taken in reasonable reliance on written instructions of Knowledge Services.

19. **Limitation of Liability.** Vendor's liability for damages sustained by the State as the result of Vendor's default or acts or omissions in the performance of work under this Agreement, whether such damages arise out of breach, negligence, misrepresentation, or otherwise, shall be no greater than:
- a. Damages for violation or infringement of any copyright or trademark;
 - b. Damages for bodily injury (including death) to persons, and damages for physical injury to tangible personal property or real property; and
 - c. The amount of any other actual direct damages up to the greater of \$500,000 or three times the value of the Product or Service that is the subject of the claim, up to a maximum of \$25,000,000. For example, if the Product or Service that is the subject of the claim was valued at \$15,000,000, then Vendor would be liable for no more than \$25,000,000. For purposes of this subsection, the term "Product" would typically include the following, but not be limited to, Materials, Source Code, Machine Code, and Licenses.

Notwithstanding the above, Vendor shall not be liable for any indirect or consequential damages.

20. **Notice of Claims.** Vendor shall give Knowledge Services immediate notice in writing of any legal action or suit filed related in any way to this Agreement, or which may affect the performance of duties under this Agreement, and prompt notice of any claim made against Vendor by any Subcontractor, which may result in litigation related in any way to this Agreement, or which may affect the performance of duties under this Agreement.
21. **Insurance Requirements.** Vendor shall procure and maintain, for the duration of the Agreement, insurance against claims for injuries to persons, or damages to property, which may arise from, or in connection with, the fulfillment of this Agreement by Vendor, its agents, representatives, employees, or Subcontractors.
- a. **Minimum Coverage**
 1. Commercial general liability (including products, completed operations, and broad-form contractual): \$1,000,000 per occurrence;
 2. Workers' Compensation and employer's liability: as required by law;
 3. Professional liability: \$1,000,000; and
 4. Property (including contents coverage for all records maintained pursuant to this Agreement): \$1,000,000 per occurrence.
 - b. **Other Provisions.** Unless explicitly waived by Knowledge Services, the insurance policies should contain, or be endorsed to contain, the following provisions:
 1. Vendor's insurance coverage shall be the primary insurance. Any insurance or self- insurance maintained by the State for its officers, agents, and employees shall be in excess of Vendor's insurance and shall not contribute to it.
 2. Vendor'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.
 3. Vendor shall furnish Knowledge Services with certificates of insurance and with those endorsements, if any, effecting 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 Knowledge Services before this Agreement commences. Knowledge Services reserves the right to require complete, certified copies of all required insurance policies at any time.
 4. If possible, all policies should contain a revised cancellation clause allowing thirty (30) days' notice to Knowledge Services in the event of cancellation for any reason including nonpayment.
22. **Non-Appropriation.** Notwithstanding any other provision of this Agreement, if the State does not receive sufficient funds to pay for the work to be performed under this Agreement, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine the State Legislature or Maine courts, then the State is not obligated to make payment to Knowledge Services, and thereby Vendor, under this Agreement.

23. **Severability.** The invalidity or unenforceability of any particular provision, or part thereof, of this Agreement shall not affect the remainder of said provision, or any other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or part thereof had been omitted.
24. **Force Majeure.** Either party may be excused from the performance of an obligation under this Agreement in the event that performance of that obligation by a party is prevented by an act of God, act of war, riot, fire, explosion, flood, or other catastrophe, sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, 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. Upon the occurrence of an event of force majeure, the time period for performance of the obligation excused under this section shall be extended by the period of the excused delay, together with a reasonable period, to reinstate? compliance with the terms of this Agreement.
25. **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 ultimately due to Vendor under this Agreement, up to any amounts due and owing to the State with regard to this Agreement, any other Agreement with any the State department or agency, including any Agreement for a term commencing prior to the term of this Agreement, 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 the 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, and Knowledge Services shall provide notification to Vendor of such.
26. **Advertising and Publications.** Vendor shall not publish any statement, news release, or advertisement pertaining to this Agreement without the prior written approval of the Knowledge Services. Should this Agreement 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 the 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.
27. **Conflict of Interest.** Vendor 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. Vendor further certifies that in the performance of this Agreement, no person having any such known interests shall be employed.
28. **State Property.** Vendor shall be responsible for the proper custody and care of any State or the State owned property furnished for Vendor's use in connection with the performance of this Agreement, and Vendor will reimburse the State for its loss or damage, normal wear and tear excepted.
29. **Patent, Copyright and Other Intellectual Property Rights**
- a. Vendor certifies that all services, equipment, software, supplies, and any other products provided under this Agreement 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 Knowledge Services or the State, Knowledge Services shall promptly notify Vendor and Vendor, at its expense, shall defend, indemnify, and hold harmless Knowledge Services and/or the State against any loss, cost, expense, or liability arising out of such claim, including reasonable attorney fees.
 - b. Vendor may not publish or copyright any data without the prior approval of the State. 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.
30. **State IT Policies.** All IT products and services delivered as part of this Agreement must conform to the State IT Policies, Standards, and Procedures (Maine.Gov/oit/oitpolicies) effective at the time this Agreement is executed.
31. **Confidentiality.**
- a. All materials and information given to Vendor by the State, or acquired by Vendor on behalf of the State, whether in verbal, written, electronic, or any other format, shall be regarded as confidential information.

- b. In conformance with applicable Federal and the State statutes, regulations, and ethical standards, Vendor and the State shall take all necessary steps to protect confidential information regarding all persons served by the State, 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 State, or whose information is utilized in order to accomplish the purposes of this Agreement.
- c. In the event of a breach of this confidentiality provision, Vendor shall notify the Agreement Administrator immediately.
- d. Vendor shall comply with the Maine Public Law, Title 10, Chapter 210-B (Notice of Risk to Personal Data Act).

47. Miscellaneous.

- a. All Exhibits referred to in this Agreement are attached hereto and made a part hereof for all purposes.
- b. This Agreement may not be assigned by either party without the other party's prior written consent; provided, however, that either party may assign this Agreement, with notice, consent and approval of the other party, or delegate the performance of all or part of its obligations and duties hereunder, to an Affiliate (provided the party guaranty the Affiliate's performance). As used herein, "Affiliate" of a party shall mean any corporation or other business entity controlled by, controlling or under common control with, such entity.
- c. Each provision of this Agreement shall be considered severable and if, for any reason, any provision hereof is determined to be invalid and contrary to, or in conflict with, any existing or future law or regulation by any court or agency having valid jurisdiction, such provision shall be given the maximum permissible effect, and such invalidity or illegality shall not impair the operation or affect the remaining provisions of this Agreement; and the latter shall continue to be given full force and effect and bind the parties hereto and such invalid provisions shall be deemed not to be a part of this Agreement.
- d. This Agreement constitutes the complete understanding of the parties regarding the Services. No amendment, modification or waiver of any provision of this Agreement shall be valid unless in writing and signed by both parties. Any failure or delay by either party in exercising any right or remedy shall not be deemed a waiver of any further, prior, or future right or remedy hereunder.
- e. This Agreement may be signed in two counterparts, each of which shall be deemed to be an original, but all of which together shall form a single agreement.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officer to execute this Agreement as of the date first written above.

GuideSoft, Inc. dba Knowledge Services

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Exhibit A
Program Rates and Fees

1. **Hourly Rates by Position.** Knowledge Services shall establish maximum bill rates by position title and location through the reverse auction functionality in the VMS. Any exceptions or changes to the below rates shall be communicated in writing by Knowledge Services. ***All existing Resources shall be on-boarded at their existing hourly rates.***

Job Title	Level	NTE Bill Rate*
Architect - Junior	JAR1	\$102.98
Architect - Senior	SAR1	\$115.74
Business Analyst	BA1	\$46.69
Business Analyst	BA2	\$52.44
Business Analyst	BA3	\$58.89
Client Technologies Specialist	CTS1	\$35.57
Client Technologies Specialist	CTS2	\$40.07
Configuration Management Specialist	CMS1	\$52.90
Data Architect	DA1	\$79.63
Data Entry Operator	DE1	\$15.93
Data Entry Operator	DE2	\$18.03
Database Administrator	DBA1	\$53.11
Database Administrator	DBA2	\$64.89
Database Administrator	DBA3	\$77.76
Database Administrator	DBA4	\$81.84
Functional Architect	FA1	\$47.47
Functional Architect	FA2	\$56.92
Functional Architect	FA3	\$67.50
Functional Architect	FA4	\$81.82
Graphic Designer	GD1	\$33.14
Help Desk Analyst	HDA1	\$32.35
Help Desk Analyst	HDA2	\$35.55
Help Desk Analyst	HDA3	\$44.30
Help Desk Technician	HDT1	\$27.43
Help Desk Technician	HDT2	\$30.00
Help Desk Technician	HDT3	\$36.64
Product Specialist	PS1	\$50.42
Product Specialist	PS2	\$58.47
Product Specialist	PS3	\$76.55
Project Manager	PM1	\$58.02
Project Manager	PM2	\$70.99
Project Manager	PM3	\$83.57
Programmer	PR1	\$43.30
Programmer	PR2	\$51.31
Programmer	PR3	\$64.09
Programmer	PR4	\$75.92
Programmer	PR5	\$89.74

Quality Assurance Specialist	QAS1	\$45.97
Quality Assurance Specialist	QAS2	\$51.22
Quality Assurance Specialist	QAS3	\$67.57
Senior Business SME	SME1	\$107.24
Senior Database Architect	SDA1	\$95.85
Senior Project Manager	SPM1	\$120.49
Service Desk	SD2	\$28.76
Service Desk	SD3	\$31.13
Software Process Engineer	SPS1	\$41.90
Software Process Engineer	SPS2	\$46.68
Software Process Engineer	SPS3	\$62.92
System Administrator	SA1	\$47.12
System Administrator	SA2	\$53.62
System Administrator	SA3	\$66.76
System Specialist	SS1	\$42.32
System Specialist	SS2	\$49.72
System Specialist	SS3	\$61.03
Team Lead	TL1	\$69.32
Team Lead	TL2	\$74.05
Technical Architecture Specialist	TAS1	\$56.29
Technical Architecture Specialist	TAS2	\$63.83
Technical Architecture Specialist	TAS3	\$67.84
Technical Architecture Specialist	TAS4	\$75.16
Technical Writer	TW1	\$35.18
Technical Writer	TW2	\$42.74
Technical Writer	TW3	\$47.51
Telecom Engineer	TE1	\$41.10
Telecom Engineer	TE2	\$47.12
Telecom Engineer	TE3	\$55.77
Tester	Test1	\$41.61
Tester	Test2	\$48.46
Tester	Test3	\$57.06
Tester	Test4	\$63.46
Voice/Data Engineer	VDE1	\$37.69
Voice/Data Engineer	VDE2	\$45.89
Voice/Data Engineer	VDE3	\$52.94

****The hourly rates presented above are inclusive of the 1.87% Fee that shall be paid to Knowledge Services by Vendor.***

2. **Rate Differentials.**
- a. Overtime shall generally be billed at a “straight-time rate,” and overtime rate differentials will only be billed if so communicated by Knowledge Services. Overtime is defined as work performed in excess of 40 hours per week, or as otherwise defined by applicable law, and only for the positions specified under this Agreement, or specified in the job posting or requisition released by Knowledge Services. The overtime rate differential, if any, will be communicated to Vendor in the job posting or requisition released by Knowledge Services.
 - b. There shall not be any other pay or shift premium rates, including but not limited to holiday or weekend time, unless specified in the job posting or requisition released by Knowledge Services.
3. **Resource Conversion.** If the State determines that it would be in the State's best interest to hire a Resource of Vendor after a period of nine hundred and sixty (960) hours, Knowledge Services will require that Vendor will release the selected Resource from any non-competition agreements that may be in effect. This release will be at no cost to the State or Provider or Resource.

If the State determines that it would be in the State's best interest to hire a resource of Vendor prior to completion of a period of nine hundred and sixty (960) hours, the State will notify Knowledge Services, who in turn will notify the Vendor, of the State's intent to hire the Resource. Knowledge Services will require that Vendor release the selected Resource from any non-competition agreements that may be in effect, and will negotiate a conversion fee with Vendor, which shall not exceed the maximum rates detailed below:

Hours Worked	0-160 hours	>160-320 hours	>320-480 hours	>480-640 hours	>640-800 hours	>800-960 hours	>960 hours
Maximum/not to exceed conversion fee	20% of first year annual salary*	15% of first year annual salary*	12.5% of first year annual salary*	10% of first year annual salary*	7.5% of first year annual salary*	5% of first year annual salary*	0% of first year annual salary*

****The first year annual salary will be the annual salary that would be paid to Resource by the State during the first year of service, exclusive of any benefits or fees paid to the Resource.***

Exhibit B
Posting and Response Processes

I. Vendor Participation in the Program.

- a) Incumbent Workers. The hours worked by Resources who were assigned to the State prior to the Program Start Date (each, an "Incumbent Worker"), if any, on the assignments they were given prior to the Program Start Date (the "Incumbent Assignments") shall be billed at their existing bill rate in effect as of the Program Start Date and as entered into the VMS, as of the Program Start Date. Notwithstanding the foregoing, Knowledge Services shall have no liability to Vendor for, and Vendor hereby agrees to defend, indemnify and hold harmless Knowledge Services from, any liability of any kind arising out of or related to (1) any services or invoices of the Vendor provided to the State prior to the Program Start Date, if any, or (2) the exceptions regarding the Incumbent Workers expressly stated herein, if any, to Vendor's obligations.

II. Postings.

- a) Submission to Vendor. Knowledge Services will receive Postings from the State and may, at Knowledge Services' discretion, forward such Postings to Vendor.
- b) Content.
- i. Generally. Postings may set forth (i) the name or position of the State personnel placing the Posting with Knowledge Services, (the "Hiring Manager") requesting a Resource, (ii) the applicable the State personnel who must approve the timecard of each Resource if different than the Hiring Manager (the "Time Approver"), (iii) if necessary, any other the State personnel responsible for the State's oversight of the Resource, (iv) project description, (v) start date under such Posting (the "Posting Start Date"); and (vi) Skill Set of the Resource requested
- ii. Posting - Specific. Postings shall also set forth any job-specific information, including, by way of example, (i) any applicable Pay-Rate limitation, (ii) anticipated duration of project, (iii) anticipated project completion date, (iv) travel requirements, if any, (v) the State cost elements or units to which time and expenses should be charged, (vi) assignments for charging of time and expenses, and (vii) the assigned the State business unit at the assigned Facility where the Resource filing the Posting will report for the applicable assignment.
- c.) Posting Communication Procedure. Knowledge Services shall deliver Postings to Vendor via its VMS. Vendor shall, at its own cost, obtain and maintain necessary equipment and personnel to receive process and respond to Postings submitted through the communication procedure used by Knowledge Services as amended from time to time.

III. Resources.

- a) Pre-Start Duties. For each Resource selected, prior to the applicable Posting Start Date, Vendor shall:
- i. deliver to Knowledge Services any information about such Resource (including resume or background information), which Knowledge Services reasonably requested in the applicable Posting;
- ii. obtain and provide to Knowledge Services completed pre-start documentation for such Resource, as set forth in the agreement;
- iii. perform the screening, background checking and drug testing procedures set forth in the agreement; and
- iv. prepare for On-Boarding of such selected Resource as set forth in the agreement.
- b) Probationary Period for Certain Resources. Vendor shall provide all Resources to the State on a probationary basis for a period of five (5) business days (for a total not to exceed forty (40) hours) (the "Probationary Period"). Vendor acknowledges that, at any time during such Probationary Period, the State may determine that a Resource is not suitable for the State assignment for reasons related to experience level, performance, qualification, skill or technical proficiency, Knowledge Services may remove such Resource from the assignment. In such event, Neither Knowledge Services, nor the State, shall have any obligation to pay for any of the hours worked by such Resource during such Probationary Period.
- c) Former Employees. Vendor shall indicate, or require each applicable Resource candidate to indicate, in response to a Posting whether a Resource candidate is a former employee of the State. Vendor acknowledges and agrees

that former employees of the State may only perform services for the State as a Resource with the prior approval of the State.

Attachment I
Vendor Service Level Agreements

The Vendor Service Level Agreement (SLA) shall govern this Agreement for Services. The goals, descriptions, calculations, and target shall be strictly adhered to, and any penalties defined below shall be enforced in this agreement. Additional SLAs may be added in the sole discretion of Knowledge Services, and shall be communicated to Vendor in writing.

Service Level Agreement (SLA)	Vendor Goal	Frequency	Description	Calculation	Target
Normal Resume Submittal Response Time	4 business days	Quarterly	Measures average response time from release of requirement to Vendor to Knowledge Services' receipt of first round of screened candidate resumes	Number of NE requisitions which received first round of resumes for review within 4 business days/ total number of NE requisitions.	90.0% or higher
Normal Round 1 Fill Rate	N/A	Quarterly	Measures Vendor's ability to satisfactorily fulfill requisitions within first round of resumes submitted to Knowledge Services (normal requisitions).	Total number of NE engagements resulting from the first round of resumes / total number of NE engagements.	80.0% or higher
Urgent Resume Submittal Response Time	2 business days	Quarterly	Measures average response time from release of requirement to Vendor to Knowledge Services' receipt of first round of screened candidate resumes – (<i>an urgent requirement is needed in less than 10 business days</i>)	Number of NE URGENT requisitions that received first batch of resumes for review within 2 business days / total number of NE URGENT requisitions.	92.0% or higher
Urgent Round 1 Fill Rate	N/A	Quarterly	Measures Vendor's ability to fulfill requisitions within first round of resumes submitted to Knowledge Services (URGENT requisitions).	Total number of NE URGENT filled positions resulting from the first round of resumes / total number of NE requisitions filled.	90.0% or higher
Normal On-Boarding Response Time	2 Business Days	Quarterly	Measures Vendor's ability to satisfactorily schedule the resources to be on-boarded after selection is made.	Candidate start date notification to Knowledge Services within 2 days of candidate selection / total number of candidates started	90% or higher
Attrition Rate	N/A	Annual	Measures Resource turnover due to unplanned situations that are not caused by the State, not including inadequate performance, death, and serious illness of the resource. Applicable situations include Resource leaving for another position.	Number of unplanned turnovers from NE Resources in period reviewed / total number of NE Resources in the period reviewed. (Resources that are entering time in the period	7.0% or lower

Service Level Agreement (SLA)	Vendor Goal	Frequency	Description	Calculation	Target
				reviewed).	
Performance Removal	N/A	Semi-annual (6-months)	Measures Resource turnover due to inadequate resource performance.	Number of turnovers from NE Resources in the period reviewed / total number of NE Resources in the period reviewed. (Resources that are entering time in the period reviewed).	5.0% or lower
Usage	N/A	Annual	Measure of how many Vendor Resources are selected by the State.	Amount of spend from Vendor (NE) Resources within period / total amount of spend within period.	--
Customer Service Survey	N/A	Biannual	Bi annual survey of satisfaction of the Managers with the NE Resources placed at that agency by Vendor	# of Managers who responded with less than 90% Satisfaction / total number of Manager surveys sent	10% or less
<p>*All SLAs are measured against non-exempt (NE) requirements or engagements. Exempt requirements and engagements include those for named resources, those drafted before the end of the "grace period", and other similar situations. Knowledge Services reserves the right to define a requirement as exempt or non-exempt, at its sole discretion. No exempt requirements or engagements are to be included in the SLA calculations.</p>					

All existing Resources converted to the Knowledge Services MSP program will be exempt from SLAs. Thereafter all requirements and engagements will be subject to the SLAs (non-exempt). Resources who are working on subsequent multiple engagements will be subject to the SLAs applicable, namely the attrition and performance removal SLAs.

All SLAs will be reviewed quarterly unless any single SLA fails the target, whereupon monthly review will be implemented. A discussion will take place between Knowledge Services and Vendor, Vendor will be given a warning, and a plan will be developed to improve on the deficient SLA(s) and to reach the minimum achievement target by the next quarter. If the next quarterly review of the deficient SLA shows no improvement, Vendor will be placed on probation and will be given 3 months after the date of the quarterly review to show improvement in the SLA that failed. If the SLA is not met after the next quarterly review, Knowledge Services will assess Vendor to determine, at its sole discretion, whether this Agreement should be terminated. ***Notwithstanding the foregoing, Knowledge Services reserves the right to terminate this Agreement at any time in its sole discretion.***

Exhibit C
Background Check and Screening Guidelines

Vendor shall conduct a background check of any Resource placed on assignment at a State agency ("Agency"), or State facility ("Facility"), prior to the start of Resource's assignment. Such checks shall be conducted in accordance with applicable law.

Background checks shall be completed for verification of, but not limited to:

- a. Social security trace – verification of social security number;
- b. Federal Criminal history check; including all State and Counties of Residence for the past 7 years;
- c. E-Verify employment eligibility verification;
- d. *Federal Exclusion and Debarment Screening (FACIS)*. Vendor shall confirm that Resources are not excluded from participation in any federal health care program (such as Medicare or any state Medicaid program) or debarred or otherwise prohibited from participating in federal procurement and non-procurement programs by checking the Department of Health and Human Services' Office of the Inspector General's List of Excluded Individuals/Entities (<http://exclusions.oig.hhs.gov/search.html>) and the General Service Administration's list of debarred contractors (<http://epls.arnet.gov>). Screening is valid for six (6) months prior to initial hire date. Vendor shall conduct an updated FACIS check when temporary personnel have been assigned to Client for a period of twelve (12) months or more;
- e. Sex Offender Registry check for all states of residency in the past seven (7) years;
- f. A Maine Revenue Services tax liability check, if applicable, will be performed, subject to Maine Revenue Services' policies regarding such checks, for all Resources on assignment at Maine Revenue Services, and/or for Resources on assignment at other State Agencies, if so directed by the applicable Agency;
- g. Additional checks as requested by the State and as specified in a job posting or as otherwise communicated to Vendor. Required checks may vary according to Agency or Facility, and are subject to change upon notice to Vendor.

Resource may also be required to provide additional, relevant pre-assignment documents, at the request of a State Agency.

In the event that an Agency requires fingerprinting, such fingerprint check requirements shall supersede the background check requirements (a) and (b) stated above.

Knowledge Services shall require Vendor to use a background check company specified by Vendor. Knowledge Services shall provide relevant information to Vendor regarding the registration process with such background check provider.

Reasons for determining that a Resource did not satisfactorily pass the background check include, but are not limited to, the below guidelines. Any exceptions to the below guidelines must be approved by the Agency.

- a. Candidates convicted of a criminal misdemeanor involving dishonesty or a breach of trust, including breach of confidentiality or personal identifiable information, burglary, larceny, embezzlement, counterfeiting, forgery, theft or robbery, shall be excluded from consideration.
- b. Candidates convicted of criminal felonies or misdemeanors involving violent acts such as murder, assault, rape and battery shall be excluded from consideration.
- c. Candidates convicted of a criminal felony involving dishonesty or a breach of trust, including burglary, larceny, embezzlement, counterfeiting, forgery, theft or robbery shall be excluded from consideration.

Costs associated with background or fingerprint checks shall be the sole responsibility of the applicable Vendor, unless directed by the State Agency. Background and fingerprint check results shall be effective for a period of thirty (30) days prior to Resource's assignment start date. In the case of a "break in service" from the State, a background check is effective for a period of six (6) months, unless otherwise specified for assignments at a State hospital.

A background or fingerprint check may be required to be run each year for Resources on assignment, as measured from Resource's assignment start date, and as directed by the applicable Agency. In the event that Resource begins work for a new Agency or Facility during such time, a separate fingerprint check will be required. Additionally, assignments located at a State

hospital, school or correctional facility may require a TB shot to be updated annually. In the event that this is not performed by the applicable Facility, Vendor will be responsible for such test.

At the sole discretion of the Agency, a Resource may begin work pending the results of the background or fingerprint check. The Agency may elect to waive any or all requirements, and such waiver shall be communicated in writing from the Agency or Facility to Vendor prior to Resource's assignment. Vendor shall then communicate such waiver in writing to Vendor. The State reserves the right to require additional checks as requested.

Exhibit D

Knowledge Services MSP Resource Employment Status Validation Form

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KNOWLEDGE SERVICES MSP
RESOURCE EMPLOYMENT STATUS VALIDATION FORM

INSTRUCTIONS: Please complete, sign and upload this Form for each Resource that is selected to perform work on behalf of the State of Maine prior to the start of Resource's assignment.

Vendor & Resource Information			
Vendor Name:	Legal Name: DBA Name(s):	Form Completed By:	
Resource Name:		State Agency where Resource will be on assignment:	
Job Title for Resource's assignment:			

Resource Certification Statement
<p>I certify that the information provided in this Form is true and correct to the best of my knowledge. I understand that the inaccuracy or falsification of any information provided may result in the termination of any Agreement to provide services on behalf of the State of Maine. Knowledge Services reserves the right to require additional information or documentation, upon request.</p> <p><input type="checkbox"/> I certify that I am a W2 Employee of _____ .</p> <p>OR</p> <p><input type="checkbox"/> I certify that I am an Independent Contractor (1099) Resource of _____ , and that I meet the definition of an Independent Contractor, per the IRS guidelines.</p> <p>By: _____ Printed: _____</p> <p>Date: _____</p>

Vendor Certification Statement
<p>I certify that the information provided in this Form is true and correct to the best of my knowledge. I understand that the inaccuracy or falsification of any information provided may result in the termination of any Agreement to provide services on behalf of the State of Maine. I further agree to notify Knowledge Services in the event of any change(s) to the information provided in this Form. Knowledge Services reserves the right to require additional information or documentation, upon request.</p> <p><input type="checkbox"/> I certify that the above Resource is a W2 Employee of _____ .</p> <p>OR</p> <p><input type="checkbox"/> I certify that the above Resource is an Independent Contractor (1099) Resource of _____ , and that our company has validated that Resource meets the definition of an Independent Contractor, per the IRS guidelines.</p> <p>By*: _____ Printed: _____</p> <p>Title: _____ Date: _____</p> <p>* Must be completed by a Vendor Representative who has signatory authority on behalf of the Vendor.</p>

Exhibit E – Debarment Form

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Debarment Form

Vendor Name: _____ PO #: _____ Date: _____

Certification Regarding
Debarment, Suspension and Other Responsibility Matters
Primary covered Transactions

This Certification is required by the Regulations implementing Executive Order 12549, Debarment and Suspension, 29 CFR Part 98, Section 98.510, Participants' Responsibilities. The Regulations were published as Part VII of the May 26, 1998 Federal Register (pages 19160-19211).

(BEFORE SIGNING THIS CERTIFICATION, PLEASE READ THE ATTACHED INSTRUCTIONS WHICH ARE AN INTEGRAL PART OF THE CERTIFICATION)

1. The prospective primary participant certifies to the best of its knowledge and belief that it and its principles:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1.b of this Certification; and
 - d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Name and Title, Authorized Representative

Signature

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the Certification set out below.
2. The inability of a person to provide the Certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the Certification set out below. The Certification or explanation will be considered in connection with the Department of Administrative and Financial Services, OIT determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a Certification or an explanation shall disqualify such person from participation in this transaction.
3. The Certification in this clause is material representation of fact upon which reliance was placed when the Department of Administrative and Financial Services, OIT determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous Certification, in addition to other remedies available to the Federal Government, the Department of Administrative and Financial Services, OIT may terminate this transaction for cause of default.
4. The prospective primary participant shall provide immediate written notice to the Department of Administrative and Financial Services, OIT if at any time the prospective primary participant learns its Certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms “covered transaction”, “debarred”, “suspended”, “ineligible”, “lower tier covered transaction”, “participant”, “person”, “primary covered transaction”, “principal”, “proposal”, and “voluntarily excluded”, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Department of Administrative and Financial Services, OIT for assistance in obtaining a copy of these regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department of Administrative and Financial Services, OIT.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions” provided by the Department of Administrative and Financial Services, OIT, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Lists of Parties Excluded from Procurement or Nonprocurement Programs.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a

participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Department of Administrative and Financial Services, OIT may terminate this transaction for cause or default.

Exhibit F

IRS Safeguard Contract Language – Technology Services

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**IRS Publication 1075 – Tax Information Security Guidelines for Technology Services (from
Exhibit 7)
EXHIBIT 7 - CONTRACT LANGUAGE FOR TECHNOLOGY SERVICES**

I. PERFORMANCE

In performance of this contract, the contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:

- (1) All work will be done under the supervision of the contractor or the contractor's employees.
- (2) Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Disclosure to anyone other than an officer or employee of the contractor will be prohibited.
- (3) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.
- (4) The contractor certifies that the data processed during the performance of this contract will be completely purged from all data storage components of his or her computer facility, and no output will be retained by the contractor at the time the work is completed. If immediate purging of all data storage components is not possible, the contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.
- (5) Any spoilage or any intermediate hard copy printout that may result during the processing of IRS data will be given to the agency or his or her designee. When this is not possible, the contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the agency or his or her designee with a statement containing the date of destruction, description of material destroyed, and the method used.
- (6) All computer systems receiving, processing, storing, or transmitting Federal tax information must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to Federal tax information.
- (7) No work involving Federal tax information furnished under this contract will be subcontracted without prior written approval of the IRS.
- (8) The contractor will maintain a list of employees authorized access. Such list will be provided to the agency and, upon request, to the IRS reviewing office.
- (9) The agency will have the right to void the contract if the contractor fails to provide the safeguards described above.

II. CRIMINAL/CIVIL SANCTIONS:

- (1) Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized

disclosure. These penalties are prescribed by IRC sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

(2) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of \$1,000 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC section 7213A and 7431.

(3) Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

(4) Granting a contractor access to FTI must be preceded by certifying that each individual understands the agency's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, contractors should be advised of the provisions of IRC Sections 7431, 7213, and 7213A (see Exhibit 6, IRC Sec. 7431 Civil Damages for Unauthorized Disclosure of Returns and Return Information and Exhibit 5, IRC Sec. 7213 Unauthorized Disclosure of Information). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10) For both the initial certification and the annual certification, the contractor should sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

III. INSPECTION:

The IRS and State Agency shall have the right to send its officers and employees into the offices and plants of the contractor for inspection of the facilities and operations provided for the performance of any work under this contract. On the basis of such inspection, specific measures may be required in cases where the contractor is found to be noncompliant with contract safeguards.

Exhibit G

State of Maine Information Technology Nondisclosure Agreement

**STATE OF MAINE
INFORMATION TECHNOLOGY
CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT**

It is essential and critical that all Information Technology (IT) contractors/agents working with the State of Maine Office of Information Technology (and other State of Maine agencies which have access to systems, files, data, or documents) realize that many of these elements contain information relating to either Federal or State data, much of which is confidential in nature. For example, Maine Revenues Services, the Department of Human Services, Motor Vehicle, the Bureau of Employee Relations, to name only a few State of Maine agencies, are regulated by Federal and/or State laws pertaining to disclosure of information.

Therefore, it is essential that all information technology contractors/agents working with the State of Maine agree to recognize and conform to the following policies:

1. No contractor/agent shall disclose information relating to any data or information file accessed, viewed, provided by the State of Maine or otherwise entrusted to his/her keeping.
2. No form of data – source documents, input, hard copy, magnetic tape or disk, or other media – shall be removed from the State of Maine’s immediate possession, by anyone, without written authorization by the Chief Information Officer, Chief Technology Officer, or Director of the Agency Information Technology Applications area.
3. All data developed, accessed, viewed, or provided by the Office of Information Technology, or Agency Information Technology group, is the property of the State of Maine. Requests for copies, extracted data, etc., can only be authorized by the department that originally supplied it. All authorizations granting copy, extracting, or other permission must be in writing prior to release of the information.
4. Contractors/agents will make every reasonable effort to protect the integrity and the confidentiality of data accessed by, residing with, or entrusted to them.
5. Each contractor/agent realizes and fully understands that unauthorized disclosure or removal of information in any form may result in disciplinary action, personal fines, imprisonment, or other action, resulting from due process of the law.
6. Any contractor/agent who suspects that the integrity or confidentiality of any information entrusted to them or the Office of Information Technology/Agency IT unit has been compromised is responsible for immediately notifying the State of Maine Enterprise Information Technology Security Director, Chief Information Officer, or Agency Security Officer.

ALL INFORMATION TECHNOLOGY CONTRACTORS/AGENTS HAVING ACCESS TO INFORMATION SUPPLIED BY STATE OF MAINE INFORMATION TECHNOLOGY UNITS ARE REQUIRED TO READ AND SIGN A COPY OF THIS AGREEMENT, INDICATING ACKNOWLEDGMENT AND UNDERSTANDING OF THE ABOVE.

Signature

Date

If the signatory of this Agreement is advised they will come in contact with Federal Tax Information (FTI) or State Tax information, go to <http://inet.state.me.us/oit/employeeinformation/MRS/index.html> and complete the form. This document is not required unless your job requirements are such that you would have reason to access to or contact with that information.

VENDOR INFORMATION

This form must be completed and submitted to Knowledge Services, along with the entire signed Agreement and a completed and signed W-9 and Certificate of Insurance, to be active in the Maine MSP Program and registered within the dotStaff™ system.

Please email to the State of Maine Program Manager @MEMSP@knowledgeservices.com or fax documents to: ATTN: LEGAL DEPARTMENT at 317.578.7600.

Vendor Company Name:

Client Name: **State of Maine**

Date Completed:

Completed By:

Company dotStaff™ Administrator		
The Vendor Administrator is able to control who at the Vendor's company can access dotStaff™, view the activities of everyone within Vendor's company who uses dotStaff™, and can register Vendor users and resources. All information must be completed to be registered in the dotStaff™ system.		
Name:	Title:	
Phone:	Fax:	Cell:
E-mail address:		
<input type="checkbox"/> Current dotStaff™ supplier		

Remittance Address:

City: _____ the State: _____ Zip: _____

Phone: _____ Fax: _____

AR Contact Name: _____

Email Address: _____

IRS Tax Identification Number: _____ **(please submit a signed W-9)**

State of Incorporation: _____

COMPANY TYPE

- Corporation Sole Proprietor Limited Liability Company Joint Venture Partnership
 Government Agency Subsidiary Corporation Government Funded Project
 Other _____

Do you require a 1099 at the end of the year? Yes No

Contact Person(s)

National Account Representative or Area Manager:

Name: _____ Title: _____

Phone: _____ Fax: _____ Cell: _____

E-mail address: _____ Location: _____

Vendor Service Location: _____

City: _____ the State: _____ Zip: _____
Phone: _____ Fax: _____
24-Hour Emergency - Pager or Phone: _____

Vendor Headquarters or Parent Company: _____
City: _____ the State: _____ Zip: _____
Phone: _____ Fax: _____

DIVERSE OWNERSHIP CLASSIFICATION:

Please check all that apply and attached any relevant certifications

- Asian/Pacific – United the States citizen whose origins are in Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, The Trust Territory of the Pacific Islands, Laos, Kampuchea (Cambodia), Taiwan, Burma, Thailand, Malaysia, Indonesia, Singapore, Brunel, Republic of the Marshall Islands, or the Federated the States of Micronesia.
- Asian Indian American – United the States citizens whose origins are from India, Pakistan and Bangladesh.
- African American – United the States Citizens whose native origins are from the black racial groups of Africa.
- Hispanic American – United the States citizens from Mexico, Puerto Rico, Cuba, Central or South America, or other Spanish culture or origin, regardless of race.
- HUBZone – HUBZone is a small business, located in a “historically underutilized business zone” (HUBZone), owned and controlled by one or more U.S. Citizens and at least 35% of its employees reside in a HUBZone. Visit SBA website: <http://www.ewabl.sba.gov/hubzone/internet>.
- Native American – American Indian, Native Hawaiians and Eskimos/Aleuts.
- Women – Female not a member of one of the ethnic minority groups noted.
- SBA Pro Net – Pro-net is an internet based database of information on small, disadvantaged, 8(a), HUBZone and women-owned business. Suppliers are encouraged to register on the Pro-Net system: <http://www.pro-net.sba.gov/index2.html>
- Small/Disadvantaged – Generally a small business is one having no more than 500 employees. A business that meets the criteria and size standards of 13CFR Parts 101-124, and that is at least 51% owned , controlled and operated by socially disadvantaged individuals whose ability to compete in the free enterprise system is impaired due to diminished opportunities to obtain capital and credit as compared to others in the same line of business who are not socially disadvantaged.
- Disabled/Handicapped – Sheltered workshops, disabled veterans and members of other groups, defined by the SBA under Section 8(a) of the Small Business Act, as amended 915 U.S.C. 637(a), as socially and economical disadvantaged.
- Vietnam Era Veteran – United the States citizen who served on active duty for a period of more than 180 days, any part of which occurred between August 5, 1964 and May 7, 1975, and was either discharged or released honorably or was discharged and released from active duty for a service connected disability.

	CERTIFYING ORGANIZATION	CERTIFICATION #	START DATE	END DATE
<input type="checkbox"/>	NWBOC			
<input type="checkbox"/>	NMSDC			
<input type="checkbox"/>	SBA 8(a) Business Development Program			
<input type="checkbox"/>	SBA Small Disadvantaged Business Program (SDB)			
<input type="checkbox"/>	SBA HUBZone Empowerment Contracting			

	Program			
<input type="checkbox"/>	SBA – Small Business Administration (Pro-net/CCR)			
<input type="checkbox"/>	SCMBDC			
<input type="checkbox"/>	WBENC			
<input type="checkbox"/>	Women’s Business Development Center			
<input type="checkbox"/>	City – Please Specify			
<input type="checkbox"/>	County – Please Specify			
<input type="checkbox"/>	the State – Please Specify			
<input type="checkbox"/>	Other – Please Specify			