

Aug 16, 2022, 4:30 PM

L A BJONNES
800-732-5689 ext.

Payment Discount Terms

0 Days
0 Days
0 Days
0 Days

Commodity Information

Vendor Line #: 1
Vendor Name: A T & T CORP
Commodity Line #: 1
Commodity Code: 20854
Commodity Description: WSCA-NASPO Cloud Solutions with AT&T Foghorn
Commodity Specifications:
Commodity Extended Description: Per the documents attached and made part of this MA.

Quantity	UOM	Unit Price
0.00000		0.000000
Delivery Days	Free On Board	
Contract Amount	Service Start Date	Service End Date
0.00	09/26/16	09/30/22
Catalog Name	Discount	
	0.0000 %	
	Discount Start Date	Discount End Date

Commodity Terms and Conditions

Vendor Line #: 1
Commodity Line #: 1
T&C #: 165
T&C Name: Payment Terms
T&C Details: Net 30

Terms and Conditions

Agreement Terms and Conditions

T&C #: 165
T&C Name:

T&C Details: Net 30

Please see authorized signatures displayed on the next page


Each signatory below represents that the person has the requisite authority to enter into this Contract.
The parties sign and cause this Contract to be executed.

State of Maine - Department of Administrative and Financial Services


DocuSigned by:
 8/30/2022
020497753DD0493...
Signature Date

Jaime C. Schorr, Chief Procurement Officer

AT & T

DocuSigned by:
 8/29/2022
010634C571FE406...
Signature Date
Gabriela Ratulowski Sr Solutions Architect

State of Maine - Office of Information Technology

DocuSigned by:
 8/29/2022
052B9AC7F56A489...
Signature Date
Fred Brittain Chief Info. Officer

20220816-4768
NASPO ValuePoint

PARTICIPATING ADDENDUM**CLOUD SOLUTIONS 2016-2026**

Led by the State of Utah



PCS 20220816-090

Bid Number RFP: # CH16012

Master Agreement #: AR2470

Contractor: **AT&T CORP.**

Participating Entity: **STATE OF MAINE**

This Participating Addendum (the "PA") is made this 29th day of August 2022 (the "PA Effective Date"), by and between State of Maine ("Participating Entity"), and AT&T Corp. ("Contractor") (Participating Entity and Contractor are, at times, referred to individually as a "Party" or together as the "Parties").

Section 1. Recitals.

1.1 Contractor and the State of Utah, acting through its Department of Administrative Services, Purchasing Division are parties to that certain cloud services contract #AR2470, dated September 15, 2017 (the "Master Agreement").

1.2 Participating Entity wants to participate in the Master Agreement pursuant to the terms and conditions of the PA.

Section 2. Agreement. In consideration of the recitals set forth in §1 above, which are hereby re-stated and agreed to by the Parties, and for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, Participating Entity and Contractor hereby agree to the terms and conditions of the PA (the Master Agreement and the PA, together, the "Agreement"). Unless otherwise defined, capitalized terms in the PA have the meanings ascribed to them in the Master Agreement.

Section 3. Adoption of Master Agreement. Participating Entity and Contractor acknowledge and agree that by entering into this PA: (a) Participating Entity and Contractor are bound by the terms and conditions of the Master Agreement; (b) the Lead State (Utah) and Contractor may amend the Master Agreement at any time; and (c) Participating Entity has no right to amend the Master Agreement.

Section 4. Purchasing Entities; Financial Responsibility.

4.1 Participating Entity hereby authorizes [all state agencies, institutions of higher institution, political subdivisions and other entities authorized to use statewide contracts in the State of Maine to purchase products and services under the Agreement.

4.2 Except in the event of non-appropriation each Purchasing Entity is financially responsible for all charges and fees incurred by it under the Agreement. Participating Entity will not be held financially responsible for any charges and fees incurred by other Purchasing Entities.

[Removable Instruction: Participating Entity should ensure that §4.2 properly defines who is financially responsible for purchases made under this participating addendum. Delete this instruction paragraph after completing this section.]

4.3 If Participating Entity is not a State, then such non-State Participating Entity hereby acknowledges, represents, and agrees that the State of Maine's Chief Procurement Officer has approved Participating Entity's participation in the Agreement.

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Section 5. Purchase Orders. Except as set forth herein, purchase orders must reference both the Master Agreement and the PA. Upon acceptance of any such valid purchase order: (a) Contractor will be bound to the terms and conditions of the Agreement with respect to that purchase order; and (b) the corresponding Purchasing Entity will be bound by the terms and conditions of the Agreement with respect to that valid purchase order as if it was the Participating Entity including, without limitation, the obligation to pay Contractor for Services and products provided. Notwithstanding the foregoing, any purchase order submitted that does not properly reference the Master Agreement and/or the PA may be accepted and deemed valid, at Contractor's reasonable discretion, if Contractor can reasonably ascertain that such purchase order was properly authorized and intended for use with the PA. In such instances, the corresponding purchase order will be similarly valid and binding. Except as expressly provided in the Agreement, terms and conditions set forth on a purchase order that are inconsistent with, contrary to, or in addition to the terms and conditions of the Agreement will be null and void unless expressly accepted in writing by Contractor and Purchasing Entity.

Section 6. Pricing Schedules. Pursuant to the Agreement, provision of Services and products in connection with the Agreement will require Participating Entity and Contractor to agree to the terms and conditions of corresponding Pricing Schedules.

Section 7. Participating Entity Modifications or Additions to the Agreement. This PA may include certain supplemental provisions required by the laws and regulations of Participating Entity's State. Such supplemental provisions are set forth in this §8 and apply only to actions and relationships with the Contractor and the entities authorized to participate in the Master Agreement pursuant to its §5.1. Participating Entity must check one of the boxes below.

☐ No changes to the terms and conditions of the Master Agreement are required.

☒ The following changes are modifying or supplementing the Master Agreement terms and conditions. (*See Rider B-IT for State of Maine's additional terms and conditions*)

Section 8. Authority. By signing below, the corresponding individuals represent that he or she is duly authorized by Contractor or Participating Entity, as applicable, to execute the PA on behalf of the respective Party, and that the Contractor and Participating Entity agree to be bound by the provisions hereof.

Section 9. Primary Contacts.

The primary contact individuals for this PA are as follows (or their named successors):

Participating Entity:

Name: Dawnna Pease
 Title: Director, Computing Infrastructure
 & Services
 Address: 51 Commerce Dr,
 Augusta ME 04333
 Telephone: 207 624 7548
 E-Mail: Dawnna.Pease@maine.gov

Lead State:

Name: Blake Theo Porter
 Title: State Contract Analyst
 Address: 4315 S 2700 W FL 3
 Taylorsville, UT 84129-2128
 Telephone: 801-957-7136
 E-Mail: BTporter@utah.gov

Contractor Account Team:

Contractor Main:

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Name:
 Title:
 Address:

Telephone:
 E-Mail:

Name:
 Title:
 Address:

Telephone:
 E-Mail:

Donnie Powell
 Lead Marketing Manager
 311 S Akard St.
 Dallas, TX 75202
 214-208-2353
donnie.joe.powell@att.com

Section 10. Order of Precedence. The Parties acknowledge and agree that in the event of a conflict between the terms contained in the various documents comprising the Agreement, the following order of precedence will control: (a) the PA; and (b) the Master Agreement. This section specifically supersedes any order of precedence provisions set forth elsewhere in the Agreement.

Section 11. Entire Agreement. The Agreement sets forth the entire agreement between the Parties with respect to its subject matter, and it supersedes all previous communications, representations or agreements, whether oral or written, with respect thereto.

This Participating Addendum signed by AT&T first, is effective upon Customer signature provided that such fully signed Participating Addendum is returned to AT&T not more than forty-five (45) days after AT&T's signature date. Any change made to this document renders the Participating Addendum null and void.

IN WITNESS WHEREOF, the Parties have executed the PA as of the PA Effective Date.

AT&T CORP.

DocuSigned by:
Gabriela Ratulowski
 By: 010634C571FE406...
 duly authorized

Name: Gabriela Ratulowski

Title: Senior Solutions Architect

8/29/2022

Date: _____

STATE OF MAINE

DocuSigned by:
Jaime C. Schorr
 By: 8D6437734DD0459...
 duly authorized

Name: Jaime C. Schorr

Title: Chief Procurement Officer

8/30/2022

Date: _____

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RIDER A
SPECIFICATIONS OF WORK TO BE PERFORMED

Order No. 1 FogOps Hourly Services for State of Maine

01 EXECUTIVE SUMMARY

The State of Maine (referred to in this Order as the “Client”) is interested in expanding their Amazon Web Services presence and scale. In particular, the State of Maine would like to strive to implement best practices in several foundational areas prior to scaling their AWS usage. The following areas are of immediate interest:

- AWS “Landing Zone”/ Control Tower”, including:
 - AWS Account Strategy
 - Network Design and integration
 - Identity and Access Management
 - DNS strategy and design
- AWS Cloud Governance
 - Provisioning
 - Cost Management
 - Security
 - Compliance
 - Disaster Recovery
- Operational Readiness
 - Configuration Management
 - Playbook Generation
 - Observability
 - Shared Services
- Initial Workload(s) Implementation
 - Provisioning
 - Advise deployment of OS images, including Windows and Linux
- Migration Strategy and Planning
 - Workload classification
 - Business case evaluation
 - Migration planning
- Review Pinpoint existing configuration service (includes Lambda and S3)

Foghorn proposes to engage a team of cloud architects and engineers to assist the existing security, network, and systems / operations teams to bring advisory services, design expertise, and implementation support to the existing team, with the objective of implementing best practices for the AWS environment in the areas of security, reliability, cost, operational efficiency, and performance.

02 SERVICE DESCRIPTION

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Subject to the terms and conditions of this Order, Foghorn will provide AT&T with access to engineering resources to assist with various Site Reliability Engineering (SRE), DevOps, and Cloud Infrastructure activities for the Client. These resources will be available for both proactive and reactive tasks as needed by AT&T. Common uses include ongoing tactical work, SRE/DevOps team augmentation, as well as ongoing subject matter expertise and support.

AT&T's team will be staffed with engineers having capabilities to perform the areas of interest listed in the Executive Summary.

AT&T and the Client will interact with their team via TEAMS, Teleconference, Screen-Share, and Ticketing System for hourly work, and can be scheduled for remote work.

After preliminary assessment, it has been agreed that the following details will apply to this Order for AT&T:

Skillsets listed in the Technologies section below will be required

Relevant activities that AT&T's FogOps team will be able to perform are listed in the Activities section below

Team will utilize Foghorn's ticketing system for tracking issues and work activities

03 ACTIVITIES

The activities described in the list below represent the areas that have been identified as relevant to the Client's site and organizational requirements. AT&T's team will be able to provide support or advise the Client's technical team in these areas as needed:

Activity	Description	Example
Cloud architecture	Design cloud infrastructure and application services to meet the business and technical requirements of various workloads	Design Virtual Private Cloud network that allows for high availability, PCI compliant workloads, with connectivity to a corporate datacenter
Cost optimization	Analyze current cloud infrastructure usage and recommend commercial and architecture changes to optimize cloud spend	Assist in purchasing Reserved Instances, recommend lower cost Providers or Regions, evaluate application transformation options to leverage cost effective storage
Root cause analysis	Analyze evidence from outage or problem, determine root cause, and recommend architectural or operational changes	Determine web outage was caused by all web servers located in a single availability zone. Recommend reconfiguring auto

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	designed to prevent recurrence	scaling groups to distribute across multiple zones.
Infrastructure design and implementation	Detailed design and implementation of networks, systems, storage, and cloud services to accommodate workload requirements	Design and build the network, spin up the servers, attach persistent disk, and configure object storage for new CMS system. Assist in migration and launch of new site
Performance optimization	Analyze monitoring metrics for bottlenecks, make infrastructure or application recommendations to optimize performance	ElasticSearch cluster is performing slowly. Recommend consolidating instances into a placement group to decrease latency of cross cluster communication
Deployment pipeline development	Install and configure tools to automate application deployment process and increase velocity and consistency of deployments	Build Jenkins server, integrate with GitHub repository, and configure Jenkins to build and test on commit to staging branch. On success, deploy to staging infrastructure and send notification to QA group
Configuration management	Develop recipes, plans, and manifests that contain infrastructure or system configuration, allowing for automated builds and desired state maintenance	Move web server configuration into Chef recipes. Implement server build process via Chef and Packer
Operations automation	Develop and implement code to replace common operations tasks, and create self-healing environments	Create scheduled tasks that regularly back up cloud storage that is tagged as production, and that shut down staging and development servers every evening.
Troubleshooting / problem remediation	Assist in troubleshooting problems to resolution	Determine that the current web site outage is caused by an inadvertent security group change. Remediate by restoring correct security group rules.
Systems and security patching	Proactively patch operating systems and	Patch all application servers in coordination with release cycle. Coordinate and patch all servers

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	packages per operations guidelines	off cycle in the event of a critical security patch
Architecture / operations review and recommendations	Periodically review current architecture and future plans, and share new cloud offerings that may apply to existing or new business goals	Upon review, existing growth rate may cause production account to exceed API thresholds. Plan for multi-production-account operations.

05 PREREQUISITES, ASSUMPTIONS AND CONSTRAINTS

- ✓ Assumes that AT&T and Client resources will be available to participate in the engagement as required.
- ✓ Assumes that Foghorn engineers will be granted access to the Client's cloud infrastructure as required to complete the tasks.
- ✓ This Order does not include travel expenses. Foghorn can travel if required—additional travel expenses would apply. No travel will be required.
- ✓ Foghorn uses Microsoft Teams to accelerate delivery times. Timelines in this Order assume that a Shared Teams channel is set up to facilitate timely communication between Foghorn and AT&T or the Client. Delays in timelines should be expected if Shared Teams is not leveraged for the work described in this Order.
- ✓ Foghorn will make best effort to assign resources whose skillsets match the requirements as closely as possible, however complete coverage is not guaranteed.

06 FEES

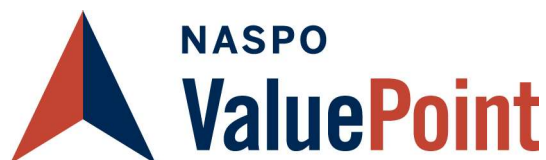
Fees will be based on the time spent by Foghorn in the performance of Services pursuant to this Order. Foghorn will bill hourly or daily, as listed below, for Services described in the scope above.

Resource	Remote Rate (Hourly)	On-Site Rate (Daily)
FogOps Team (Including Lead, Senior, and Engineer)	\$280	\$2340

Expense Reimbursement Rates for travel are as follows:

Expense Type	Rate
Per Diem (Food, Lodging, Local Travel)	\$300 per person per day of travel or day onsite

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Travel expense (e.g. Flights)	Actual cost
-------------------------------	-------------

The rates above assume that all work can be completed during normal business hours of 8am – 5pm Pacific Time, Monday through Friday, excluding Foghorn Holidays. If work by any Foghorn resource is required outside of these times, or if more than 8 work hours in one business day by any resource are required, Foghorn will bill for the excess time at 1.5 times the listed rates.

For Services performed remotely by a Foghorn resource in any day, Foghorn will bill a minimum of 1 hour for that resource, and then in 15-minute increments for that resource after that, at the hourly rates shown above.

For Services performed On-Site by a Foghorn resource in any day, and for any day during which travel by a resource to or from an On-Site location is required, Foghorn will bill for a minimum of 1 day for that resource at the On-Site rate shown above. If AT&T cancels a request for performance of On-Site Services less than 48 hours before scheduled travel departure, Foghorn will bill AT&T for one (1) day of On-Site Services for each resource that was scheduled to perform such On-Site Services, at the On-Site Rate, and Foghorn will bill AT&T for any unrecoverable travel expenses.

Foghorn estimates that **\$268,800** will be required to deliver the Services described in this Order. This is anticipated to be delivered with **960 hours of FogOps Team**; however, Foghorn will bill AT&T per the rate sheet above based on actual resource delivery.

Foghorn estimates an additional **0% in per diem and travel expenses (or a total of \$0)** for on-site availability. This travel budget is provided for planning purposes. Foghorn will bill AT&T based on actual travel required and the Expense Reimbursement Rates above.

Foghorn will invoice AT&T promptly after the end of each month, for time spent in the performance of Services during that month.

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RIDER B-IT
 TERMS AND CONDITIONS
METHOD OF PAYMENT AND OTHER PROVISIONS

1. **AGREEMENT AMOUNT** \$ 0.00
2. **INVOICES AND PAYMENTS** the Department will pay the Provider as follows:

1. Invoices and Payment: Payment terms are net 30 days from the date the Department receives a proper invoice. The Provider and state shall mutually agree on the process for submitting detailed documentation itemizing all work performed during the invoice period, including the dates of service, work performed, and any other information and/or documentation appropriate and sufficient to substantiate the amount invoiced for payment by the State. All invoices must reference the Contract number for this contract.

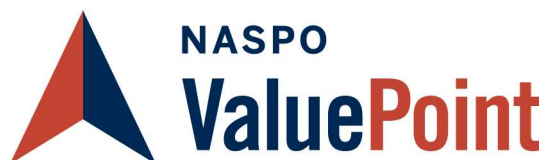
2. [RESERVED]

3. INDEPENDENT CAPACITY In the performance of this Agreement, the Provider shall act in the capacity of an independent contractor and not as an employee or agent of the State.

4. AGREEMENT ADMINISTRATOR The Agreement Administrator is the Department's representative for this Agreement. S/he is the single authority to act on behalf of the Department for this Agreement. S/he shall approve all invoices for payment. S/he shall make decisions on all claims of the Provider. The Provider shall address all contract correspondence and invoices to the Agreement Administrator. The following person is the Agreement Administrator for this Agreement:

Name:	Dawnna Pease
Title:	Director, Computing Infrastructure & Services
Address:	51 Commerce Dr, Augusta ME 04333
Telephone:	207 624 7548
E-mail address:	Dawnna.Pease@maine.gov

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The following individual is designated as the Program Administrator for this Agreement and shall be responsible for oversight of the programmatic aspects of this Agreement. All project status reports, day to day operational issues and project program material and issues shall be directed to this individual.

Name:	Jason Tourtelotte
Title:	Deputy Director, Computing Infrastructure & Services
Address:	51 Commerce Dr, Augusta ME 04333
Telephone:	207 592 0134
E-mail address:	Jason.Tourtelotte@maine.gov

5. CHANGES IN THE WORK The Department may order changes in the work, the Agreement 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. SUBCONTRACTORS The Provider may not enter into any subcontract for the work to be performed under this Agreement without the express written consent of the Department. This provision shall not apply to contracts of employment between the Provider and its employees. For the purposes of this agreement the state will recognize and approve a subcontractor concurrent with the acceptance of a given SOW.

The Provider is solely responsible for the performance of work under this Agreement. The approval of the Department for the Provider to subcontract for work under this Agreement 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 Agreement. 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 Agreement, or which may affect the performance of duties under this Agreement. The Provider shall indemnify and hold harmless the Department from and against any such claim, loss, damage, or liability as set forth in Section 16, State held Harmless.

7. SUBLETTING, ASSIGNMENT OR TRANSFER The Provider 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 the Department. Such approval shall not in any case relieve the Provider of its responsibility for performance of work under this Agreement.

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8. EQUAL EMPLOYMENT OPPORTUNITY During the performance of this Agreement, the Provider certifies as follows:

1. The Provider 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. The Provider 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.

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.

2. The Provider shall, in all solicitations or advertising for employees placed by, or on behalf of, the Provider, 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.

3. The Provider 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 the Provider's commitment under this section, and shall post copies of the notice in conspicuous places, available to employees and applicants for employment.

4. 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 itself by any individual, as well as any lawsuit regarding alleged discriminatory practice.

5. 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.

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6. Contractors and Subcontractors with contracts in excess of \$50,000 shall also pursue in good faith affirmative action programs.

7. The Provider 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.

9. **EMPLOYMENT AND PERSONNEL** The Provider shall not engage any person in the employ of any State Department or Agency in a position that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. The Provider 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 State Department or Agency, except regularly retired employees, without the written consent of the State Purchases Review Committee. Further, the Provider 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 Department, who has not been retired for at least one year, without the written consent of the State Purchases Review Committee. The Provider 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.

10. **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, the Provider, or any affiliate of the Provider, without the written consent of the State Purchases Review Committee. The Provider 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. **NO SOLICITATION** The Provider certifies 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 Agreement, 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 Agreement. For breach or violation of this provision,

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the Department shall have the right to terminate this Agreement 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

1. The Provider 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.
2. 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 Agreement for a period of five (5) years from the date of termination of this Agreement.
3. Records involving matters in litigation shall be kept for one year following the termination of litigation, including all appeals.
4. 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. During the five-year post-Agreement period, delivery of, and access to, all pertinent documents and records will be at no cost to the Department.
5. 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 Agreement which have been disallowed in the audit exception.
6. 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. All inspections and evaluations shall be performed in such a manner that will not compromise the work unreasonably.
7. **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

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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.

8. Parties agree that department shall have same rights as the lead state as set forth in section 26 C of MA.

13. TERMINATION The Parties acknowledge and agree that the first sentence of Master Agreement section 28(b)(H) is amended to read as follows:

This Master Agreement may be terminated by either the Lead State, the Contractor and/or Participating Entity upon sixty (60) days' written notice prior to the effective date of the termination.

14. GOVERNMENTAL REQUIREMENTS The Provider shall comply with all applicable governmental ordinances, laws, and regulations.

15. 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 the Department regarding this Agreement shall be brought in the State of Maine in a court of competent jurisdiction.

16. [RESERVED]

STATE HELD HARMLESS The Provider shall indemnify and hold harmless the Department 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 the Provider, its employees or agents,

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officers or Subcontractors in the performance of work under this Agreement; 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. Intellectual Property claims are governed in the Master Agreement section 13 Third Party Claims, E. Limitations.

17. [RESERVED]

18. NOTICE OF CLAIMS The Provider shall make commercially reasonable efforts to give the Agreement Administrator 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 the Provider 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.

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

20. [RESERVED]

21. [RESERVED]

22. [RESERVED]

23. INTEGRATION All terms of this Agreement are to be interpreted in such a way as to be consistent at all times with the terms of Rider B-IT (except for expressed exceptions to Rider B-IT included in Rider C), followed in precedence by Rider A, and any remaining Riders in alphabetical order.

24 [RESERVED]

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 due to the Provider under this Agreement, up to any amounts due and owing to the State with regard to this Agreement, any other Agreement with any 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 State practices

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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.

26. INTERPRETATION OF THE AGREEMENT

1. **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 Agreement, and the Agreement 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 Agreement, or in any agreement, 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.

2. **Titles Not Controlling** Titles of sections and paragraphs used in this Agreement are for the purpose of facilitating ease of reference only and shall not be construed to imply a contractual construction of the language.

3. **No Rule of Construction** This is a negotiated Agreement and no rule of construction shall apply that construes ambiguous or unclear language in favor of or against any party.

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

28. NOTICES All notices under this Agreement 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, (3) immediately if sent by email. 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.

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29. ADVERTISING AND PUBLICATIONS The Provider shall not publish any statement, news release, or advertisement pertaining to this Agreement without the prior written approval of the Agreement Administrator. 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 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.

30. CONFLICT OF INTEREST 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 Agreement, no person having any such known interests shall be employed.

31. LOBBYING

1. **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 agreement; the making of any grant; the entering into of any cooperative agreement; or the extension, continuation, renewal, amendment, or modification of any agreement, grant, or cooperative agreement. Signing this Agreement fulfills the requirement that Providers receiving over \$100,000 in Federal or State funds file with the Department on this provision.

2. **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 agreements) 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.

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3. **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.

32. PROVIDER PERSONNEL

1. 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 Agreement Administrator. Replacement of such personnel, if approved, shall be with personnel of equal or greater abilities and qualifications.

2. 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 Agreement. In considering the Provider's employees' abilities and qualifications, the Department shall act reasonably and in good faith.

3. During the course of this Agreement, 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.

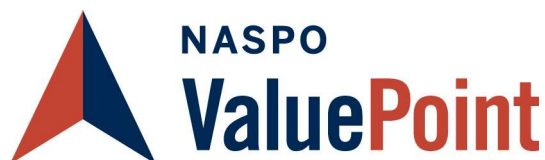
4. In signing this Agreement, the Provider certifies to the best of its knowledge and belief that it, and all persons associated with this Agreement, including any Subcontractors, including persons or corporations who have critical influence on or control over this Agreement, are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any Federal or State department or agency.

5. During the course of this Agreement, 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 Agreement. Provider has agreed to provide an attestation in the event that a background check requested by the department.

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

34. [RESERVED]

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35. [RESERVED]

36. OPPORTUNITY TO CURE The Agreement Administrator may notify the Provider in writing about the Department's concerns regarding the quality or timeliness of a deliverable. Within (10) business days of receipt of such a notice, the Provider shall submit a corrective action plan, which may include the commitment of additional Provider resources, to remedy the deliverable to the satisfaction of the Agreement Administrator, without affecting other project schedules. The Department's exercise of its rights under this provision shall be not be construed as a waiver of the Department's right to terminate this Agreement pursuant to Section 13, Termination.

37. COVER If, in the reasonable judgment of the Agreement 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.

38. 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/policies/DigitalAccessibilityPolicy.pdf>). All IT applications and content delivered through web browsers must comply with the State Web Standards (<https://www.maine.gov/oit/policies/webstandards.html>) and the Digital Accessibility Policy.

39. 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/policies) effective at the time this Agreement is executed

40. [RESERVED]

41. [RESERVED]

42. [RESERVED]

43. [RESERVED]

44. [RESERVED]

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45. PRICE PROTECTION

1. The Provider shall make commercially reasonable ensure that all prices, terms, and warranties included in this Agreement 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 Agreement, the Provider enters into agreement(s) that provide more favorable terms to other comparable customer(s), the Provider shall provide the same terms to the Department.