



MASTER PROFESSIONAL SERVICES AGREEMENT

This agreement ("Agreement") is entered into, to be effective as of [Effective Date] ("Effective Date"), by and between **Abt Associates Inc.** ("Customer"), with its principal place of business located at 55 Wheeler Street, Cambridge, MA 02130 and _____ ("Supplier"), with its principal place of business located at _____.

RECITALS

WHEREAS, Supplier has experience and expertise in the business of providing the professional services contemplated under this Agreement;

WHEREAS, Customer desires to have Supplier provide such services to Customer; and,

WHEREAS, Supplier desires to supply such services to Customer on the terms and conditions contained herein.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, Supplier and Customer hereby agree as follows:

1. Supplier Services. Supplier agrees to provide, in accordance with the terms of this Agreement, the services as set forth on an Exhibit A (sequentially numbered) in the form of the Exhibit A attached hereto or in other statements of work containing substantially similar information and identified as an Exhibit A (the "Services"). The Services and deliverables resulting therefrom shall also be collectively and individually known as the "Product." Supplier shall control the manner in which the Services are provided, giving due consideration to the requests of Customer. Unless otherwise mutually agreed, the Services shall be performed at a Customer facility.
 - 1.1 Non-exclusivity. Nothing herein shall be deemed to preclude Customer from retaining the services of other persons or entities undertaking the same or similar functions as those undertaken by Supplier hereunder or from independently developing or acquiring goods or services that are similar to, or competitive with, the goods or services, as the case may be, contemplated under this Agreement.
 - 1.2 Subcontracting. Supplier shall not enter into any subcontracts for the performance of the Services, or assign or transfer any of its rights or obligations under this Agreement, without the prior written consent of Customer and any attempt to do so shall be void and without further effect. Consent by Customer of the subcontracting by Supplier of any of the Services shall not relieve Supplier of any of its duties or obligations under this Agreement, and Supplier shall indemnify and hold Customer harmless from any payment required to be paid to any such subcontractors.
2. Staff of Supplier. Supplier shall designate the individual staff to perform the Services, but Customer may request specific staff of Supplier. If Supplier, at any time in its reasonable discretion, determines that any staff assigned by Supplier is unsuitable for the performance of the Services, Supplier shall advise Supplier of such determination, and Supplier shall immediately remove such staff, and, at the request of Supplier, promptly provide replacement staff reasonably acceptable to Supplier.
3. Non-solicitation of Employees. Unless otherwise provided for herein, for the period of the applicable Exhibit A and for a period of six (6) months following the expiration of the same (the "Non-solicitation Period"), both parties agree not to directly solicit or seek to influence, induce, or attempt to induce any person employed by the other party for the purposes of employment without express written permission of the other party.
 - 3.1 During the Non-solicitation Period, if a party hires a person employed by the other party without the other party's written consent, then the hiring party will pay to the other party,

as liquidated damages, an amount equivalent to twenty percent (20%) of such person's starting annual salary. Such liquidated damages shall be paid by the hiring party to the other party within thirty (30) days following the date upon which the person begins his or her new employment relationship.

- 3.2 Notwithstanding the foregoing, this Section shall not preclude either party from hiring any person employed by the other party where such person independently responds to an employment opportunity transmitted by the other party to the general public (such as newspaper, magazine, broadcast, Internet, or employment agencies).
4. Project Managers; Progress Reports. Each party shall appoint a Project Manager to oversee that party's responsibilities under this Agreement (the "Customer Project Manager" and the "Supplier Project Manager," as the case may be) and for an Exhibit A, said Project Managers being authorized to act for his or her respective party with respect to this Agreement and an Exhibit A. The parties' respective Project Managers shall: (a) communicate informally on a regular basis; and, (b) meet at least weekly (in person or by telephone) to review the status of the Services. Further, on a weekly basis, beginning upon the effective date of the applicable Exhibit A, Supplier shall submit to Customer a progress report, in a format designated by Customer, certifying Services performed by Supplier during the previous week.
 - 4.1 Supplier Project Manager. With respect to the Supplier Project Manager, Supplier agrees as follows:
 - 4.1.1 The Supplier Project Manager shall be dedicated to the Customer account; provided, however that the Supplier Project Manager may: (a) upon reasonable notice to Customer, participate in training conducted by Supplier; and, (b) discharge normal administrative responsibilities as an employee of Supplier.
 - 4.1.2 Upon assigning an individual to the Supplier Project Manager position, Supplier shall: (a) notify Customer of the proposed assignment; (b) introduce the individual to appropriate representatives of Customer; and, (c) provide Customer with appropriate information regarding the individual (consistent with applicable corporate policies and applicable law) that may be reasonably requested by Customer. Customer shall have the right to refuse the placement of an individual in the Supplier Project Manager position after the interview occurs and the information has been provided.
 - 4.1.3 Supplier shall not replace or reassign the Supplier Project Manager for the duration of the applicable Exhibit A, unless Customer consents to such replacement or reassignment, or the Supplier Project Manager: (a) voluntarily resigns from Supplier; (b) is dismissed by Supplier; (c) fails, in Supplier's reasonable judgment, to perform duties and responsibilities pursuant to this Agreement; or, (d) dies or is unable to work due to disability.
5. Term and Termination; Time is of the Essence. This Agreement is legally binding as of the Effective Date, and, unless terminated as provided herein, shall continue until terminated by Customer. Customer may terminate this Agreement or any Exhibit A, in whole or in part, at any time for any reason upon written notice to Supplier. Time is of the essence of this Agreement and of each Exhibit A.
6. Fees and Billing Procedures. Customer agrees to pay Supplier for the Services in accordance with the fee(s) set forth in the applicable Exhibit A.
 - 6.1 Time of Payment. Any sum due Supplier pursuant to an Exhibit A for Services performed which payment is not otherwise specified shall be due and payable forty-five (45) days after receipt by Customer of an invoice from Supplier.
 - 6.2 Services Provided on an Hourly Basis. Where the Services are billed to Customer on an hourly basis, Supplier shall submit to Customer an accurate time sheet approved and signed by Supplier and Customer. Supplier shall direct its employees to work only such number of hours as are approved in advance by Customer. Supplier shall be paid for all approved hours worked, including those hours worked in excess of eight hours per day, at the hourly rates set forth in the applicable Exhibit A. Hours billed shall reflect actual time performing the Services and shall not include travel time.

- 6.3 Services Provided on a Fixed-fee or Milestone Basis. Where the Services are billed to Customer on a fixed-fee or milestone basis, Supplier shall submit to Customer a statement of the Services performed, such statement approved and signed by Supplier and Customer.
- 6.4 Billing Procedures. Unless otherwise provided for under an Exhibit A, Supplier shall bill to Customer the sums due pursuant to an applicable Exhibit A by Supplier's invoice, on a monthly basis in arrears. Such invoice shall contain: (a) project name; (b) description of Services rendered and deliverables, if any, provided; (c) name of Supplier's staff, number of hours, and hourly rate of each of Supplier's staff where Services are billed to Customer on an hourly basis; (d) travel and living expenses, if any; (e) discounts, if applicable; (f) payment holdbacks, if any; (g) special charges, if any; (h) taxes, if any; (i) total amount due; and, (j) purchase order number provided by Customer, if any. Supplier shall forward invoices to:
- Abt Associates Inc.
Attn: Accounts Payable
55 Wheeler Street
Cambridge, MA 02130
- 6.5 Expenses. Subject to the prior written approval by Customer, and upon submission of an expense report and receipts, Customer shall reimburse Supplier for reasonable travel and living expenses that are consistent with Customer's then current expense guidelines, actually incurred in connection with the performance of the Services. Unless otherwise specified in an Exhibit A, in no case will Customer be responsible for Supplier expenses exceeding fifteen percent (15%) of the fees for the associated Services.
- 6.6 No Additional Charges. Except for the fee described in the applicable Exhibit A (as the same may be adjusted), travel and living expenses, if any, and changes in scope agreed upon in writing, Customer shall not be billed for, or be obligated to pay to Supplier any charges, expenses, or other amounts for the Services or otherwise.
- 6.7 Credits. Any credits or other amounts due to Customer from Supplier pursuant to this Agreement or otherwise may be applied or offset by Customer against any amount required to be paid by Customer to Supplier pursuant to any invoice rendered hereunder. Any credits due to Customer from Supplier pursuant to this Agreement, such as amounts paid by Customer to Supplier in excess of amounts due to Supplier, that are not so applied against Supplier's invoice for any reason shall be paid to Customer by Supplier within thirty (30) days following Customer's written request for such payment. This Section shall survive the termination of this Agreement.
- 6.8 Non-binding Terms. Any terms and conditions that are typed, printed, or otherwise included in any Supplier invoice rendered pursuant to this Agreement shall be deemed to be solely for the convenience of the parties. No such term or condition shall be binding upon Customer, and no action by Customer (including, without limitation, the payment of any such invoice in whole or in part) shall be construed as binding Customer with respect to any such term or condition, unless the specific term or condition has been previously agreed to by Supplier and Customer in writing, and is binding upon Customer with respect to such invoice by virtue of this Agreement or a binding amendment thereto.
- 6.9 Auditable Records; Disputed Amounts. Supplier shall maintain accurate records of all fees billable to, and payments made by, Customer in a format that will permit audit for a period of not less than three (3) years after payment has been rendered by Customer. For such period, upon Customer's written request, Supplier shall provide Customer with a copy of any annual "SAS 70" or other audit reports prepared by auditors of Supplier, if so prepared. In the event Customer in good faith disputes any amount on any Supplier invoice, Customer and Supplier agree to use their best efforts to resolve such dispute within ninety (90) days after Customer provides written notification of the dispute to Supplier. Supplier agrees to provide full supporting documentation concerning any disputed amount or invoice to Customer within thirty (30) days after Customer provides written notification of the dispute to Supplier. Provided that Customer has furnished

written notification of the dispute to Supplier within thirty (30) days after Customer received the disputed invoice, Customer shall have no obligation, during the ninety (90) day period specified above, to pay any amount that Customer reasonably disputes hereunder. This Section shall survive the termination of this Agreement.

- 6.10 Taxes. Supplier represents and warrants that it is an independent contractor for purposes of federal, state, and local employment taxes. Supplier agrees that Customer is not responsible to collect or withhold any federal, state, or local employment taxes, including, but not limited to, income tax withholding and social security contributions, for Supplier or its employees. Any and all taxes, interest or penalties, including, but not limited to, any federal, state, or local withholding or employment taxes, imposed, assessed, or levied as a result of this Agreement shall be paid or withheld by Supplier or, if assessed against and paid by Customer, shall be reimbursed by Supplier upon demand by Customer.
7. Acceptance Period. Unless otherwise specified in the applicable Exhibit A, for all Services provided under this Agreement, Supplier grants to Customer a sixty (60) day acceptance period ("Acceptance Period") commencing on the date completed Services are delivered to Customer. Customer shall have the right to reject the Services, in whole or in part, during the applicable Acceptance Period for Supplier's failure to successfully meet the specifications as contained in the applicable Exhibit A, with such determination to be made in Customer's reasonable judgment. At the end of the applicable Acceptance Period, if Customer has not rejected the Services, the Services shall be deemed to be accepted by Customer; provided, however, that Customer's acceptance of the Services shall not be deemed a waiver of any of Customer's warranty rights as expressly provided herein. In the event Customer rejects the Services within the initial Acceptance Period, Supplier shall, upon receipt of written notice from Customer, be given an additional thirty (30) day period to cure any deficiency identified by Customer. In the event Supplier is unable to cure said deficiency within this additional thirty (30) day period, Customer may, in its sole discretion: (a) at no additional cost to Customer, require Supplier to immediately provide additional staff, as required, so as to not impact Customer's project completion dates, to perform further work on the Services not accepted or to provide proof that changes are not necessary; or, (b) terminate the applicable Exhibit A in part with respect to Services not accepted, in which event any and all fees paid by Customer to Supplier in connection with the Services shall be refunded to Customer in full and Customer shall have no further obligations to Supplier with respect to such Services; provided, however, that the foregoing shall not be deemed to limit Customer's other rights to terminate this Agreement as provided herein, any other rights Customer may have at law or in equity, or Supplier's warranties as expressly provided herein.
8. Change Control Procedure. Customer or Supplier may, at any time upon written notice to the other party, request increases or decreases to scope of the Services under an Exhibit A.
- 8.1 Customer Increases to Scope. If Customer requests an increase in the scope of Services of an Exhibit A, Customer shall notify Supplier in writing, and, not more than five (5) business days (or other mutually agreed upon period) after receiving the request, Supplier shall provide Customer with a written response that shall include a statement as to whether or not the change has an associated cost or schedule impact. If the change has an associated cost or schedule impact, the statement shall include the price increase or credit, and the specific impact on the schedule. If Supplier's response is approved by Customer, Customer shall issue a change control form ("Change Control Form"), which will be approved, in writing, by Customer and executed by Supplier.
- 8.2 Supplier Increases to Scope. Supplier may request additions to scope by providing Customer with a written request that shall include a statement as to whether or not the change has an associated cost or schedule impact. If the change has an associated cost or schedule impact, the statement shall include the price increase or credit, and the specific impact on the schedule. If Supplier's request is approved by Customer, Customer shall issue a Change Control Form, which will be approved, in writing, by Customer and executed by Supplier.
- 8.3 Decreases to Scope. Customer shall have the right, in its sole discretion, and for any reason whatsoever, to decrease the scope of the Services. In such case, the fee for the applicable Exhibit A will be reduced by an amount consistent with the decrease in scope.

9. Non-Disclosure of Confidential Information. The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties.
- 9.1 Meaning of Confidential Information. For the purposes of this Agreement, the term "Confidential Information" shall mean all information and documentation of a party that: (a) has been marked "confidential" or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by such party and marked "confidential" or with words of similar meaning; (c) any Confidential Information derived from information of a party; or, (d) with respect to information and documentation of Customer, whether marked "Confidential" or not, consists of Customer's information and documentation included within any of the following categories: (i) policyholder, payroll account, agent, customer, member, supplier, or contractor lists; (ii) policyholder, payroll account, agent, customer, member, supplier, or contractor information; (iii) information regarding business plans (strategic and tactical) and operations (including performance); (iv) information regarding administrative, financial, or marketing activities; (v) pricing information; (vi) personnel information; (vii) products and/or services offerings (including specifications and designs); or, (viii) processes (e.g., technical, logistical, and engineering). The term "Confidential Information" does not include any information or documentation that was: (a) already in the possession of the receiving party without an obligation of confidentiality; (b) developed independently by the receiving party as demonstrated by the receiving party, without violating the disclosing party's proprietary rights; (c) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (d) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through or on behalf of, the receiving party).
- 9.2 Obligation of Confidentiality. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of such party who have a need to know in connection with this Agreement or to use such Confidential Information for any purposes whatsoever other than the performance of this Agreement. Each party agrees to advise its respective employees, agents, and subcontractors of their obligations of confidentiality hereunder and require the same to keep such information confidential.
- 9.3 Safe Harbor. Neither the confidentiality provision contained in the this Agreement, nor confidentiality provisions contained in any existing agreement with Abt Associates Inc. shall be construed to prohibit or otherwise restrict lawful reporting of waste, fraud, or abuse to a designated investigative or law enforcement representative of a federal department or agency authorized to receive such information.
- 9.4 Ownership of Confidential Information. Unless otherwise agreed to by the parties in writing, the Confidential Information of the disclosing party will be and remain the property of such party.
- 9.5 Cooperation to Prevent Disclosure of Confidential Information. Each party shall use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, each party shall advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.
- 9.6 Remedies for Breach of Obligation of Confidentiality. Each party acknowledges that the breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, each party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, at the sole election of the receiving party, the immediate termination, without penalty to the same, of this Agreement in whole or in part.

- 9.7 The provisions of this Section shall survive the termination of this Agreement.
10. Surrender of Confidential Information Upon Termination. Upon termination of this Agreement, each party shall immediately return to the other party all copies, in whatever form, of any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control.
11. Information Security. Supplier acknowledges that Customer has implemented an information security program (the Customer Information Security Program, as the same may be amended) to protect Customer's information assets, such information assets as further defined and classified in the Customer Information Security Program (collectively, the "Protected Data"). Where Supplier has access to the Protected Data, Supplier acknowledges and agrees to the following.
- 11.1 Undertaking by Supplier. Without limiting Supplier's obligation of confidentiality as further described herein, Supplier shall be responsible for establishing and maintaining an information security program that is designed to: (i) ensure the security and confidentiality of the Protected Data; (ii) protect against any anticipated threats or hazards to the security or integrity of the Protected Data; (iii) protect against unauthorized access to or use of the Protected Data; (iv) ensure the proper disposal of Protected Data; and, (v) ensure that all subcontractors of Supplier, if any, comply with all of the foregoing. In no case shall the safeguards of Supplier's information security program be less stringent than the information security safeguards used by the Customer Information Security Program as provided by Customer to Supplier for this purpose. The Customer Information Security Program is Confidential Information of Customer.
- 11.2 Right of Audit by Customer. Customer shall have the right to review Supplier's information security program from time to time during the term of this Agreement. During the performance of the Services, on an ongoing basis from time to time and without notice, Customer, at its own expense, shall be entitled to perform, or to have performed, an on-site audit of Supplier's information security program. In lieu of an on-site audit, upon request by Customer, Supplier agrees to complete, within forty-five (45) days of receipt, an audit questionnaire provided by Customer regarding Supplier's information security program.
- 11.3 Audit by Supplier. During the term of this Agreement, no less than annually, Supplier shall conduct an independent third-party audit of its information security program and provide such audit findings to Customer.
- 11.4 Audit Findings. Supplier shall implement any required safeguards as identified by Customer or information security program audits.
- 11.5 Indemnification by Supplier. Without limiting Supplier's other obligations of indemnification herein, Supplier shall defend, indemnify, and hold Customer Indemnitees harmless from and against any and all Claims, including reasonable expenses suffered by, accrued against, or charged to or recoverable from any Customer Indemnitee, on account of the failure of Supplier to perform its obligations imposed herein.
12. Rights to Work Product.
- 12.1 Customer and Supplier each acknowledge that performance of this Agreement may result in the discovery, creation, or development of inventions, combinations, machines, methods, formulae, techniques, processes, improvements, software designs, computer programs, strategies, specific computer-related know-how, data and original works of authorship reports, scripts, source code, object code, questionnaires, machine readable data and information, in whatever form, first produced or created by or for Supplier as a result of or related to the performance of the Services (collectively and individually, the "Work Product"). Supplier agrees that it will promptly and fully disclose to Customer any and all Work Product generated, conceived, reduced to practice, or learned by Supplier or any of its employees, either solely or jointly with others, during the term of this Agreement, which in any way relates to the business of Customer. Supplier further agrees that neither Supplier or Supplier's employees, nor any party claiming through Supplier or Supplier's employees, will, other than in the performance of this Agreement, make use of or disclose to others any proprietary information relating to the Work Product.

- 12.2 Supplier agrees that, whether or not the Services are considered works made for hire or an employment to invent, all Work Product discovered, created, or developed under this Agreement shall be and remain the sole property of Customer and its assigns. Except as specifically set forth in writing and signed by both Customer and Supplier, Supplier agrees that Customer shall have all copyright and patent rights with respect to any Work Product discovered, created, or developed under this Agreement without regard to the origin of the Work Product.
- 12.3 If and to the extent that Supplier may, under applicable law, be entitled to claim any ownership interest in the Work Product, Supplier hereby transfers, grants, conveys, assigns, and relinquishes exclusively to Customer any and all right, title, and interest it now has or may hereafter acquire in and to the Work Product under patent, copyright, trade secret, and trademark law in perpetuity or for the longest period otherwise permitted by law. Supplier further agrees as to the Work Product to assist Customer in every reasonable way to obtain and, from time to time, enforce patents, copyrights, trade secrets, and other rights and protection relating to said Work Product, and to that end, Supplier and its staff will execute all documents for use in applying for and obtaining such patents, copyrights, trade secrets and other rights and protection with respect to such Work Product, as Customer may desire, together with any assignments thereof to Customer or persons designated by it. Supplier's and its staff's obligations to assist Customer in obtaining and enforcing patents, copyrights, trade secrets, and other rights and protection relating to the Work Product shall continue beyond the termination of this Agreement.
- 12.4 Customer acknowledges that, in the course of performing the Services, Supplier may use routines and related programming language, instructions, methods, and techniques that have been previously developed by Supplier (collectively, the "Pre-existing Materials") and that same shall remain the sole and exclusive property of Supplier. Where Supplier seeks to embody Pre-existing Materials in the Work Product, Supplier must first obtain written approval from Customer. If, and to the extent that, any Pre-existing Materials are embodied or reflected in the Work Product, Supplier hereby grants to Customer the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license to: (a) use, execute, reproduce, display, perform, distribute copies of and prepare derivative works based upon such Pre-existing Materials and any derivative works thereof; and, (b) authorize others to do any or all of the foregoing.
- 12.5 The provisions of this Section shall survive the termination of this Agreement.
13. Mutual Representations and Warranties. Each of Customer and Supplier represent and warrant the following.
- 13.1 It is a business duly incorporated, validly existing, and in good standing under the laws of its state of domicile.
- 13.2 It has all requisite power, financial capacity, and authority to execute, deliver, and perform its obligations under this Agreement.
- 13.3 This Agreement, when executed and delivered, shall be a valid and binding obligation of it enforceable in accordance with its terms.
- 13.4 It is duly licensed, authorized, or qualified to do business and is in good standing in every jurisdiction in which a license, authorization, or qualification is required for the ownership or leasing of its assets or the transaction of business of the character transacted by it, except where the failure to be so licensed, authorized, or qualified would not have a material adverse effect on its ability to fulfill its obligations under this Agreement.
- 13.5 The execution, delivery, and performance of this Agreement has been duly authorized by it and this Agreement constitutes the legal, valid, and binding agreement of it and is enforceable against it in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganizations, moratoriums, and similar laws affecting creditors' rights generally and by general equitable principles.
- 13.6 It shall comply with all applicable federal, state, local, international, or other laws and regulations applicable to the performance by it of its obligations under this Agreement and

shall obtain all applicable permits and licenses required of it in connection with its obligations under this Agreement.

- 13.7 There is no outstanding litigation, arbitrated matter or other dispute to which it is a party which, if decided unfavorably to it, would reasonably be expected to have a potential or actual material adverse effect on its ability to fulfill its obligations under this Agreement.

14. Representations and Warranties by Supplier. Supplier represents and warrants the following.

14.1 Supplier is possessed of superior knowledge with respect to the Product and is aware that Customer is relying on Supplier's skill and judgment in providing the Product to Customer.

14.2 Supplier knows the particular purpose for which the Product is required.

14.3 At the time of delivery to Customer, the Product shall be free of any harmful or hidden programs or data incorporated therein with malicious or mischievous intent (collectively, the "Virus"), and that, where Supplier transfers such Virus to Customer, Supplier shall reimburse Customer the actual cost incurred by Customer to remove or recover from the Virus, including the costs of persons employed by Customer.

45.4 The Product shall be free of any mechanism which may disable the Product, and Supplier warrants that no data loss will result from such items if present in the Product when delivered to Customer hereunder.

14.5 The Product provided by Supplier hereunder shall not infringe upon any United States or foreign copyright, patent, trade secret, or other proprietary right, or misappropriate any trade secret, of any third party, and Supplier further represents and warrants that it has neither assigned nor otherwise entered into an agreement by which it purports to assign or transfer any right, title, or interest to any technology or intellectual property right that would conflict with its obligations under this Agreement.

15. General Indemnity. Supplier agrees to indemnify, defend, and hold Customer, its officers, directors, agents, and employees (each, an "Indemnitee" and collectively, the "Indemnitees") harmless from and against any and all liabilities, damages, losses, expenses, claims, demands, suits, fines, or judgments (collectively "Claims"), including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from any Customer Indemnitee, by reason of any Claim arising out of or relating to any act, error or omission, or misconduct of Supplier, its officers, directors, agents, employees, and subcontractors, during the performance of this Agreement, including, without limitation, Claims arising out of or relating to: (a) a violation of HIPAA; (b) a violation of federal, state, local, international, or other laws or regulations for the protection of persons or members of a protected class or category of persons; (c) bodily injury (including death) or damage to tangible personal or real property; or, (d) breaches of any representations made under this Agreement; provided, however, that the foregoing indemnity shall not apply to the extent that the applicable Claim resulted from the acts or omissions of Customer, its officers, directors, agents, or employees.

16. Proprietary Rights Indemnification. Supplier agrees to indemnify, defend, and hold Customer Indemnitees harmless from and against any and all Claims, including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from any Customer Indemnitee, arising out of a claim that the Product infringes or misappropriates any United States or foreign patent, copyright, trade secret, trademark, or other proprietary right. In the event that Supplier is enjoined from delivering either preliminary or permanently, or continuing to license to Customer, the Product and such injunction is not dissolved within thirty (30) days, or in the event that Customer is adjudged, in any final order of a court of competent jurisdiction from which no appeal is taken, to have infringed upon or misappropriated any patent, copyright, trade secret, trademark, or other proprietary right in the use of the Product, then Supplier shall, at its expense: (a) obtain for Customer the right to continue using such Product; (b) replace or modify such Product so that it does not infringe upon or misappropriate such proprietary right and is free to be delivered to and used by Customer; or, (c) in the event that Supplier is unable or determines, in its reasonable judgment, that it is commercially unreasonable to do either of the aforementioned, Supplier shall recover such Product from Customer, in which event in addition to the foregoing indemnification: (i) the license of such Product shall be void as between Supplier and Customer as of the date Supplier retakes possession; and, (ii) Supplier shall

reimburse to Customer the full cost for such Product and shall, if applicable, cancel Customer's then current maintenance service, if any, for such Product so returned and issue to Customer a prorated refund of any maintenance fees paid, if any, to Supplier with respect to such Product.

17. Indemnification Procedures. Promptly after receipt by Customer of a threat of any action, or a notice of the commencement, or filing of any action against Customer or any Customer Indemnitee, Customer shall give notice thereof to Supplier, provided that failure to give or delay in giving such notice to Supplier shall not relieve Supplier of any liability it may have to Customer or any Customer Indemnitee except to the extent that Supplier demonstrates that the defense of such action is prejudiced thereby. Customer shall not independently defend or respond to any such claim; provided, however, that: (a) Customer may defend or respond to any such claim, at Supplier's expense, if Customer's counsel determines, in its sole discretion, that such defense or response is necessary to preclude a default judgment from being entered against Customer; and, (b) Customer shall have the right, at its own expense, to monitor Supplier's defense of any such claim. Supplier shall have sole control of the defense and of all negotiations for settlement of such action. At Supplier's request, Customer shall cooperate with Supplier in defending or settling any such action; provided, however, that Supplier shall reimburse Customer for all reasonable out-of-pocket costs incurred by Customer (including, without limitation, reasonable attorneys' fees and expenses) in providing such cooperation.
18. Limitation of Liability. NOTWITHSTANDING ANY OTHER PROVISION SET FORTH HEREIN, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, AND/OR CONSEQUENTIAL DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT; PROVIDED, HOWEVER, THAT THE FOREGOING EXCULPATION OF LIABILITY SHALL NOT APPLY WITH RESPECT TO DAMAGES INCURRED AS A RESULT OF THE GROSS NEGLIGENCE OR WILFULL MISCONDUCT OF A PARTY. A PARTY SHALL BE LIABLE TO THE OTHER FOR ANY DIRECT DAMAGES ARISING OUT OF OR RELATING TO ITS PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT; PROVIDED, HOWEVER, THAT THE LIABILITY OF A PARTY, WHETHER BASED ON AN ACTION OR CLAIM IN CONTRACT, EQUITY, NEGLIGENCE, TORT, OR OTHERWISE FOR ALL EVENTS, ACTS, OR OMISSIONS UNDER THIS AGREEMENT SHALL NOT EXCEED THE FEES PAID OR PAYABLE UNDER THIS AGREEMENT, AND PROVIDED, FURTHER, THAT THE FOREGOING LIMITATION SHALL NOT APPLY TO: (A) A PARTY'S OBLIGATIONS OF INDEMNIFICATION, AS FURTHER DESCRIBED IN THIS AGREEMENT; (B) DAMAGES CAUSED BY A PARTY'S GROSS NEGLIGENCE OR WILFULL MISCONDUCT; OR, (C) A PARTY'S BREACH OF ITS OBLIGATIONS OF CONFIDENTIALITY, AS FURTHER DESCRIBED IN THIS AGREEMENT. This Section shall survive the termination of this Agreement.
19. Insurance.
- 19.1 Supplier shall, at its own cost and expense, procure and maintain in full force and effect during the term of this Agreement, policies of insurance, of the type(s) and in the minimum amount(s) stated herein, with responsible insurance carriers duly qualified in those states (locations) where the Services are to be performed, covering the operations of Supplier, pursuant to this Agreement.

TYPES OF INSURANCE	LIMITS OF LIABILITY (Minimum Amounts)
Comprehensive or Commercial General Liability and Third Party Property Damage	\$1,000,000 per occurrence, \$2,000,000 aggregate
Excess Liability insurance	\$2,000,000 per occurrence, \$2,000,000 aggregate
Comprehensive or Business Automobile Liability; Personal Injury (including bodily injury) and Third Party Property Damage	\$500,000 per occurrence
Workers' Compensation	Statutory limits
Employer's Liability	\$500,000 per accident
Professional Errors and Omissions Insurance	\$1,000,000 per occurrence, \$1,000,000 aggregate

- 19.2 Customer shall be named as an additional insured in such policies which shall contain standard cross liability clauses. Supplier shall cause the liability it assumed under this Agreement to be specifically insured under the contractual liability section of the liability insurance policies. The liability policy shall be primary without right of contribution from any insurance by Customer. Such policies shall require that Customer be given not less than thirty (30) days prior written notice of any cancellation thereof or material change therein. Customer shall have the right to request an adjustment of Limits of Liability for General Liability and Errors and Omissions Insurance as Supplier's exposure to Customer increases (i.e. if Supplier's annual payment is expected to be \$2,000,000 then \$1,000,000 limits are no longer adequate).
- 19.3 Upon Customer's request, Supplier shall provide Customer with certificates of insurance evidencing all of the above coverage, including all special requirements specifically noted above, if any, and shall provide Customer with certificates of insurance evidencing renewal or substitution of such insurance thirty (30) days prior to the effective date of such renewal or substitution.

20. General.

- 20.1 Relationship between Customer and Supplier. Supplier represents and warrants that it is an independent contractor with no authority to contract for Customer or in any way to bind or to commit Customer to any agreement of any kind or to assume any liabilities of any nature in the name of or on behalf of Customer. Under no circumstances shall Supplier, or any of its staff, hold itself out as or be considered an agent employee, joint venture, or partner of Customer. In recognition of Supplier's status as independent contractor, Customer shall carry no Workers' Compensation insurance or any health or accident insurance to cover Supplier or Supplier's agents or staff. Customer shall not pay any contributions to Social Security, unemployment insurance, federal or state withholding taxes, any other applicable taxes whether federal, state, or local, nor provide any other contributions or benefits which might be expected in an employer-employee relationship. Neither Supplier nor its staff, shall be eligible for, participate in, or accrue any direct or indirect benefit under any other compensation, benefit, or pension plan of Customer.
- 20.2 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York and the federal laws of the United States of America. Supplier hereby consents and submits to the jurisdiction and forum of the state and federal courts in the State of New York in all questions and controversies arising out of this Agreement.
- 20.3 Compliance with Laws; Customer Policies and Procedures. Both parties agree to comply with all applicable federal, state, and local laws, executive orders and regulations issued, where applicable. Supplier shall comply with Customer policies and procedures where the same are posted, conveyed, or otherwise made available to Supplier. Without limiting Supplier's other obligations of indemnification herein, Supplier shall defend, indemnify, and hold Customer Indemnitees harmless from and against any and all Claims, including reasonable expenses suffered by, accrued against, or charged to or recoverable from Customer, on account of the failure of Supplier to perform its obligations imposed herein.
- 20.4 Force Majeure. Neither party shall be liable for delays or any failure to perform under this Agreement due to causes beyond its reasonable control. Such delays include, but are not limited to, fire, explosion, flood or other natural catastrophe, governmental legislation, acts, orders, or regulation, strikes or labor difficulties, to the extent not occasioned by the fault or negligence of the delayed party. Any such excuse for delay shall last only as long as the event remains beyond the reasonable control of the delayed party. However, the delayed party shall use its best efforts to minimize the delays caused by any such event beyond its reasonable control. The delayed party must notify the other party promptly upon the occurrence of any such event, or performance by the delayed party will not be considered excused pursuant to this Section, and inform the other party of its plans to resume performance.

- 20.5 Advertising and Publicity. Supplier shall not use the name of or refer to Customer directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from Customer. Supplier may include Customer on its customer lists and, upon notice and consent, such consent not to be unreasonably withheld, Supplier may use Customer as a reference. This Section shall survive the termination of this Agreement.
- 20.6 No Waiver. The failure of either party at any time to require performance by the other party of any provision of this Agreement shall in no way affect that party's right to enforce such provisions, nor shall the waiver by either party of any breach of any provision of this Agreement be taken or held to be a waiver of any further breach of the same provision.
- 20.7 Notices. Any notice given pursuant to this Agreement shall be in writing and shall be given by personal service or by United States certified mail, return receipt requested, postage prepaid to the addresses appearing at the end of this Agreement, or as changed through written notice to the other party. Notice given by personal service shall be deemed effective on the date it is delivered to the addressee, and notice mailed shall be deemed effective on the third day following its placement in the mail addressed to the addressee.
- 20.8 Assignment of Agreement. This Agreement and the obligations of Supplier hereunder are personal to Supplier and its staff. Neither Supplier nor any successor, receiver, or assignee of Supplier shall directly or indirectly assign this Agreement or the rights or duties created by this Agreement, whether such assignment is effected in connection with a sale of Supplier's assets or stock or through merger, an insolvency proceeding or otherwise, without the prior written consent of Customer. Customer, at Customer's sole election, may assign any and all of its rights and obligations under this Agreement to: (a) any affiliate of Customer; or, (b) any company that succeeds to substantially all of Customer's business.
- 20.9 Entire Agreement. This Agreement and its attached exhibits, if any, constitute the entire agreement between the parties and supersede any and all previous representations, understandings, discussions, or agreements between Customer and Supplier as to the subject matter hereof. This Agreement may only be amended by an instrument in writing signed by Customer and Supplier. Customer and Supplier each acknowledge that it has had the opportunity to review this Agreement with its legal counsel. From time to time, the parties hereto may execute one or more supplements as exhibits to this Agreement. Such exhibits, when signed by a representative of each of the parties, shall be incorporated herein and references to particular exhibits herein shall apply to such supplemental exhibits. Unless expressly provided for in the applicable exhibit, in the event of a conflict between the provisions contained in this Agreement and those contained in any exhibit to this Agreement, the provisions contained in the Agreement, as the case may be, shall prevail.
- 20.10 Cumulative Remedies. All rights and remedies of Customer herein shall be in addition to all other rights and remedies available at law or in equity, including, without limitation, specific performance for the enforcement of this Agreement, and temporary and permanent injunctive relief.
- 20.11 Counterparts; Facsimile. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement. The parties agree that a facsimile signature may substitute for and have the same legal effect as the original signature.

Executed on the dates set forth below by the undersigned authorized representatives of the parties to be effective as of the Effective Date.

Abt Associates Inc.
("Customer")

[OTHER PARTY NAME]
("Supplier")

By: _____

By: _____

Name:

Name:

Title:

Title:

Date:

Date:

Address for Notice:

Address for Notice:

EXHIBIT A-___

Supplier's Statement of Work

This Exhibit A - Supplier's Statement of Work shall be incorporated in and governed by the terms of that certain Master Professional Services Agreement by and between **[CUSTOMER NAME]** ("Customer") and **[OTHER PARTY NAME]** ("Supplier") dated [Effective Date], as amended (the "Agreement"). Unless expressly provided for in this Exhibit A, in the event of a conflict between the provisions contained in the Agreement and those contained in this Exhibit A, the provisions contained in the Agreement shall prevail.

Project Description:	
Title / Role of Resource:	
Responsibilities, Deliverables, and/or Activities:	
Services Fees or Rate:	
Start Date:	
Estimated End Date:	
Additional Customer Requirements:	

Executed on the dates set forth below by the undersigned authorized representatives of the parties to be effective as of the Start Date.

CUSTOMER
("Customer")

[OTHER PARTY NAME]
("Supplier")

By: _____

By: _____

Name:

Name:

Title:

Title:

Date:

Date: