

Set Solutions, Inc.
550 Westcott, Suite #470
Houston, TX 77007

(*Project Title*)

Service Agreement

Service Agreement and Terms and Conditions for:

(*Client*)

Proposal Date:
Quote Number: (#)

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1. Summary. Set Solutions is pleased to offer the Technical Services ("Services") described within the enclosed Service Agreement to (*client*) (the "Customer"). This Proposal is valid for thirty (30) days from the Proposal Date. The activities proposed herein will take (*x*) contiguous days, and will be scheduled by mutual agreement. The price quoted to Customer for this service is \$*x* (US Dollars), plus reimbursable travel expenses and per diem will be in accordance with Section 4G of DIR Contract No. DIR-SDD-1089. If any project changes are mutually approved with a change order, Time and Material rates of \$200 per hour will apply.

This Service Agreement shall be governed by the terms of the STATE OF TEXAS DEPARTMENT OF INFORMATION RESOURCES CONTRACT NUMBER DIR-SDD-1089) dated _____ (the "Contract") between the State of Texas, acting by and through the Department of Information Resources and Set Solutions, Inc.

2. Definitions. In addition to the defined terms used in the applicable Order Form and Set Solutions Master Services Agreement, the following definitions shall apply to the Services:

"Technician" means the Set Solutions technical resource assigned to the Services.

"Project Manager" means Customer's employee or agent assigned to manage the Services on behalf of Customer.

"Services Days" means the quantity of mutually-scheduled business days that Set Solutions will perform the Services. These days will occur Monday through Friday 9:00AM to 6:00PM local time, excluding Set Solutions observed holidays.

3. Scope of Work.

(Insert Scope here)

Set Solutions Responsibilities for the Services.

(Insert responsibilities)

4. Customer Responsibilities for the Services.

(Customer Provided)

5. Technician Changes. Set Solutions will make commercially reasonable efforts to provide a backup Technician in the event that an assigned Technician is unavailable for a short period of time due to sickness, scheduled vacations, company meetings, etc. The backup Technician will be kept reasonably aware of Customer's environment and status so that if the assigned Technician is unavailable, the backup Technician can assist Customer without significant interruptions. In the event that the backup Technician cannot cover the Service

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Days during the same calendar week, such Services Days will be mutually scheduled with the Customer to be served in a subsequent week. At any time, Set Solutions reserves the right to assign a replacement Technician for these services. In addition, in the event that Customer determines that the assigned Technician is not appropriate for the Services, or if Customer is not satisfied with the performance of the assigned Technician, Customer may request in writing to Set Solutions that Set Solutions assign a replacement Technician. Set Solutions will make commercially reasonable efforts to so assign a replacement Technician, promptly and to the reasonable satisfaction of Customer, to ensure reasonable continuity during the replacement process.

6. Completion Criteria. The services will be considered complete when the deliverables described in this Statement of Work have been fulfilled and have been accepted by Customer, which acceptance shall occur in writing within 10 business days of receipt from Set Solutions, Inc., and in accordance with the standards for acceptance previously agreed to between Customer and Set Solutions, Inc. In the event a deliverable is rejected, Set Solutions shall have a reasonable period of time to bring the deliverable into compliance in a manner acceptable to the Customer.

7. Travel and Scope Changes.

- **Travel.** Client will reimburse Set Solutions in accordance with Section 4G of DIR Contract No. DIR-SDD-1089.
- **Scope Changes.** The work that the Technician will provide is strictly limited to the tasks defined by this SOW. Any changes and/or additions to the Services must be submitted to Set Solutions, Inc. using email or facsimile transmission. Set Solutions will review and promptly return a signed copy or email acknowledgement. See attached sample Change Order Agreement Form. Client agrees that a Change Order properly executed and signed by both parties will be considered an addendum to this Statement of Work and be governed by the terms and conditions of this SOW. No changes will be implemented prior to mutual agreement on the revision to the SOW.

8. Terms and Conditions.

- **Term.** The Term of this Agreement begins upon signature of both parties to this Agreement and shall continue for the later of (i) one (1) year from the Effective Date or (ii) upon completion of the Services, unless terminated earlier as provided herein.
- **Termination For Cause.** Terminations will be handled in accordance with Appendix A, Section 10B of DIR Contract No. DIR-SDD-1089.
- **Authorized Representative.** Set Solutions, Inc. may, at its option, designate its affiliate personnel or a third party contractor to provide Services, or portions thereof. The appointment by Set Solutions, Inc. of such an authorized representative shall not relieve Set Solutions, Inc. of its obligations hereunder nor be considered an "assignment". Any authorized representatives shall be required to agree to be bound by the terms set forth in this Agreement and Customer's standard security and safety obligations for on-site visitors.
- **Customer Caused Delay.** Set Solutions, Inc. is not responsible for delays in performing Services due to Customer's failure to provide personnel with access to Customer's facility, or due to Customer or Government imposed

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security requirements. Charges may be incurred by Customer if Set Solutions, Inc. responds to Customer's request to be on-site and Customer fails to provide access at the agreed upon time and place. Customer personnel must be present or available at all times when Set Solutions, Inc. personnel are performing Services at the Customer Site.

- **Payment Terms.** Payments will be made in accordance with Appendix A, Section 7C of DIR Contract No. DIR-SDD-1089.
- **Payment Past Due.** Payments will be made in accordance with Appendix A, Section 7C of DIR Contract No. DIR-SDD-1089.
- **Taxes.** Set Solutions, Inc. acknowledges that Customer is an entity exempt from the imposition and collection of Texas sales taxes under Section 151.309 Texas Tax Code.
- **Services Warranty.** Set Solutions, Inc. warrants that its Services will be of a professional quality conforming to generally accepted industry standards and practices. All Services furnished under this are provided on an "as is" basis.
- **Warranty Disclaimer.** TO THE FULL EXTENT ALLOWED BY LAW, THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, TERMS, OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND SATISFACTORY QUALITY. TTIPPINGPOINT'S WARRANTIES CONTAINED HEREIN RUN ONLY TO CUSTOMER, AND ARE NOT EXTENDED TO ANY THIRD PARTIES. Set Solutions, Inc. NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE PERFORMANCE OF SERVICES HEREUNDER. Set Solutions, Inc. SHALL NOT BE RESPONSIBLE FOR LOSS OR RECOVERY OF CUSTOMER DATA. IT SHALL BE THE RESPONSIBILITY OF CUSTOMER TO PROVIDE ADEQUATE BACKUP OF DATA PRIOR TO THE START OF ANY SERVICES PROVIDED HEREUNDER. Set Solutions, Inc. SHALL NOT BE LIABLE UNDER THIS WARRANTY IF ITS TESTING AND EXAMINATION DISCLOSE THAT THE ALLEGED VULNERABILITIES IN THE EQUIPMENT OR SOFTWARE DO NOT EXIST, WERE CAUSED BY CUSTOMER'S OR ANY THIRD PERSON'S MISUSE, NEGLIGENCE, IMPROPER INSTALLATION OR TESTING, UNAUTHORIZED ATTEMPTS TO REPAIR OR MODIFY, OR ANY OTHER CAUSE BEYOND THE RANGE OF THE INTENDED USE, OR OCCURRED AFTER THE SERVICES WERE PERFORMED.
- **Limitation of Liability.** TO THE FULL EXTENT ALLOWED BY LAW THE PARTIES EXCLUDE ANY LIABILITY, WHETHER BASED IN CONTRACT OR TORT (INCLUDING NEGLIGENCE), FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL OR PUNITIVE DAMAGES OF ANY KIND, OR FOR LOSS OF REVENUE OR PROFITS, LOSS OF BUSINESS, LOSS OF INFORMATION OR DATA, OR OTHER FINANCIAL LOSS ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF SERVICES UNDER THIS AGREEMENT EVEN IF ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE MAXIMUM LIABILITY OF Set Solutions, Inc. HEREUNDER SHALL NOT EXCEED THE PURCHASE PRICE OF THE SERVICES TO WHICH THIS AGREEMENT RELATES. THE DISCLAIMER OF LIABILITY WILL NOT BE AFFECTED IF ANY REMEDY PROVIDED HEREIN SHALL FAIL OF ITS ESSENTIAL PURPOSE.
- **Relationship of the Parties.** Each party is an independent contractor, and not an agent or employee of the other party.
- **Non-solicitation.** During the Term of this Agreement and for a period of one (1) year thereafter, neither party shall employ nor solicit for employment, either directly or indirectly (whether as an employee, independent contractor, Technician or otherwise), any employee of the other, without the advance written permission of the other party.
- **Entire Agreement.** The DIR Contract No. DIR-SDD-1089 and this Agreement are intended as the complete statement of the terms of the agreement

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between the parties relating to subject matter hereof. The DIR Contract No. DIR-SDD-1089 and this Agreement supersedes all previous proposals, oral and written, and all negotiations, conversations or discussions heretofore had between the parties relating to this Agreement. The DIR Contract No. DIR-SDD-1089 and the Terms and Conditions of this Agreement shall prevail notwithstanding any conflict with the terms and conditions of any purchase order or other instrument submitted by Customer or Set Solutions, Inc.

- **Force Majeure** will be in accordance to Appendix A, Section 10C of the DIR Contract No. DIR-SDD-1089.
- **Waiver.** A waiver of any default hereunder or of any of the terms and conditions of this Agreement shall not be deemed to be a continuing waiver or a waiver of any other default or of any other term or condition.
- **Amendments.** This Agreement shall not be deemed or construed to be modified, amended, rescinded, canceled or waived, in whole or in part, except by written amendment signed by the parties hereto.
- **Severability.** In the event any provision of this Agreement is found to be invalid, illegal or unenforceable, the validity, legality and enforceability of any of the remaining provisions shall not be affected thereby.
- **Assignments** will be handled in accordance to Appendix A, Section 4D of the DIR Contract No. DIR-SDD-1089.
- **Notices** will be handled in accordance to Appendix A, Section 4D of the DIR Contract No. DIR-SDD-1089.
- **Governing Law.** The validity, performance construction, and interpretation of this Agreement shall be governed by the laws of the State of Texas.

9. Accepting this SOW. If you find this Service Agreement acceptable and wish to accept offer of Services as described in this document, please sign on the following page and return to Set Solutions Inc., along with a valid purchase order, referencing contract number DIR-SDD-1089.

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PROPOSAL ACCEPTANCE

I, on behalf of Customer hereby accept the terms and conditions of this Statement of Work. I acknowledge and agree that this Agreement shall be effective from the date Set Solutions, Inc. sends me written acknowledgment of this acceptance.

For and on behalf of Customer:

Signature	
Printed Name	
Customer Company Name	
Title	
Date	
Quote Number	

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Contact Information.

Client:			Set Solutions
SOW Contact:		Project Contact:	
Address:		Address:	
Email Address:		Email Address:	
Telephone:		Telephone:	
Fax:		Fax:	
Cell:		Cell:	

Consulting Information

Assigned Project Manager:	
Assigned Coordinators:	
Projected Start Date:	
Actual Start Date:	
Projected End Date:	

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Change Order Agreement

Set Solutions Change Order Agreement

Change Order to Statement of Work

This Change Order, if signed by both parties, is considered an addendum to the above referenced Statement of Work between Client and Set Solutions. It authorizes Set Solutions to complete the following deliverables in addition to those specified in the original Statement of Work, under the Terms and Conditions specified therein.

Deliverables	Due Date

ACCEPTED AND AGREED:

Set Solutions, Inc.

By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____