



# HAROLD ALFOND CENTER FOR THE ADVANCEMENT OF **MAINE'S WORKFORCE**

## **PART D: TERMS AND CONDITIONS**

A Company ("Company") applying and accepted to participate in a Maine Quality Centers' training project ("project") offered by the Maine Community College System ("MCCS") must agree during the term of any such project to comply with the following terms and conditions.

- 1. PROJECT ADMINISTRATION:** Identify and authorize at least one person to administer and supervise the project.
- 2. FINANCIAL INFORMATION:** Provide information MCCS deems necessary to assess the financial and marketable strength of Company, provided MCCS shall to the extent permitted by law keep such information confidential.
- 3. SKILL IDENTIFICATION:** Identify the specific training skills and competencies required for satisfactory completion of the training.
- 4. TRAINEE INTERVIEW AND HIRE:** Interview all persons who successfully complete the training ("trainees") and give such trainees priority consideration for employment and/or promotional opportunities.
- 5. REPORTING REQUIREMENT:** Upon MCCS request, report the following information regarding trainees: the number of trainees employed after training; average gross salary (excluding benefits) thereof; positions; dates-of-hire; and the number of trainees who, through voluntary or involuntary means, are no longer employed by Company. This reporting requirement shall apply for a period up to 36 months after the training completes.
- 6. PROJECT AMENDMENT OR TERMINATION:** Notify MCCS immediately of any intent to amend or terminate the project.
- 7. NO DISCRIMINATION:** Not discriminate against any trainee or applicant for training related to a Maine Quality Centers project on the basis of race, color, religion, national origin, sex, sexual orientation, disability, age, marital, parental, Viet Nam era veteran's status or genetic information in its programs and activities. This provision applies, but is not limited, to employment, upgrading, demotions, transfers, recruitment; layoffs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Company agrees to post in places conspicuous to trainees and applicants for training notices setting forth the provisions of this paragraph, and to state the same in all solicitations or advertisements placed by or on behalf of Company relating to the project. Company will cause the foregoing provisions to be inserted in any subcontracts for any work related to

the project so that such provisions shall be binding upon each subcontractor, excluding contracts or subcontracts for standard commercial supplies or raw materials.

**8. INDEPENDENT CAPACITY:** Act during the project in an independent capacity, and not as officers, employees or agents of M CCS.

**9. M CCS EMPLOYEES NOT TO BENEFIT:** Not employ or otherwise compensate, without M CCS' written consent, on a full-time, part-time or other basis during the term of the project any person who is or was during the term of the project in the employ of M CCS, except employees who have left the employment of M CCS for at least one (1) year.

**10. WITHDRAWAL AND/OR FAILURE TO PERFORM:** Reimburse M CCS in accordance with the following terms and conditions:

**A. COMPANY WITHDRAWAL:** In the event that Company withdraws from the project for non-economic reasons, Company will reimburse M CCS for M CCS development costs. For purposes of this paragraph, "withdrawal" means a Company action or decision that substantially impairs the ability of Company and/or M CCS to achieve the objectives of the Development Plan; "non-economic reasons" means an action or decision that does not substantially alter Company's financial and/or marketable strength(s), as those strengths were represented at the time M CCS issued final approval of Company's proposal for training; and "development costs" means all costs incurred by M CCS, excluding cost of instruction. Company will provide at least thirty (30) days written notice prior to any such withdrawal.

**B. M CCS CANCELLATION:** If Company fails to perform Company's duties under the Memorandum of Agreement, and/or Development Plan, including specifically the terms and conditions of the Development Plan, or fails to make substantial or timely progress as to endanger such performance, M CCS may, upon written notice to Company and upon Company's failure to remedy such failure within thirty (30) days, cancel the Memorandum of Agreement and/or Development Plan in whole or in part. In the event of such cancellation, all costs incurred to date by M CCS will be paid by Company to M CCS for work M CCS has performed to such date. Should a court of competent jurisdiction determine finally that M CCS wrongfully cancelled the Memorandum of Agreement and/or Development Plan, Company agrees to treat the cancellation as a termination for convenience.

**11. GOVERNMENTAL REQUIREMENTS:** Comply with all governmental ordinances, laws and regulations in connection with the work performed during the project.

**12. INDEMNIFY AND HOLD HARMLESS:** Indemnify, defend and otherwise hold harmless M CCS and its respective officers, agents and employees from any and all claims and losses accruing, resulting or arising in connection with the performance of a project, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Company in the performance of this Agreement against any liability, including costs, attorneys' fees and expenses.

**13. STATE LAW REQUIREMENTS:** Pursuant to state law (5 M.R.S.A. section 13070-J) any business applying for assistance from the Maine Quality Centers, or other state supported economic development initiatives, must share the public purpose that will be served by the business through use of the economic development incentive and the specific uses to which the benefits will be put; and the goals of the business for the number, type and wage levels of jobs to be created or retained as a result of the economic development incentive received. The program also is required to submit an annual

report to the Maine Legislature on program activities and outcomes. All applications and reports are public records.

In addition, businesses receiving State economic development incentives may be surveyed by the Department of Economic and Community Development in order to better assess program delivery and impact. Businesses receiving Maine Quality Center assistance shall respond to such requests for information as a condition of participation in a Maine Quality Center training project.

Nothing in these Terms and Conditions is intended to expand or diminish the scope or limits of liability set forth in the Maine Tort Claims Act, 14 M.R.S.A. section 8101, *et seq*, or any immunities or limitations of any state or federal law.