State of Texas

Department of Information Resources

Texas.gov Services

Exhibit 3.0

Performance Model

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1 GENERAL

The methodology set out in this **Exhibit 3.0 Performance Model** will support the Performance Management cycle of monitoring, reporting and improving the delivery of the Services to DIR and Customers.

As of the Commencement Date (or as otherwise specified in this Exhibit and the Attachments to this Exhibit), the Successful Respondent will perform the Services to which Service Levels apply so that the Service Level performance will, in each month of the Term, meet or exceed, the Service Levels.

Key Performance Indicators, Critical Service Levels, Key Service Levels, Operating Measures, One Time Critical Deliverables, and Recurring Critical Deliverables may be added or substituted by DIR as specified in this Exhibit during the Term. For example, such additions or substitutions may occur in conjunction with changes to the environment and the introduction of new Service, Equipment, Software, or means of Service delivery – provided, however, that where such change is a replacement or upgrade of existing technology, there shall be a presumption of equivalent or improved performance.

The achievement of the Service Levels by the Successful Respondent requires the coordinated, collaborative effort of the Successful Respondent with Third Parties, including other Service Component Providers (SCPs) and the Multi-sourcing Services Integrator (MSI).

2 RELATED AND UNIQUE SERVICE LEVELS AND TYPES

To clarify how specific Service Levels are intended to be tracked and calculated, individual Service Levels may be generally categorized as one of two types, representing the way individual SCPs and the Successful Respondent are either individually or jointly responsible for the specific Service Level's performance. Service Level Credits assessed against Successful Respondent will be calculated based on the Successful Respondent's Service Level Invoice Amount, At-Risk Amount, and Allocation of Pool Percentage.

- **Type R (related):** Type R Service Levels are related measures shared between the Successful Respondent and the SCP(s). Type R Service Levels for the Successful Respondent are measured in the aggregate, counting events for both the Successful Respondent and the SCP(s). For the SCP, the Type R Service Level measures a discrete subset of the same pool of events, the subset applicable to that SCP. The definition and descriptions of Type R Service Levels as well as the Expected Service Level and Minimum Service Level remain identical in the related agreements for both the Successful Respondent, the MSI and the applicable SCP(s) during the Term, unless otherwise documented as an exclusion in **Exhibit 3.2 Service Level Definitions** in accordance with **Section 17** below.
- **Type U (unique):** Type U Service Levels are intended to measure Services that are specific to one (1) SCP's or the Successful Respondent's performance, and therefore are not shared.

The groupings described above are intended to clarify Service Level types for tracking purposes; none of the Successful Respondent's obligations as fully described in the Agreement are limited by these groupings.

3 REPORTING

Unless otherwise specified in this Exhibit, each Key Performance Indicator, Critical Service Level, Key Service Level, Operating Measure, Recurring Critical Deliverable, and One-Time Critical Deliverable shall be measured and reported by Customer and by DIR Shared Service (DCS, MAS, Texas.gov, MSS, etc.) monthly. The Successful Respondent shall provide reports and data to the MSI. The Successful Respondent shall comply with the MSI's tools, processes, and reporting formats. The format, layout, and content of any reports shall be agreed between DIR and the Successful Respondent, and published by the MSI. The MSI will publish the Successful Respondent's monthly performance reports by the 20th calendar day of each month and available online such that DIR is able to verify the SCPs' performance and compliance with the Key Performance Indicators, Critical Service Levels, Key Service Levels, Operating Measures, Recurring Critical Deliverables, and One-Time Critical Deliverables (for purposes of clarity, with respect to One-Time Critical Deliverables, such reporting is only required until all One-Time Critical Deliverables are received and approved by DIR). The monthly performance reports must be updated daily throughout the month and available for review by DIR. The monthly reports shall describe any failure to meet Critical Service Levels and Key Service Levels for the month.

In addition to the reports described above, the Successful Respondent shall also provide detailed supporting information for each report to DIR and the MSI in machine-readable form suitable for use on a personal computer. The data and detailed supporting information shall include sufficient detail such that DIR can reproduce the calculations made by the Successful Respondent and validate the results reported in the monthly Service Level performance reports. All detailed supporting information shall be DIR's Confidential Information, and DIR may access such information online and in real-time, where feasible, at any time during the Term. In addition, the Successful Respondent shall provide DIR with direct, unaltered access to review and audit all raw data collection related to Service Levels.

The Successful Respondent will create and maintain detailed procedure documentation of its Service Level Agreement (SLA) measurement process used to collect SLA data and calculate SLA attainment. The process documentation must include quality assurance reviews and verification procedures. The measurement process must be automated to the extent possible, and any manual data collection steps must be clearly documented, verified and auditable. All methods, codes, and automated programs must be documented and provided to DIR for validation and approval. The Successful Respondent must ensure it tests and validates the accuracy and currency of the documentation and measurement process on a quarterly basis.

4 NOTICE REQUIREMENTS FOR ADDITIONS, DELETIONS, & MODIFICATIONS

DIR will send notice to the Successful Respondent at least ninety (90) calendar days prior to the date that additions or deletions to Performance Measures, (which include the movement of Critical Service Levels to Key Service Levels and Key Service Levels to Critical Service Levels), or modifications to Service Level Credit Allocation Percentages for any Critical Service Levels, modifications to Critical Service Levels and Key Service Levels measurement methodologies, or additions or deletions to Recurring Critical Deliverables are to be effective,

provided that DIR may send only one (1) such notice (which notice may contain multiple changes) each calendar quarter. Movement of Critical Service Levels to Key Service Levels and Key Service Levels to Critical Service Levels does not constitute creation of new Service Levels.

The Successful Respondent is required to implement into its SLA performance management system all additions, deletions and modifications DIR makes to SCP Service Levels.

5 SERVICE LEVEL DEFAULT

A Service Level Default occurs when:

1. Performance for a particular Critical Service Level fails to meet the applicable Minimum Service Level, or
2. Performance for a particular Critical Service Level fails to meet the applicable Expected Service Level (but does not fail to meet the applicable Minimum Service Level), and has failed to meet such Expected Service Level for four (4) or more occurrences in any rolling twelve (12) month period.

Service Level Credits shall not apply to Key Service Levels.

In the event of a Service Level Default, the Successful Respondent shall provide DIR credits as defined below:

1. **Exhibit 3.1 Service Level Matrix** sets forth the information required to calculate the Service Level Credit in the event of a Service Level Default. For each Service Level Default, the Successful Respondent shall pay to DIR, subject to **Section 6 Earnback** below, a Service Level Credit that will be computed in accordance with the following formula:

Service Level Credit = A x B x C

Where:

A = The Allocation of the Pool Percentage specified for the Performance Category in which the Service Level Default occurred as shown in **Exhibit 3.1 Service Level Matrix**.

B = The Service Level Credit Allocation Percentage for which the Service Level Default occurred as shown in **Exhibit 3.1 Service Level Matrix**.

C = The At-Risk Amount

For example, assume that the Successful Respondent fails to meet the Service Level for a Critical Service Level, the Successful Respondent's Service Level Invoice Amount for the month in which the Service Level Default occurred was $100,000 and that the At-Risk Amount is 15% of these charges.

Additionally, assume that Allocation of Pool Percentage for the Performance Category of such Critical Service Level is 50% and that its Service Level Credit Allocation Percentage is 40%.

The Service Level Credit due to DIR for such Service Level Default would be computed as follows:

A = 50% (the Allocation of Pool Percentage) multiplied by

B = 40% (the Service Level Credit Allocation Percentage) multiplied by

C = $15,000 (fifteen percent (15%) of $100,000, the Successful Respondent's corresponding Service Level Invoice Amount)

= $3,000 (the amount of the Service Level Credit)

2. Subject to Item 3, if more than one (1) Service Level Default has occurred in a single month, the sum of the corresponding Service Level Credits shall be credited to DIR.
3. In no event shall the amount of Service Level Credits credited to DIR with respect to all Service Level Defaults occurring in a single month exceed, in total, the At-Risk Amount.
4. The MSI shall notify DIR in writing if DIR becomes entitled to a Service Level Credit, which notice shall be included in the standard monthly reporting for Critical Service Levels and Key Service Levels as described in **Section 3 Reporting** above.
5. The total amount of Service Level Credits that the Successful Respondent will be obligated to pay to DIR, with respect to Service Level Defaults occurring each month, shall be credited on the invoice for the month following the month during which the Service Level Default(s) giving rise to such credit(s) occurred. For example, the amount of Service Level Credits payable with respect to Service Level Defaults occurring in August shall be set forth in the Monthly Invoice for September issued in October.
6. The Successful Respondent acknowledges and agrees that the Service Level Credits shall not be deemed or construed to be liquidated damages or a sole and exclusive remedy or in derogation of any other rights and remedies DIR has hereunder or under the Agreement.

6 EARNBACK

The Successful Respondent shall have Earnback opportunities with respect to Service Level Credits as follows:

1. The Successful Respondent shall earn back a Service Level Credit for a given Service Level Default when Service Level Performance meets or exceeds the Expected Service Level Target for each of the four (4) Measurement Windows immediately following the Measurement Window in which the Service Level Default occurred.
2. Whenever the Successful Respondent is entitled to an Earnback, the Successful Respondent shall include such Earnback as a charge to DIR (indicated as an Earnback) on the same invoice that contains charges for the Measurement Window giving rise to such Earnback, and include such information in the Successful Respondent’s monthly performance reports as described in **Section 3 Reporting** of this **Exhibit 3.0 Performance Model**.
3. Upon termination or expiration of the Agreement, Service Level Credits issued by the Successful Respondent are no longer subject to Earnback.

7 ADDITIONS, MODIFICATIONS, AND DELETIONS OF SERVICE LEVELS

DIR may add, modify or delete Key Performance Indicators, Critical Service Levels, Key Service Levels, and Operating Measures as described below by sending written notice in accordance with **Section 4 Notification Requirements of Additions, Deletions, and Modifications** above.

7.1 Additions

DIR may add Service Levels in accordance with this **Section 7.1** and by providing written notice in accordance with **Section 4**. Service Level commitments associated with added Service Levels will be determined as follows:

1. The Parties shall attempt in good faith to agree on a Service Level commitment using industry standard measures or third party advisory services (e.g., Gartner Group, Yankee Group, etc.),
2. With respect to this individual Service Level, the period between the Statement Of Work (SOW) Commencement Date and the Service Level Effective Date shall be used as a validation period. The Successful Respondent and DIR will review the actual Service Level Performance during this validation period. If the Service Level Performance does not generally meet the Expected Service Level Target and the Minimum Service Level Target, the Successful Respondent will create a corrective action plan subject to DIR's approval, and the Parties will extend the validation period (reset the Service Level Effective Date) by a mutually agreed period not to exceed three (3) months. The Successful Respondent will implement the corrective action plan and report on progress to DIR during the extended validation period. This process may be repeated if mutually agreed by the Parties. If the Parties eventually agree that the Services must be changed (e.g., staffing or Restoration time targets) or the Expected Service Level Target or Minimum Service Level Target must be revised, the Parties will enact such agreed changes through the Change Control Procedures.

7.2 Modifications

DIR may modify Service Level commitments or measurement methodology in accordance with this **Section 7.2** and by providing written notice in accordance with **Section 4**.

The Successful Respondent may propose modifications to Service Level measurement methodology for DIR approval. Service Level measurement methodology may be modified by updating **Exhibit 3.2 Service Level Definitions**.

For any Service Level commitments associated with modified service levels, the Parties shall attempt in good faith to agree on a modification to current Service Level commitments using industry standard measures or third party advisory services. In the event the Parties cannot agree on proposed modifications, **Section 19 Dispute Resolution** of the MSA applies.

7.3 Deletions

DIR may delete Critical Service Levels or Key Service Levels by sending written notice in accordance with **Section 4 Notification Requirements of Additions, Deletions, and Modifications** herein.

7.4 Impact of Additions and Deletions of Critical Service Levels on Service Level Credit Allocation Percentages

When adding or deleting a Critical Service Level, DIR shall modify the Service Level Credit Allocation Percentages for the Critical Service Levels such that the total Service Level Credit Allocation Percentages for all Critical Service Levels sums to less than or equal to Pool Percentage Available for Allocation as defined in **Exhibit 3.1 Service Levels Matrix**.

If DIR adds a Critical Service Level in accordance with **Section 7.1 Additions** above, but does not modify the Service Level Credit Allocation Percentages for the Critical Service Levels under this **Section 7.4**, then, until DIR so modifies such Service Level Credit Allocation Percentages, the Service Level Credit Allocation Percentage for such added Critical Service Level shall be zero (0).

7.5 Modifications of Service Level Credit Allocation Percentages for Critical Service Levels

DIR may modify the Service Level Credit Allocation Percentages for any Critical Service Levels by sending written notice in accordance with **Section 4**. DIR shall modify the Service Level Credit Allocation Percentages for two or more of the Critical Service Levels such that the sum of the Service Level Credit Allocation Percentages for all Critical Service Levels is less than or equal to the Pool Percentage Available for Allocation as defined in **Exhibit 3.1 Service Levels Matrix**.

8 SERVICE DELIVERY FAILURE, CORRECTIVE ACTION PLAN FAILURE EVENT

1. If three (3) Service Level Defaults for the same Critical Service Level occur in any six (6) month period, then upon such third occurrence, this shall be deemed a "Service Delivery Failure." Within thirty (30) days of the occurrence of a Service Delivery Failure, the Successful Respondent will provide DIR with a written plan (the "Service Delivery Corrective Action Plan") for improving the Successful Respondent's performance to address the Service Delivery Failure, which plan will include a specific implementation timetable and measurable success criteria. Within thirty (30) days of plan submission, or such other timeframe agreed to by DIR, the Successful Respondent will implement the Service Delivery Corrective Action Plan (CAP), which will include making timely and appropriate investments in people, processes and technology. In addition, the Successful Respondent will demonstrate to DIR's reasonable satisfaction that the changes implemented by it have been made in normal operational processes to sustain compliant performance results in the future.

2. Upon the occurrence of (i) a Service Delivery Failure, or (ii) if the Successful Respondent fails to implement the Service Delivery Corrective Action Plan in the specified timetable or if after the implementation of the Service Delivery Corrective Action Plan performance has not consistently improved, then the Successful Respondent will be liable for a Service Level Credit in an amount equal to one percent (1 %) of the then-current Service Level Invoice Amount (the "CAP Failure Credit"). The CAP Failure Credit will be applied to the monthly invoice until the Successful Respondent has demonstrated effective Service delivery, as evidenced by either (i) no reoccurrence of the Service Level Defaults which triggered the applicable Service Delivery Failure or (ii) in DIR's reasonable judgment, the Successful Respondent has remedied the failure which caused such Service Delivery Failure.
3. The CAP Failure Credit will not be subject to Earnback. The Successful Respondent acknowledges and agrees that the CAP Failure Credit shall not be deemed or construed to be liquidated damages or a sole and exclusive remedy or in derogation of any other rights and remedies DIR has hereunder or under the Agreement. For purposes of clarity, the CAP Failure Credit is separate from and therefore additive to any other Service Level Credits due in a given month, even if the Service Level Credits are for Service Level Defaults related to the Service Delivery Failure. In no event shall the sum of the CAP Failure Credit and any Service Level Credits credited to DIR with respect to all Service Level Defaults occurring in a single month exceed, in total, the At-Risk Amount.

9 RECURRING CRITICAL DELIVERABLES

Certain of the Successful Respondent's obligations under the Agreement are periodic obligations to deliver key Recurring Critical Deliverables. **Exhibit 3.1 Service Levels Matrix** sets forth the amounts that shall be payable, and frequency the credit applies, by the Successful Respondent to DIR in the event the Successful Respondent fails to deliver any of the Recurring Critical Deliverables within the required time specified in **Exhibit 3.1 Service Levels Matrix** (the "Recurring Critical Deliverables Credit"). Imposition of a Recurring Critical Deliverables Credit for failure to meet the Recurring Critical Deliverables obligations shall not be subject to or included in the At-Risk Amount. The total amount of Recurring Critical Deliverables Credit that the Successful Respondent will be obligated to pay to DIR shall be reflected on the invoice that contains charges for the month following which the Recurring Critical Deliverables Credits accrued (for example, the amount of Recurring Critical Deliverables Credits payable for failure to deliver any Recurring Critical Deliverable(s) in August shall be set forth in the invoice for September charges issued in October). Under no circumstances shall the imposition of the Recurring Critical Deliverables Credit described above or DIR's exercise of any other rights hereunder be construed as DIR's sole or exclusive remedy for any failures described hereunder.

DIR may add, modify, or delete Recurring Critical Deliverables by sending written notice in accordance with **Section 4 Notification Requirements of Additions, Deletions, and Modifications**, provided that after the implementation of any such addition or modification the aggregate amount of the Recurring Critical Deliverables Credits will not exceed the maximum amount of Recurring Critical Deliverables Credits set forth in **Exhibit 3.1 Service Level Matrix**.

10 ONE-TIME CRITICAL DELIVERABLES – AFTER EFFECTIVE DATE

Certain of the Successful Respondent's obligations under the Agreement are one-time or periodic obligations to deliver One-Time Critical Deliverables. **Exhibit 3.1 Service Levels Matrix** sets forth the Deliverable Credits that shall be payable, and the frequency the credit applies, by the Successful Respondent to DIR in the event the Successful Respondent fails to deliver any of the One-Time Critical Deliverables within the required time specified in **Exhibit 3.1 Service Levels Matrix**. Imposition of Deliverable Credits for failure to meet the One-Time Critical Deliverables obligations shall not be subject to or included in the At-Risk Amount. The total amount of Deliverable Credits that the Successful Respondent will be obligated to pay to DIR shall be reflected on the invoice that contains charges for the month following which the Deliverable Credits accrued (for example, the amount of Deliverable Credits payable for failure to deliver any One-Time Critical Deliverable(s) in August shall be set forth in the invoice for September charges issued in October).

11 COMMENCEMENT OF OBLIGATIONS

The Successful Respondent will be responsible for providing measurement data in support of the Critical Service Levels and Key Service Levels on the Commencement Date. Other obligations set forth herein will commence on the Commencement Date or as otherwise specified in **Exhibit 3.1 Service Levels Matrix** referencing the column "Comm +mos**" (the "Service Level Credit Start Date") reflect when the Successful Respondent will be responsible for Service Level Credits for any failures to attain the Critical Service Level. Any Service Level Defaults prior to the Service Level Credit Start Date will not be considered in the evaluation of a Service Delivery Failure.

12 IMPROVEMENT PLAN FOR KEY SERVICE LEVELS

If the Successful Respondent fails to meet the Minimum Service Level for the same Key Service Level for three (3) months in any rolling six (6) month period, the Successful Respondent shall provide DIR and the MSI with a written plan for improving its performance to satisfy the Key Service Level within thirty (30) days of the third (3rd) failure to meet the Service Level for the Key Service Level. At the Successful Respondent's sole cost and expense, it shall promptly implement such plan. If the Successful Respondent fails to implement the plan in the specified timetable, or if after ninety (90) days after any such implementation of the plan, the Key Service Level has not consistently improved, then DIR may at its option declare that such failure will constitute a Service Delivery Failure and the Successful Respondent will comply with the requirements of **Section 8 Service Delivery Failure, Corrective Action Plan Failure Event** above.

13 IMPROVEMENT PLAN FOR CRITICAL SERVICE LEVELS

If the Successful Respondent fails to meet the Minimum Service Level for a Critical Service Level, the Successful Respondent shall follow the MSI's performance management process to provide DIR with a written Service Level Improvement Plan for improving the Successful Respondent's performance to satisfy the Critical Service Level within thirty (30) days of the

failure to meet the Service Level. The Successful Respondent will track its progress in implementing the improvement plan, and it will report to Governance the status of such plan.

The MSI shall initiate a Service Level Improvement Plan (SLIP) via the standard Problem Management Process when a Service Level underperforms. The Successful Respondent shall comply with the Service Level Improvement Plan. All Service Level Improvement Plans must contain information about the root cause of the Service Level miss and corrective actions. The objective of a Service Level Improvement Plan is to identify the root cause and formulate corrective actions to move performance to acceptable levels, implement those actions, and to correlate implemented corrective actions with Service Level results. All approved SLIP corrective actions shall be measured in the Corrective Action SLA results.

14 MEASURING TOOLS

As of the Effective Date, the measuring tools and methodologies set forth in **Exhibit 3.2 Service Level Definitions** represent acceptable measuring tools and methodologies for the Key Performance Indicators, Critical Service Levels, Key Service Levels, and Operating Measures designated.

If there are any Critical Service Levels for which the measuring tools and methodologies have not been agreed upon by DIR and the Successful Respondent, and for which measuring tools are not included in **Exhibit 3.2 Service Level Definitions**, and the Successful Respondent fails to propose a measuring tool for such Critical Service Level that is acceptable to DIR prior to the date upon which the Successful Respondent shall be responsible for Service Level performance and Service Level Credits due for Service Level Default, such failure shall be deemed a Service Level Default for the Critical Service Level until the Successful Respondent proposes and implements such acceptable measuring tool. DIR will not unreasonably withhold approval for the Successful Respondent's recommendation for an alternate tool.

Tools for new Critical Service Levels will be implemented according to the Change Control Procedures. Upon DIR’s written notice approving a proposed alternate or new measurement tool, such tool shall be deemed automatically incorporated into **Exhibit 3.2 Service Level Definitions** as of the date for completion of implementation set forth in DIR’s notification without requirement for an additional written amendment of this Agreement.

If, after the Effective Date or the implementation of tools for new Critical Service Levels, the Successful Respondent desires to use a different measuring tool for a Critical Service Level, the Successful Respondent shall provide written notice to DIR, in which event the Parties will reasonably adjust the measurements as necessary to account for any increased or decreased sensitivity in the new measuring tools; provided that, if the Parties cannot agree on the required adjustment, the Successful Respondent will continue to use the measuring tool that had been initially agreed to by the Parties.

It is not anticipated that changes in the measuring tools will drive changes in Service Levels; rather, the need to collect and accurately reflect the performance data should drive the development or change in performance monitoring tools. The Successful Respondent will configure all measuring tools to create an auditable record of each user access to the tool and any actions taken with respect to the data measured by or residing within the tool. All proposed

measuring tools must include functionality enabling such creation of an auditable record for all accesses to the tool.

15 SINGLE INCIDENT/MULTIPLE DEFAULTS

If a single incident results in the failure of the Successful Respondent to meet more than one (1) Service Level, DIR shall have the right to select any one of such multiple Service Level Defaults for which it will be entitled to receive a Service Level Credit and must respond to the Successful Respondent's reporting of the multiple Service Level Default and request for selection by notifying the Successful Respondent of the selection within five (5) DIR Business days. DIR shall not be entitled to a Service Level Credit for each of such Service Level Defaults.

16 EXCEPTIONS

The Successful Respondent shall not be responsible for a failure to meet any Service Level solely to the extent that such failure is directly attributable to any circumstances that excuse the Successful Respondent's performance in accordance with **Section 10.2 Savings Clause** of the Agreement.

17 EXCLUSIONS

Any incidents or requests opened prior to Commencement Date by DIR are excluded from SLA measurements and will be tracked separately.

Additional exclusions are indicated in **Exhibit 3.2 Service Level Definitions.**

18 SERVICE LEVEL ESCALATION EVENT

A Service Level Escalation Event occurs, if:

(a) the Successful Respondent asserts that it has been unable to perform all or a portion of the Services measured by a Type R Service Level solely as a result of the failure by another SCP or the MSI with whom it shares such Type R Service Level to perform obligations specified in the Successful Respondent’s agreement with DIR, including its SOWs and the Service Management Manual, and

(b) the Successful Respondent has performed its own obligations as set forth in the Agreement, including the SOWs and Service Management Manual, which actions shall include:

(i) immediately notifying SCP(s) or MSI that such failure may result in a Service Level Default;

(ii) providing the SCP or MSI with reasonable opportunity to correct such failure to perform and thereby avoid the SCP or MSI non-performance;

(iii) documenting that it has performed its obligations under the Agreement notwithstanding another SCP's or MSI’s failure to perform; and

(iv) notifying DIR that a corrective action has commenced.

Upon the occurrence of a Service Level Escalation Event, the Successful Respondent may escalate the SCP or MSI failure through the appropriate governance structure for resolution in accordance with **Exhibit 1.2 Governance**. If the applicable governance committee has determined that the Successful Respondent has satisfied each of the requirements and obligations set forth above, such resolution shall include excusing the Successful Respondent's performance related to such failure and may include other actions as reasonably determined by DIR including appropriate changes to the Service Management Manual.

19 PERCENTAGE OBJECTIVES

Both Parties understand that certain Service Levels may not be measured against an objective of one hundred percent (100%); for example, Time (days, hours, etc.), defects where zero (0) hours/days and zero percent (0%), respectively, are the appropriate objectives. The calculations described in this Section will be modified when appropriate to reflect these objectives.

20 CONTINUOUS IMPROVEMENT – SERVICE LEVELS

The Parties agree to the concept of continuous improvement and that the Critical Service Levels and Key Service Levels, unless otherwise noted as an exception in **Exhibit 3.1 Service Level Matrix,** should be modified during this Agreement in accordance with **Section 4 Notification Requirements of Additions, Deletions, and Modifications** to reflect this concept. To accomplish this, Critical Service Levels and Key Service Levels will be modified each twelve (12) month period following the commencement of obligations date specific to each Critical Service Level and Key Service Level as described below:

1. Each Expected Service Level will be reset to the average of the four highest reported actual results (for example, 99.60% is higher than 99.40%) at or above the Expected Service Levels achieved during the previous year; provided that, if fewer than four reported actual results exceeded the Expected Service Level, the Expected Service Level will be reset by taking the four (4) highest monthly actual results, replacing each such actual result that is below the Expected Service Level with the Expected Service Level, and dividing the sum of the resulting four (4) numbers by four (4).

   For example, if the Expected Service Level being adjusted were 99.6%, and there were three actual results that were higher and none equal (e.g. 99.90%, 99.80%, and 99.70%), the calculation would be ((99.90% + 99.80% + 99.70% + 99.60%) / 4) = 99.75% with the subsequent reset governed by Item 2 of this **Section 20**.

2. Notwithstanding Item 1 of this **Section 20** above, in no event shall any single increase in an Expected Service Level pursuant to Item 1 of this **Section 20** above exceed ten percent (10%) of the difference between one hundred percent (100%) and the then-current Expected Service Level.

   For example, if the Expected Service Level being adjusted were 99.60%, the maximum increase for that reset would be 0.04% (i.e. from 99.60% to 99.64%).

3. Each Minimum Service Level will be reset by adding to the Minimum Service Level being adjusted a sum equal to five percent (5%) of the difference between one-hundred percent (100%) and the then-current Minimum Service Level.

For example, if the Minimum Service Level being adjusted were 99.40%, the increase would be 0.03% (i.e., from 99.40% to 99.43%).

4. For ease of administration, beginning with the second anniversary of the Commencement Date and continuing with every anniversary of the Commencement Date thereafter, the process described in this **Section 20** will be performed as of the anniversary of the Commencement Date, utilizing the previous twelve (12) months' data, replacing the Critical Service Level or Key Service Level unique dates that were based upon the commencement of obligations dates specific to each Critical Service Level.

21 SEVERITY LEVELS - INTRODUCTION

DIR has adopted the ITIL framework for service management. As part of this framework, each Incident and Problem will be assessed in terms of its Impact upon the business of DIR and DIR Customers and the Urgency with which DIR and DIR Customers require the Incident or Problem to be Resolved or a work around to be implemented. The Incident or Problem shall be assigned a Severity Level based on this assessment. This Section sets forth qualitative descriptions of Severity Levels associated with the Services.

“Impact” is defined under ITIL as a “measure of the business criticality of an Incident, Problem or Request for Change, often equal to the extent of a distortion of agreed or expected Service Levels.” As such, it can be assessed based on the effect of an Incident or Problem on DIR’s and DIR Customers’ business operations. An Impact may be assessed by taking into account the number and business roles of the people affected, the business functions supported by the systems affected or mandates (e.g., regulatory, legal, or business) for provision of outputs in a prescribed timeframe.

“Urgency” is defined under ITIL as a “measure of the business criticality of an Incident or Problem based on the impact and on the business needs of the DIR Customer.” As such, it can be assessed based on how quickly the business of DIR and DIR Customer will be affected by the loss of Service resulting from the Incident or Problem. A high-impact Incident does not necessarily have an immediate Impact. For example, a system supporting end-of-month processing (impact “high”) can be assessed as urgency “low” if it occurs early in the monthly processing cycle, but may be assessed as “high” if it nears the end of the cycle. A system that supports DIR dealing directly with DIR Customers or that supports online, real-time transactions may always be assessed as a “high” urgency, even if it is only of moderate impact.

There may be different Service Levels associated with the Resolution of an Incident or Problem based on the assigned Severity Level.

21.1 Severity Level 1

A Severity Level 1 event is where:

1. The event is defined as (i) a life-safety event/issue; (ii) critical impact to the security of data and information systems; (iii) a business/mission critical System, Service, Application System, Equipment or network component that is substantially unavailable or seriously impacting normal business operations; (iv) an Outage that jeopardizes

privacy of information or could lead to the imposition of penalties, fines, or other financial impacts on DIR or DIR Customer.

2. The event is one that has a high impact on the operation of the affected Application or other Service and that cannot be circumvented (i.e., there is no Workaround available).
3. The event, due to the immediacy of its effect on critical business functions, requires immediate resolution.

21.2 Severity Level 2

A Severity Level 2 event is where:

1. The event is defined as (i) a department or group can use a business critical System, Service, Application System, Equipment or network component, but some functions are not available or functioning as they should, and (ii) an error or Outage affects a group or groups of people, or a single individual performing a critical business function.
2. The event can materially affect DIR or a DIR Customer, causing a substantial impact; including missed output commitments not governed by regulatory mandates.
3. The effect of the event is such that it does not require immediate resolution.

21.3 Severity Level 3

A Severity Level 3 event is where:

1. A Severity Level 3 event is defined as a group or individual experiences a situation accessing or using a System, Service, Application System or network component or a key feature thereof but the situation does not prohibit the execution of productive work.
2. The event does not materially affect DIR or a DIR Customer or does not cause a substantial impact, but has the potential to do so if not Resolved expeditiously.
3. The effect of the event is such that it does not require immediate resolution.

21.4 Severity Level 4

A Severity Level 4 event is where:

1. The event is defined as an event that may require an extended Resolution time, but the individual or group has a reasonable workaround while waiting for the Resolution.
2. The event does not have an adverse impact on the business operations of DIR or a DIR Customer because (i) of either the nature of the fault or the small extent of the fault and (ii) an acceptable work around is already in place.
3. The effect of the event is such that it does not require immediate resolution.

22 LOW VOLUME

Some Service Levels are expressed in terms of achievement of a level of performance over a percentage of items occurring during a Measurement Window. In these instances, if the number of items occurring during a given Measurement Window is less than or equal to one hundred (100), the following algorithm will be used to determine the number of compliant items that Successful Respondent must successfully complete to achieve the Service Level concerned (Minimum Compliant Items), notwithstanding the percentage expressed in **Exhibit 3.1 Service Level Matrix** as the target.

1. The number of items occurring during such Measurement Window shall be multiplied by the Expected Service Level; and
2. If the product of that multiplication is not a whole number, then such product shall be truncated to a whole number.
3. For example, assume that a Service Level states that the Successful Respondent must complete ninety-five percent (95%) of incidents within four (4) hours to achieve this Service Level.
4. For example, the following sample calculations illustrate how the above algorithm would function to determine the Minimum Compliant Items (incidents completed within four (4) hours) to achieve this Service Level, in each case given a different number of total incidents occurring during the corresponding Measurement Window:

   4.1. If the number of incidents is 100, the Minimum Compliant Items is 95 incidents (100 incidents x 95 percent = 95 incidents).

   4.2. If the number of incidents is 99, the Minimum Compliant Items is 94 incidents (99 incidents x 95 percent = 94.05 incidents, truncated to 94).

   4.3. If the number of incidents is nine (9), the Minimum Compliant Items is eight (8) incidents (9 incidents x 95 percent = 8.55 incidents, truncated to 8).

   4.4. This algorithm will be used for both the Expected Service Level and the Minimum Service Level, except that the Minimum Compliant Items for the Minimum Service Level must be at least one (1) less than the Minimum Compliant Items for the Expected Service Level.

	Expected	Minimum
Target	95%	90%
Number of Items	Minimum Compliant Items	
100	95	90
90	85	81
80	76	72
70	66	63
60	57	54
50	47	45
40	38	36
30	28	27
20	19	18
10	9	8