

**Appendix 3 to
First Amendment of
Master Services Agreement**

DIR-MAS-SCP-RCR-001

June 30, 2017



**Exhibit to Managed Application Services
Service Component Provider
Master Services Agreement**

DIR Contract No. DIR-MAS-SCP-RCR-001

Between

**The State of Texas, acting by and through
the Texas Department of Information Resources**

and

Allied Consultants, Inc.

**Exhibit 3
Service Levels**

June 30, 2017

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EXHIBIT 3
SERVICE LEVELS

Update Methodologies and Attachments to Exhibit 3

The following update methodologies and attachments are incorporated as part of **Exhibit 3**:

Title	Methodology for Updating Associated Exhibit Attachments
<u>Exhibit 3</u> Service Levels	<u>Exhibit 3</u> may only be modified by formal amendment, in accordance with <u>Section 21.7</u> of the MSA.
<u>Attachment 3-A</u> Service Levels Matrix	<u>Attachment 3-A</u> may be updated in accordance with the provisions in <u>Exhibit 3</u> . Any changes not provided for in <u>Exhibit 3</u> shall be modified by formal amendment, in accordance with <u>Section 21.7</u> of the MSA.
<u>Attachment 3-B</u> SLA Definitions, Tools, Methodologies	<u>Attachment 3-B</u> may be updated in accordance with the provisions in <u>Exhibit 3</u> . Any changes not provided for in <u>Exhibit 3</u> shall be modified by formal amendment, in accordance with <u>Section 21.7</u> of the MSA.
<u>Attachment 3-C</u> Critical Deliverables	<u>Attachment 3-C</u> may be updated in accordance with the provisions in <u>Exhibit 3</u> . Any changes not provided for in <u>Exhibit 3</u> shall be modified by formal amendment, in accordance with <u>Section 21.7</u> of the MSA.
<u>Attachment 3-D</u> Service Level Examples and Service Level Outcomes	<u>Attachment 3-D</u> may only be modified by formal amendment, in accordance with <u>Section 21.7</u> of the MSA.
<u>Attachment 3-E</u> Severity Levels	<u>Attachment 3-E</u> may only be modified by formal amendment, in accordance with <u>Section 21.7</u> of the MSA.

1. GENERAL

The methodology set out in this **Exhibit 3** will support the Service Level Management cycle of monitoring, reporting and improving the delivery of the Services to DIR and STC Customers.

Performance Categories, Key Measurements and Recurring 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 Equipment or Software or means of Service delivery – provided, however, that where such Equipment or Software or such means of Service delivery 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 Service Provider requires the coordinated, collaborative effort of the Service Provider with Third Parties, including the other DCS Service Providers and the MSI. The Service Provider will provide a single point of contact for the prompt resolution of all Service Level Defaults and all failures to provide high quality Services to DIR, regardless of whether the reason for such Service Level Defaults, or failure to provide high quality Services to DIR, was caused by the Service Provider.

As part of its delivery of the Services, the MSI has overall responsibility for communication, coordination, reporting, and process across the enterprise. Each Service Component Provider is obligated to provide Services in its designated functional area and coordinate, as required to deliver Services, with other Service Component Providers and the MSI.

2. SERVICE LEVEL ATTAINMENT

Service Level Attainment (SLAs) will be reported at the individual STC Customer level, and for all STC Customers collectively, constituting the enterprise of services for which the Service Provider is responsible.

Failure to meet the minimum service level for any one STC Customer constitutes a Service Level Default.

Repetitive failures to achieve minimum service levels for any one customer may constitute a service delivery failure for which Service Provider is required to comply with the Corrective Action Plan requirements contained in Section 7 of this Exhibit.

Service levels will be measured and applied to each MAS Service Component Provider, separately reporting service level attainment by Service Provider and by STC Customer. Failure to meet the minimum service level for any one Service Component and any one STC Customer is considered a default. For example, timeliness of service request fulfillment will be measured separately between each of the three MAS types, and separately by STC Customer. A service level default occurs when one Service Provider fails to meet the minimum target for any one service level for any one STC Customer. Enterprise service level attainment will also be measured and reported.

3. REPORTING

Unless otherwise specified in this Exhibit, each Key Measurement, Recurring Deliverable and One Time Deliverable shall be measured and reported on a monthly basis. The format, layout and content of such monthly reports shall be agreed between DIR and Service Provider. The Service Provider's monthly performance reports are due by the 20th day of each month and shall include a set of soft-copy reports such that DIR is able to verify the Service Provider's performance and compliance with the Key Measurements, Recurring Deliverables and One Time Deliverables (for purposes of clarity, with respect to One Time Deliverables, such reporting is only required until all One Time Deliverables are received and approved by DIR). The monthly reports shall describe any failure to meet Key Measurements for the month.

In addition to the reports described above, the Service Provider shall also provide detailed supporting information for each report to DIR electronically in machine-readable form suitable for use on a personal computer. The data and detailed supporting information shall include sufficient detail such that DIR is able to reproduce the calculations made by Service Provider and validate the results reported in the monthly Service Level performance reports. The methodology used by Service Provider to calculate the service level performance shall be documented and maintained in the Service Management Manual. 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, Service Provider shall provide DIR with direct, unaltered access to review and audit all raw data collection related to Service Levels.

The Service Provider will create and maintain detailed procedure documentation of its 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 Service Provider 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 Service Provider at least ninety (90) days prior to the date that additions or deletions to Performance Categories, or additions or deletions to Service Levels, or additions or deletions to Recurring Deliverables are to be effective, provided that DIR may send only one such notice (which notice may contain multiple changes) each calendar quarter.

5. ADDITIONS AND DELETIONS OF PERFORMANCE CATEGORIES

DIR may add or delete Performance Categories by sending notice as described in Section 4 herein. Such change notice shall include changes necessary to accommodate the addition of new Performance Categories made pursuant to Section 1 above.

6. ADDITIONS, MODIFICATIONS AND DELETIONS OF SERVICE LEVELS

DIR may add, modify or delete Key Measurements as described below by sending written notice in accordance with Section 4 above.

6.1 Additions

DIR may add Service Levels in accordance with this Section 6.1 and by providing written notice in accordance with Section 4. Service Level commitments associated with added Service Levels will be computed 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 (for example, Gartner Group, Yankee Group, etc.),

2. If the Parties fail to agree on an Expected Service Level and Minimum Service Level commitment as described in Item 1, the following will apply:
3. Where at least nine (9) consecutive months of verifiable service measurements exist for a particular Service that is being provided by the Service Provider (the "Nine-Month Measurement Window"), the Parties agree that the Expected Service Level shall be defined as the average of such service measurements for the Nine-Month Measurement Window and that the Minimum Service Level shall be defined as the lowest service measurement achieved during the Nine-Month Measurement Window, unless the lowest measurement is more than the equivalent of one standard deviation for the data set of measurements below the second lowest service measurement achieved in which case the Minimum Service Level shall be defined as the second lowest service measurement.
4. Where less than nine (9) months or no measurements exist for a particular Service that is being provided by the Service Provider, the Parties shall do the following:
 - 4.1. The Service Provider shall begin providing monthly measurements within ninety (90) days after the Service Provider's receipt of DIR's written request.
 - 4.2. After nine (9) or more actual service level attainments have been measured (or should have been measured per Item 4.1 of Section 6.1 of this Exhibit and if not so measured, constructed as described in Item 4.2.1 of Section 6.1 of this Exhibit), DIR may at any time in writing request that Item 3 of Section 6.1 above be used to establish the Service Level commitments.
 - 4.2.1. If the Service Provider is responsible for measuring actual service level attainments for nine (9) consecutive months and fails to provide one (1) or more measurements during the nine-month period such that nine (9) consecutive measurements are not available, the missing measurement(s) shall be constructed according to the following: (i) if one measurement is missing, the missing measurement shall be constructed by using the highest of the eight (8) actual measurements, or (ii) if two (2) or more measurements are missing, the first missing measurement shall be constructed by using the highest of the actual measurements and adding to that measurement twenty percent (20%) of the difference between that measurement and one hundred percent (100%) and each of the remaining missing measurements shall be constructed by using the highest of the actual measurements and adding to that measurement thirty-five percent (35%) of the difference between that measurement and one hundred percent (100%).

For example, if there were four measurements for a particular Service, and the highest of the four measurements was 95%, then the measurements for the missing five months would be deemed to be 96.00% (representing 95.00% plus (20% of 5%)) for one month and 96.75% (representing 95.00% plus (35% of 5%)) for the remaining four months.
 - 4.2.2. If the Service Provider has provided twenty-four (24) actual service level attainment measurements for any particular Service provided by the Service Provider, and DIR has not used Item 3 of Section 8.1 of this Exhibit to establish Service Level commitments, then continued provision of actual service level attainment measurements shall be subject to the Parties' mutual agreement in accordance with the Change Control Procedures.

6.2 Deletions

DIR may delete Key Measurements by sending written notice in accordance with Section 4 herein.

6.3 Modifications

DIR may modify Service Level commitments or measurement methodology in accordance with this **Section 6.3** and by providing written notice in accordance with **Section 4**.

The Service Provider may propose modifications to Service Level measurement methodology for DIR approval. Service Level measurement methodology may be modified by updating **Attachment 3-B**.

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, then **Section 19** of the MSA and **Section 2.4.1** of **Exhibit 6** shall apply.

7. SERVICE DELIVERY FAILURE; CAP FAILURE EVENT

1. If three (3) Service Level Defaults for the same Service Level occur in any six (6) month period for one or more Customers, 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, Service Provider will provide DIR with a written plan (the "SD Corrective Action Plan") for improving the Service Provider's performance to address the Service Delivery Failure, which plan will include a specific implementation timetable and measurable success criteria. Within 30 days of plan submission, or such other timeframe agreed to by DIR, Service Provider will implement the SD Corrective Action Plan ("CAP), which will include making timely and appropriate investments in people, processes and technology. In addition, the Service Provider will demonstrate to DIR's reasonable satisfaction that the changes implemented by Service Provider have been made in normal operational processes to sustain compliant performance results in the future.
2. Upon the occurrence of (i) a CAP Failure Event, or (ii) if Service Provider fails to implement the SD Corrective Action Plan in the specified timetable or if after the implementation of the SD Corrective Action Plan performance has not consistently improved, then Service Provider 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 such time as Service Provider 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, Service Provider has remedied the failure which is the subject of the CAP Notice. If the CAP Failure Event or Service Delivery Failure reoccurs within three (3) months, the CAP Failure Credit will be reapplied to the then-current and each subsequent monthly invoice until the CAP Failure Event or Service Delivery Failure has been resolved. The CAP Failure Credit cannot be earned back. The Service Provider 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. The Service Provider will not be liable for a CAP Failure Credit any earlier than ninety (90) days after the Commencement Date.

8. RECURRING CRITICAL DELIVERABLES

Certain of the Service Provider's obligations under the Agreement are periodic obligations to deliver key Recurring Critical Deliverables. (e.g. Customer Satisfaction Improvement Plan)

DIR may add, modify or delete Recurring Critical Deliverables by sending written notice in accordance with Section 4 of this Exhibit.

9. ONE TIME CRITICAL DELIVERABLES – AFTER EFFECTIVE DATE

Certain of the Service Provider's obligations under the Agreement are one-time or periodic obligations to deliver One Time Critical Deliverables. Service Provider may be restricted from engaging in new Services or Work if any One Time Critical Deliverables are not submitted and/or approved. (g.e. New Customer Integration Plan)

10. COMMENCEMENT OF OBLIGATIONS

The obligations set forth herein shall commence on the Effective Date or as otherwise specified in Attachment 3-A. Service Provider will be responsible to provide measurement data in support of the Key Measurement.

11. CONTINUOUS IMPROVEMENT – SERVICE LEVELS

The Parties agree to the concept of continuous improvement and that the Key Measurements should be modified during this Agreement to reflect this concept. To accomplish this, Key Measurements will be modified each twelve (12) month period following the commencement of obligations date specific to each Key Measurement 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 Section 11 below.

2. Notwithstanding Item 1 of this Section 11 above, in no event shall any single increase in an Expected Service Level pursuant to Item 1 of this Section 11 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, following the second anniversary of the Commencement of services Date and continuing annually with every anniversary, the process described in this Section 11 will be performed, annually on July 1st, utilizing the previous twelve (12) months' data, replacing

the Key Measurement MSL/ESL that were based upon the commencement of obligations specific to each Key Measurement.

12. COORDINATION WITH THE MSI

Service Providers must coordinate the submission and format of monthly SLA data with the Multi-sourcing Services Integrator, who is responsible for reporting SLA outcomes to DIR and STC Customers. Service Providers will work collaboratively to define procedures that ensure the timely and accurate submission of data between the parties.

The MSI is responsible for notifying the Service Providers of any Service Level Default and for requiring Service Level Improvement plans.

13. MEASURING TOOLS

As of the Effective Date, the measuring tools and methodologies set forth in **Attachment 3-B** represent acceptable measuring tools and methodologies for the Critical Service Levels and Key Measurements designated.

If there are any Key Measurements for which the measuring tools and methodologies have not been agreed upon by DIR and the Service Provider and for which measuring tools are not included in **Attachment 3-B**, and the Service Provider fails to propose a measuring tool that is acceptable to DIR prior to the date upon which the Service Provider shall be responsible for Service Level performance, such failure shall be deemed a Service Level Default until the Service Provider proposes and implements such acceptable measuring tool. DIR will not unreasonably withhold approval for the Service Provider's recommendation for an alternate tool.

Tools for new Key Measurements 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 **Attachment 3-B** 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 Key Measurements, the Service Provider desires to use a different measuring tool, the Service Provider 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 Service Provider 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. Service Provider 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.

14. TIMES

Unless otherwise set forth herein, all references in this Exhibit to times shall refer to Central Time.

15. SINGLE INCIDENT/MULTIPLE DEFAULTS

If a single incident results in the failure of the Service Provider to meet more than one Service Level, DIR shall have the right to select any one of such multiple Service Level Defaults for which it will be by notifying the Service Provider of the selection within five (5) business days.

16. EXCEPTIONS

The Service Provider shall not be responsible for a failure to meet any Service Level solely to the extent that such failure is directly attributable to any of the following:

1. Any circumstances that excuse Service Provider's performance in accordance with **Section 10.2** of the Master Services Agreement.
2. The failure of Third Party Equipment and Third Party Materials consisting of Software that are no longer supported by the licensor or manufacturer for which Service Provider has operational responsibility under the Agreement ("Out of Support Third Party Equipment and Software"), provided that: (a) as stated in **Section 15.2(b)** of the Master Services Agreement, Service Provider has used commercially reasonable efforts to perform maintenance for such Out of Support Third Party Equipment and Software as required to meet its obligations under this Agreement; (b) such Out of Support Third Party Equipment and Software has been agreed in writing by DIR to be such prior to any failure incident qualifying as an exception, and (c) Service Provider has proposed an upgrade or replacement of such Out of Support Third Party Equipment and Software and DIR has expressly rejected such proposal.

17. EXCLUSIONS

Any incidents or requests opened prior to Effective Date are excluded from SLA measurements.

Additional exclusions are indicated in **Attachment 3-B**.

18. SERVICE LEVEL ESCALATION EVENT

A Service Level Escalation Event occurs, if (a) the Service Provider asserts that it has been unable to perform all or a portion of the Services solely as a result of the failure by another DCS Service Provider, (b) the Service Provider has performed its own obligations as set forth in the Agreement, including the SOWs, Service Management Manual, which actions shall include (i) immediately notifying DCS Service Provider that such failure may result in a Service Level Default, (ii) provides the DCS Service Provider with reasonable opportunity to correct such failure to perform and thereby avoid the Service Provider non-performance, (iii) documents that it has performed its obligations under the Agreement notwithstanding another DCS Service Provider's failure to perform (iv) has notified DIR that a corrective action has commenced, and (v) has otherwise performed its obligations to cause the DCS Service Provider to perform. Upon the occurrence of a Service Level Escalation Event, the Service Provider may escalate the other DCS Service Provider failure through the appropriate governance structure for resolution in accordance with **Exhibit 6**. If the applicable governance committee has determined that Service Provider has satisfied each of the requirements and obligations set forth above, such resolution shall include excusing Service Provider'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, etc. 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. For example, if the Service Level involved defects in lines of code where zero percent (0%) is the objective, lowest would be changed to highest in Item 3 of Section 6.1 herein, and highest would be changed to lowest in Item 4.2.1 of Section 6.1 herein.