

**Appendix 1 to
Third Amendment of
Master Services Agreement**

DIR-MAS-SCP-RCR-001
December 10, 2018



**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 4
Pricing and Financial Provisions**

December 10, 2018

Contract Change Log

Amendment/CCR #	Date	Description of Changes
Third Amendment/ CCR #####	December 10, 2018	<ul style="list-style-type: none"> • Added Volume Discount table, effective September 1, 2019 to Section 10 • Added language to Section 14 to capture sixteen (16) hours per Rate Card Resource that will be credited to DIR.

TABLE OF CONTENTS

1. Introduction	4
2. Accuracy, Completeness and Interpretation	4
3. U.S. Dollars	4
4. New Services Charges	4
5. Billing Triggers	4
6. Chargeback	5
7. Resource Unit Measurement Validation	6
8. Financial Planning and Forecasting	6
9. Pass-Through Expenses	7
10. Volume Discount	7
11. Agreement Termination Charges	8
11.1 Charges	8
11.2 Agreement Termination Charges Calculation	11
11.3 Return of Payments	11
12. RESERVED	12
13. RESERVED	12
14. Rate Card Resources	12
14.1 Rate Card Resource Management	13
15. RESERVED	14
16. Attachments	14

1. Introduction

This **Exhibit 4** describes the methodology for calculating the Charges for all of the Services, unless otherwise expressly provided in the Agreement.

All capitalized terms in this **Exhibit 4** shall have the same meanings given them in **Exhibit 1**. All Attachments hereto are incorporated by reference herein.

2. Accuracy, Completeness and Interpretation

Service Provider shall be responsible for the accuracy and completeness of the operational and financial assumptions underlying its pricing, and if such assumptions are incorrect or incomplete, Service Provider shall not be entitled to adjust its pricing or any other terms of the Agreement.

All Charges calculated in accordance with **Exhibit 4** shall be invoiced to DIR by Service Provider in accordance with the applicable invoice and payment provisions set forth in **Section 12** of the Master Services Agreement. The Service Provider shall not impose any fixed or monthly required minimum fees or support level pricing for any Service or at the total contract level; in no event will DIR be required to pay Service Provider for Services not consumed or utilized by DIR.

3. U.S. Dollars

All Charges are expressed and shall be paid in U.S. Dollars.

4. New Services Charges

If and to the extent DIR requests Service Provider to perform any New Services in accordance with the terms of the Agreement, the Charges shall be adjusted in accordance with the corresponding proposal submitted by Service Provider and approved by DIR in accordance with **Section 11.5** of the Master Services Agreement; provided, however to the extent any New Services are FTE-based, the Charges for such New Services shall be subject to the **Attachment 4-A** Rate Card Resource rates unless the Parties otherwise agree in writing.

Service Providers may not charge Rate Card Resource rates to implement new SaaS products after Commencement.

5. Billing Triggers

A mutually agreed upon policy and process will be established to determine the criteria that must be met to initiate or stop billing for a Service. These billing triggers will be documented in the Service Management Manual (SMM). At a minimum, the billing triggers should address the following scenarios to determine the appropriate criteria that must be met to generate a Charge increase or decrease:

- a. The addition or removal of Rate Card Resources

- b. The addition or removal of a SaaS Customer or license.

The trigger documentation should address all Services impacted by the event with reference to CMDB status where appropriate.

6. Chargeback

The Multi-sourcing Service Integrator (MSI) is responsible for developing, managing, and maintaining the Chargeback System as well as developing and coordinating the associated DCS Service Component Providers processes, as described in **Exhibit 2.1.2**. The Service Component Providers are responsible for data collection, data integrity, and providing data feeds to the MSI for Chargeback purposes. Where applicable, the MSI manages the Chargeback unit rate development process in coordination with DIR. DIR provides the methodology, but the MSI develops the calculations and maintains the process, which may include the allocation of some or all of a Service Provider's Charges into another Service Component Provider's Charges for Chargeback purposes.

The MSI is the financial intermediary between the Service Component Providers and DIR. In this role, the MSI provisions and manages the Chargeback and Utilization Tracking System, Chargeback and utilization reporting, Chargeback invoice consolidation, and management of the invoice dispute process. A component of the Chargeback invoice consolidation responsibility is the reconciliation of the cumulative total of all Service Providers' Monthly Invoices with the cumulative total of the DCS Customers' Chargeback invoices. The MSI provides DIR with the supporting detail necessary to facilitate DIR's payment of the Monthly Invoice to each Service Provider. A description of the current Chargeback system, capabilities and process is described in **Appendix C**.

For, Rate Card Resources, Pass-Through Expenses per Section 9 below, New Services, and other Services for which Service Provider is authorized to charge separately by DIR, Service Provider will provide data to the MSI to support the Charges by Customer and Customer account identifier that conforms with the requirements of **Section 12.1** of the Master Services Agreement. DIR provides the MSI with the chargeback methodology and the MSI makes available to DIR and Customers through the Portal the monthly chargeback volumes, rates, and extended charge per Service per Customer and Customer account identifiers. Chargeback detail for each Customer is made available in the Chargeback System via the Portal in a format that aligns with the form(s) of invoice described in **Attachment 4-F**.

At a minimum, DIR requires Service Provider to provide detailed billing data by Customer, Customer account identifier, by project, by service type and by such factors as requested by DIR, including the ability to track usage by Business Application and Authorized User. DIR is responsible for providing Service Provider with the factors to track, as well as the methodology to be used to indicate usage among such factors. The MSI provides detailed billing information available online in a database that lends itself to searching, ad hoc reporting, and the ability

to export data. This detailed billing information, provided by the MSI, must include the current Contract Year and the previous two Contract Years' data. Billing detail beyond this time period is archived, by the MSI, and available upon request.

Service Provider will develop and implement changes to comply with OMB Guidance for Grants and Agreements (Title 2, Subtitle A, CFR 200) based upon chargeback requirements provided by DIR. The chargeback unit rate methodologies may be adjusted as necessary to meet federal approval or to better facilitate effective and efficient charging of the Services to DIR and Customers. For most billable Services, the chargeback methodology will distribute charges to the benefiting Customers and programs based upon proportionate usage. This approach requires appropriate utilization data be captured for each Service and used to distribute charges to the benefiting programs identified by each Customer.

7. Resource Unit Measurement Validation

Prior to invoicing for Services, DIR and the Service Provider will review the processes and tools used for invoicing and Chargeback, as well as resulting data, to ensure such processes and tools are appropriate, accurate and producing consistent data. Service Provider will obtain DIR Acceptance for all measurement and tracking tools, methodologies, processes and reports used to produce the Charges and, in coordination with the MSI, Service Provider will document methodologies and processes in the Service Management Manual (SMM). DIR will have the right to access, audit and validate the measurement and tracking tools and output results as a means to validate the Charges on a quarterly basis or as described in the SMM. DIR may also require Service Provider to utilize a Service Provider recommended alternative measurement or tracking tool approved by DIR in the invoicing or Chargeback process, at no additional cost to DIR, if audit results determine the existing measurement or tracking tools do not consistently perform accurately or otherwise in accordance with the requirements of this **Exhibit 4**. Any tool changes and/or processes proposed by Service Provider require prior DIR Acceptance, which DIR may withhold in its sole discretion.

8. Financial Planning and Forecasting

Service Provider shall provide the MSI with a semi-annual forecast of Charges and usage trends by Service (aligned with the State's fiscal year). The Charges forecast must be inclusive of transition Charges, planned and accepted by, Rate Card Resources, Pass-Through Expenses and New Services. The forecast must also include known and expected changes captured as part of the Technology Plan and Capacity Management processes. As described in the SMM, such forecasts shall be delivered by Service Provider to DIR on the following schedule:

- a. In even-numbered years, the financial forecast will be delivered on February 1 and October 1. The February 1 financial forecast will include updated forecasts for the current biennium and projections for the next biennium.

b. In odd-numbered years, the Financial Forecast will be delivered on October 1.

Service Provider shall provide DIR with a historical view of actual billed Services per month as set forth in a standard report delivered through the Portal - the form and substance of which shall be approved by DIR within sixty (60) days after the Effective Date. This report shall provide an eighteen (18) month rolling view of billed Services for the eighteen (18) months immediately prior to the month in which such report is provided.

9. Pass-Through Expenses

Service Provider shall administer and invoice DIR for Pass-Through Expenses in accordance with **Section 11.2** of the Master Services Agreement and pursuant to the applicable procedures in the SMM. No new Pass-Through Expenses may be added without DIR's prior written consent, which it may withhold in its sole discretion. The foregoing notwithstanding, Service Provider shall comply with the terms and conditions of **Section 11.2** of the Master Services Agreement with respect to the procurement and pricing of any goods or services that are designated for procurement on a Pass-Through Expense basis. The administration/processing of Pass-Through Expenses by Service Provider will be charged to Customers as an 0% markup of the Pass-Through invoice amount.

10. Volume Discount

Service Provider shall apply the following volume-based discounts for the total work delivered to Customers as per the following incremental volume discount tiers:

<i>Monthly Charges</i>	<i>Incremental Volume Discount %</i>
Less than \$999,999.99	0%
Between \$1 Million & \$2,999,999.99	1%
Between \$3 Million & \$6,999,999.99	2%
Between \$7 Million & \$9,999,999.99	5%
Above \$10 Million	10%

Effective September 1, 2019, the following Monthly Charges and Incremental Volume Discount Percentages shall apply:

<i>Monthly Charges</i>	<i>Incremental Volume Discount %</i>
Less than \$749,999.99	0%
Between \$750,000.00 & \$2,999,999.99	3%
Between \$3 Million & \$6,999,999.99	5%
Between \$7 Million & \$9,999,999.99	7%
Above \$10 Million	10%

The foregoing discounts apply on an aggregate incremental tiers basis and not applied unilaterally to the entire sum of Charges. For example, if the Monthly Charges for service type (Rate Card Resources) equals \$2.2M, the first \$1M will be discounted by the first tier percent and the second \$1.2M will be discounted by the second tier percent and so on.

11. Agreement Termination Charges

11.1 Charges

Termination Charges shall consist of the following costs that are reasonably and actually incurred by Service Provider as a direct result of DIR's termination of the Agreement, in whole or in part, pursuant to **Section 20.2** of the Master Services Agreement:

(a) Service Provider Equipment

- (1) With respect to Equipment owned by Service Provider (including Equipment owned by Service Provider Affiliates and Subcontractors) that is implicated by the relevant termination event and used by Service Provider, Service Provider Affiliates or Subcontractors on a fully dedicated basis to perform the Services, if DIR, the Customers and their designee(s) decide not to purchase such Equipment and Service Provider, Service Provider Affiliates or Subcontractors is/are not able to redeploy such Equipment within sixty (60) days of the date on which such Equipment is no longer required to perform the Termination Assistance Services, the Termination Charges shall consist of the sum of

the fair market value (as shall be determined by an agreed-upon appraisal) for each such item of Equipment, net any amounts recovered by Service Provider, Service Provider Affiliates or Subcontractors through the sale or other disposition of such Equipment).

- (2) Service Provider shall use commercially reasonable efforts to avoid incurring costs described in clause (i) of this Subsection, minimize any such costs incurred and/or recover amounts previously paid. The commercially reasonable efforts to be employed by Service Provider, Service Provider Affiliates and Subcontractors shall include, to the extent applicable, (A) working with DIR to identify all commercially reasonable means to avoid or minimize such costs, (B) offering to make the Equipment described in clause (i) of this Subsection available to DIR, Customers and/or their designee(s) in accordance with **Section 4.4** of the Master Services Agreement, (C) redeploying any such Equipment that are not assumed or acquired by DIR, any Customer or their designee(s) within Service Provider's, any Service Provider Affiliate's or any Subcontractor's organization if, and as soon as, commercially reasonable, and (D) selling, canceling or otherwise disposing of any such Equipment that cannot be redeployed. The costs to be reimbursed by DIR shall cease to accrue following the redeployment or use of such Equipment for any other purpose and shall be reduced by the net proceeds received from any sale or other disposition.
- (3) Notwithstanding clauses (i) through (ii) of this Subsection (a), DIR shall not be obligated to pay any Termination Charges with respect to any Equipment implicated by any termination event to the extent (A) DIR, any DCS Customer or their designee(s) purchases any such Equipment or (B) Service Provider, the applicable Service Provider Affiliate or the applicable Subcontractor is unable (unless otherwise expressly agreed by DIR pursuant to **Section 6.4** of the Master Services Agreement) or unwilling to offer DIR, the DCS Customers and their designee(s) the right to assume such Equipment.

(b) Unrecovered transition Charges

- (4) The Termination Charges will, to the extent applicable, include the unpaid balance of transition Charges for milestones that have been completed by

Service Provider and approved by DIR or Customer (the “Unrecovered Milestone Amount”). The Unrecovered Milestone Amount will be due and payable at such time that DIR no longer receives the terminated Services, including any Termination Assistance Services associated therewith.

(c) Third Party Contracts

- (1) With respect to Third Party Contracts (including leases, licenses, and service contracts with Third Parties) that are (A) implicated by the relevant termination event, and (B) used by Service Provider solely to perform the Services; if DIR, the Customers and their designee(s) decide not to assume any such Third Party Contract and Service Provider is not able to use such Third Party Contract in connection with its performance of Services for any other Service Provider customers within sixty (60) days of the date on which such Third Party Contract is no longer required to perform the Termination Assistance Services, the Termination Charges shall equal the sum of (A) any termination or cancellation fees that Service Provider is contractually required to pay to the counter-party to such Third Party Contract in connection with the early termination of such Third Party Contract and which are specified in **Exhibit 18**, plus (B) subject to **Subsection 11.1(a)(i) through (iii)**, unrecovered prepaid charges that Service Provider is contractually required to pay to the counter-party to such Third Party Contract during the remaining initial term of such Third Party Contract provided, however, that such unrecovered amounts have been incurred by Service Provider in good faith and with a reasonable expectation of providing the Services pursuant to this Agreement and do not exceed twelve (12) months of charges.
- (2) Service Provider, Service Provider Affiliates and Subcontractors shall use commercially reasonable efforts to avoid incurring the costs described in clause (1) of this Subsection, minimize any such costs that are incurred and/or recover amounts previously paid. The commercially reasonable efforts to be employed by Service Provider, Service Provider Affiliates and Subcontractors shall include, to the extent applicable, (A) working with DIR to identify all commercially reasonable means to avoid or minimize such costs, (B) redeploying any such Third Party Contracts not assumed or acquired by DIR, any Customer or their designee(s) within Service Provider’s, any Service Provider

Affiliate's or any Subcontractor's organization if, and as soon as, commercially reasonable, (C) negotiating with the applicable counter-parties to such Third Party Contracts to eliminate or reduce such costs and (D) canceling or otherwise disposing of any such Third Party Contracts that cannot be redeployed. The costs to be reimbursed by DIR shall cease to accrue following the redeployment or use of such Third Party Contract for any other purpose and shall be reduced by the net proceeds received from any sale or other disposition.

11.2 Agreement Termination Charges Calculation

- (a) If DIR terminates the Agreement in its entirety pursuant to **Section 20.2** of the Master Services Agreement, the Termination Charges payable with respect to such termination shall be the sum of the applicable costs described in **Section 11 (a)** of the Master Services Agreement. If DIR terminates a service type or otherwise terminates the Agreement in part pursuant to **Section 20.2** of the Master Services Agreement, the Termination Charges payable with respect to such termination shall be the sum of the applicable costs described in **Section 11** above, equitably reduced in proportion to the portion of the terminated Services.
- (b) Service Provider shall invoice DIR for the Termination Charges owed following the date such Termination Charges are calculated pursuant to **Section 20.10(b)** of the Master Services Agreement, and such invoice shall be due and payable in accordance with **Section 12** of the Master Services Agreement. Service Provider shall prepare an itemized calculation of the potential Termination Charges and deliver it to DIR within thirty (30) days after Service Provider's receipt of the notice of termination. Such calculation shall contain such documentation as is reasonably necessary to validate the potential Termination Charges. For the avoidance of doubt, DIR shall be entitled to audit the Termination Charges in accordance with **Section 9.9** of the Master Services Agreement.

11.3 Return of Payments

Any Charges, expenses, refunds, rebates, credits or other amounts paid by DIR which Service Provider has not (a) paid back to DIR or (b) applied to invoices presented for Services rendered prior to the date on which the relevant Termination Charges are calculated pursuant to **Section 20.10(b)** of the Master Services Agreement shall be, at DIR's option, credited toward such Termination Charges or paid to DIR to the extent such amounts are related to the Services implicated by the relevant termination event.

12. **RESERVED**

13. **RESERVED**

14. **Rate Card Resources.**

Customers may, at their sole discretion, request Rate Card Resources be delivered utilizing the **Attachment 4-A** Rate Card Resource rates and the labor categories and skill sets as set forth in **Exhibit 2.7.3** under the following basis:

- a) Rate Card Resources are billable by Monthly Productive Hours Worked, based on the following guidelines:
 - i. For each Rate Card Resource that performs Monthly Productive Hours Worked in a given month, Service Provider will invoice Customers at the applicable rate in **Attachment 4-A**, which is inclusive of all travel expenses. Rate Card Resource overtime hours will not be calculated as time and a half of the applicable rate.
 - ii. Service Provider shall not invoice Customers in any given month for more than the maximum number of Monthly Productive Hours Worked which will be calculated by multiplying the number of Business Days in the month x 8 hours, unless overtime is approved by the Customer, which is to be paid at the same rate as Monthly Productive Hours Worked.
 - iii. Service Provider shall not invoice Customers for Rate Card Resource overtime, unless agreed to in advance, in writing and on an exception basis by the Customer.
 - iv. Customers shall not incur any Rate Card Charges for the following activities:
 1. Services performed by Service Provider Personnel that have not been approved, in advance, by Customers per established approval processes.
 2. Services performed by Personnel providing non-Rate Card Services such as ADS or AMS or other Services described in **Exhibit 2.7.1** and **Exhibit 2.7.2** including technology and capacity planning, **Exhibit 3** and **Exhibit 4** including invoicing and Chargeback, forecasting and trending;
 3. Project scoping, solutioning, and proposal activities;
 4. Nonproductive time (whether or not conducted on Customers' Sites), such as holidays, vacation time, sick leave, time spent consuming meals, or other personal time;

5. Time used for education, training, mentoring, travel, administrative or management (for example: Service Provider internal meetings, internal reporting, process implementation work, time and expense accounting, performance reviews, knowledge transfer, etc.);
6. For each net new individual Rate Card Resource beginning work on an engagement on or after September 1, 2019, the Service Provider will credit the first sixteen (16) hours of the engagement, resulting in no charge to the Customer. For further clarity, should a resource on an existing engagement be replaced, an additional sixteen (16) hours would not be credited if that role had already fulfilled this requirement.

14.1 Rate Card Resource Management.

- i. Service Provider shall utilize and manage the Rate Card Resources used to perform Services efficiently. Customers shall approve in advance the nature and extent of Rate Card Resources to be provided by Service Provider, and the level of effort to be expended in connection therewith, and may, in its reasonable discretion, increase or decrease such Services and/or effort on a monthly basis.
- ii. Customers may make changes to the Rate Card Resources in accordance with the following, but in all events subject to **Section 9.6** of the Master Services Agreement.

Rate Card Resource Additions. For Services performed on an Rate Card basis, if Customers authorize additional Rate Card Resources in respect to any month, Service Provider shall, in all cases, use commercially reasonable efforts to provide additional Rate Card Resource within five (5) calendar days and meet the schedule set forth in Customers' authorization in accordance with established service management processes and procedures, including, but not limited to processing Project Change Requests. Additional time may be allowed in order to complete CJIS compliant background checks.

Rate Card Resources Reduction. For Services performed on an Rate Card basis, if Customers request Rate Card Resources reductions, Service Provider shall, in all cases, use commercially reasonable efforts to reduce Rate Card Resources within fourteen (14) calendar days and meet the schedule set forth in Customers' authorization in accordance with established service management processes and procedures, including, but not limited to processing Project Change Requests.

- (1) **Rate Card Resources Charge Cessation.** Customers shall not pay for any Rate Card Resources hours that extend beyond those permitted by the notification periods or the scheduled expiration. In the event that Service Provider redeploys Rate Card Resources prior to the required redeployment date, Service Provider's Charges shall cease on the date the Rate Card Resources are redeployed.
 - (2) **Rate Card Resource Cancellation.** Customers may change or cancel any Rate Card Resources addition or reduction notification, without incurring any penalty or Charge to the extent such notice is received by Service Provider prior to Rate Card Resources addition or redeployment.
 - (3) **Resources reporting.** For Rate Card Resources, Service Provider shall, on no less frequently than a monthly basis, measure, track and report Monthly Productive Hours Worked by Rate Card Resource, by Service Proposal, by activity based on DIR and Customers project tracking processes;
- iii. **Resource On-boarding.** For the purposes of successful Service Provider Personnel education, familiarization and productive utilization into the Customer's environment, Service Provider shall invest in the training of each resource placed into service on the Customer's account.

15. RESERVED

16. Attachments

The following Attachments are hereby incorporated into and deemed part of this **Exhibit 4**, and all references in the Master Services Agreement to this **Exhibit 4** shall be read and understood to include the following Attachments:

- (a) **Attachment 4-A**, Service Provider Pricing Forms:
The Service Provider will use this Attachment to submit its price for the Services. DIR requires Service Provider to submit a Stub period plus two (2) years pricing with an option to extend annually up to two (2) additional years.
- (b) **Attachment 4-B**, Financial Responsibility/Asset Allocation Matrix:
This matrix describes DIR and the Service Provider financial responsibility for functions and assets associated with the Services;
- (c) **Attachment 4-C**, intentionally left blank

- (d) **Attachment 4-D**, intentionally left blank
- (e) **Attachment 4-E**, intentionally left blank
- (f) **Attachment 4-F**, Form of Invoice:
This Attachment contains a form of Service Provider invoice with minimum required data and recommended format layout.