STATE OF TEXAS
DEPARTMENT OF INFORMATION RESOURCES
CONTRACT FOR PRODUCTS AND RELATED SERVICES

UNISYS CORPORATION

1. Introduction

A. Parties
This Contract for products and related services is entered into between the State of Texas, acting by and through the Department of Information Resources (hereinafter “DIR”) with its principal place of business at 300 West 15th Street, Suite 1300, Austin, Texas 78701, and Unisys Corporation (hereinafter “Vendor”), with its principal place of business at 801 Lakeview Drive, Suite 100, Blue Bell, Pennsylvania 19422.

B. Compliance with Procurement Laws
This Contract is the result of compliance with applicable procurement laws of the State of Texas. DIR issued a solicitation on the Comptroller of Public Accounts’ Electronic State Business Daily, Request for Offer (RFO) DIR- TSO-TMP-225, on February 27, 2015, for Software, including Software as a Service, Products and Related Services. Upon execution of this Contract, a notice of award for RFO DIR- TSO-TMP-225 shall be posted by DIR on the Electronic State Business Daily.

C. Order of Precedence
For purchase transactions under this Contract, the order of precedence shall be as follows: this Contract; Appendix A, Standard Terms and Conditions For Products and Related Services Contracts; Appendix B, Vendor’s Historically Underutilized Businesses Subcontracting Plan; Appendix C, Pricing Index; Appendix D, Service Subscription Agreement; Exhibit 1, Vendor’s Response to RFO DIR-TSO-TMP-225, including all addenda; and Exhibit 2, RFO DIR-TSO-TMP-225, including all addenda; are incorporated by reference and constitute the entire agreement between DIR and Vendor governing purchase transactions. In the event of a conflict between the documents listed in this paragraph related to purchases, the controlling document shall be this Contract, then Appendix A, then Appendix B, then Appendix C, then Appendix D, Exhibit 1, and finally Exhibit 2. In the event and to the extent any provisions contained in multiple documents address the same or substantially the same subject matter but do not actually conflict, the more recent provisions shall be deemed to have superseded earlier provisions.

2. Term of Contract
The term of this Contract shall be one (1) year commencing on the last date of approval by DIR and Vendor. Prior to expiration of the original term, DIR and Vendor may extend the Contract, upon mutual agreement, for up to three (3) optional one-year terms. Additionally, the parties by mutual agreement may extend the term for up to ninety (90) additional calendar days.
3. **Product and Service Offerings**

   **A. Products**
   Products available under this Contract are limited to Software, including Software as a Service, products and related products as specified in Appendix C, Pricing Index. Vendor may incorporate changes to their product offering; however, any changes must be within the scope of products awarded based on the posting described in Section 1.B above. Vendor may not add a manufacturer’s product line which was not included in the Vendor’s response to the solicitation described in Section 1.B above.

   **B. Services**
   Services available under this Contract are limited to Software, including Software as a Service, services as specified in Appendix C, Pricing Index. Vendor may incorporate changes to their service offering; however, any changes must be within the scope of services awarded based on the posting described in Section 1.B above.

4. **Pricing**
   Pricing to the DIR Customer shall be as set forth in Appendix A, Section 8, Pricing, Purchase Orders, Invoices and Payment, and as set forth in Appendix C, Pricing Index, and shall include the DIR Administrative Fee.

5. **DIR Administrative Fee**
   **A.** The administrative fee to be paid by the Vendor to DIR based on the dollar value of all sales to Customers pursuant to this Contract is three-quarter of one percent (.75%). Payment will be calculated for all sales, net of returns and credits. For example, the administrative fee for sales totaling $100,000 shall be $750.00.

   **B.** All prices quoted to Customers shall include the administrative fee. DIR reserves the right to change this fee upwards or downwards during the term of this Contract, upon written notice to Vendor without further requirement for a formal contract amendment. Any change in the administrative fee shall be incorporated in the price to the Customer.

6. **Notification**
   All notices under this Contract shall be sent to a party at the respective address indicated below.

   **If sent to the State:**
   Kelly Parker, CTPM, CTCM
   Director, Cooperative Contracts
   Department of Information Resources
   300 W. 15th St., Suite 1300
   Austin, Texas 78701
   Phone: (512) 475-1647
   Facsimile: (512) 475-4759
   Email: kelly.parker@dir.texas.gov
7. Software License and Service Agreements

A. Shrink/Click-wrap License Agreement
Regardless of any other provision or other license terms which may be issued by Vendor after the effective date of this Contract, and irrespective of whether any such provisions have been proposed prior to or after the issuance of a Purchase Order for products licensed under this Contract, or the fact that such other agreement may be affixed to or accompany software upon delivery (shrink-wrap), the terms and conditions set forth in this Contract shall supersede and govern the license terms between Customers and Vendor. It is the Customer’s responsibility to read the Shrink/Click-wrap License Agreement and determine if the Customer accepts the license terms as amended by this Contract. If the Customer does not agree with the license terms, Customer shall be responsible for negotiating with the reseller to obtain additional changes in the Shrink/Click-wrap License Agreement language from the software publisher.

B. Service Agreement
Services provided under this Contract shall be in accordance with the Service Agreement as set forth in Appendix D, Service Subscription Agreement of this Contract. No changes to the Service Agreement’s terms and conditions may be made unless previously agreed to by Vendor and DIR.

C. Conflicting or Additional Terms
In the event that conflicting or additional terms in Vendor Software License Agreements, Shrink/Click Wrap License Agreements, Service Agreements or linked or supplemental documents amend or diminish the rights of DIR Customers or the State, such conflicting or additional terms shall not take precedence over the terms of this Contract.

In the event of a conflict, any linked documents may not take precedence over the printed or referenced documents comprising this contract; provided further that any update to such linked documents shall only apply to purchases or leases of the associated Vendor product or service offering after the effective date of the update; and, provided further, that, if Vendor has responded to a solicitation or request for pricing, no update of such linked documents on or after the initial date of Vendor’s initial response shall apply to that purchase unless Vendor directly informs Customer of the update before the purchase is consummated.
In the event that different or additional terms or conditions would otherwise result from accessing a linked document, agreement to said linked document shall not be effective until reviewed and approved in writing by Customer’s authorized signatory.

Vendor shall not without prior written agreement from Customer’s authorized signatory, require any document that: 1) diminishes the rights, benefits, or protections of the Customer, or that alters the definitions, measurements, or method for determining any authorized rights, benefits, or protections of the Customer; or 2) imposes additional costs, burdens, or obligations upon Customer, or that alters the definitions, measurements, or method for determining any authorized costs, burdens, or obligations upon Customer.

If Vendor attempts to do any of the foregoing, the prohibited documents will be void and inapplicable to the contract between DIR and Vendor or Vendor and Customer, and Vendor will nonetheless be obligated to perform the contract without regard to the prohibited documents, unless Customer elects instead to terminate the contract, which in such case may be identified as a termination for cause against Vendor.

The foregoing requirements apply to all contracts, including, but not limited to, contracts between Customer and a reseller who attempts to pass through documents and obligations from its Manufacturer of Publisher.


A. Appendix A, Section 3, Definitions, B. Compliance Check is hereby deleted and replaced in its entirety as follows:

An audit of Vendor’s compliance with the Contract may be performed by, but not limited to, a third-party auditor, DIR Internal Audit Department, or DIR contract management staff or their designees, subject to Vendor confidentiality and site security policies, procedures and practices: provided, however, that Vendor’s policies must not prevent the audit from being performed in a complete and timely manner.

B. Appendix A, Section 5, Intellectual Property Matters is hereby deleted and replaced in its entirety as follows:

This contract does not contemplate, authorize or support acquisition of custom software products or services. If Vendor and Customer seek to contract for such product or service, they must use a separate contract or seek amendment with DIR of this contract. If DIR and Vendor decide to authorize customized software or hardware products; then the intellectual property language will be negotiated and applied.

C. Appendix A, Section 7, Contract Fulfillment and Promotion, A. Service, Sales and Support of the Contract is hereby replaced in its entirety as follows:
Vendor shall provide service, sales and support resources to serve all Customers throughout the State. It is the responsibility of the Vendor to sell, market, and promote services available under the Contract. Vendor shall use commercially reasonable efforts to make potential Customers aware of the existence of the Contract. All sales to Customers for services available under the Contract shall be processed through the Contract.

D. Appendix A, Section 10, Vendor Responsibilities, A.2) Indemnification, Acts or Omissions is hereby replaced in its entirety as follows:

Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS OR SUITS, AND ALL RELATED COSTS, REASONABLE ATTORNEY FEES, AND EXPENSES arising out of, or resulting from and against all third-party claims, actions, suits demands, proceedings, costs, damages, and liabilities, including reasonable attorney’s fees, for injury to persons (including death) or damage to tangible property (but not loss or damage to information or data) to the extent caused by the acts or omissions of the Vendor or its agents, employees, subcontractors, Order Fulfillers, or suppliers of subcontractors in the execution or performance of the Contract and any Purchase Orders issued under the Contract. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDENTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

E. Appendix A, Section 10, Vendor Responsibilities, I. Security of Premises, Equipment, Data and Personnel is hereby replaced in its entirety as follows:

Vendor and/or Order Fulfiller may, from time to time during the performance of the Contract, have access to the personnel, premises, equipment, and other property, including data, files and /or materials (collectively referred to as “Data”) belonging to the Customer. Vendor shall use their best efforts to preserve the safety, security, and the integrity of the personnel, premises, equipment, Data and other property of the Customer, in accordance with the instruction of the Customer. Vendor shall be responsible for damage to Customer's equipment, workplace, and its contents when such damage is caused by its employees or subcontractors. If a Vendor fails to comply with Customer’s security requirements, then Customer may immediately terminate its Purchase Order and related Service Agreement A in accordance to Section 10.B.4.
F. Appendix A, Section 10, Vendor Responsibilities, N. Required Insurance Coverage is hereby replaced in its entirety as follows:

As a condition of this Contract with DIR, Vendor shall provide the listed insurance coverage within 5 business days of execution of the Contract if the Vendor is awarded services which require that Vendor’s employees perform work at any Customer premises and/or use employer vehicles to conduct work on behalf of Customers. In addition, when engaged by a Customer to provide services on Customer premises, the Vendor shall, at its own expense, secure and maintain the insurance coverage specified herein, and shall provide proof of such insurance coverage to the related Customer within five (5) business days following the execution of the Purchase Order. Vendor may not begin performance under the Contract and/or a Purchase Order until such proof of insurance coverage is provided to, and approved by, DIR and the Customer. All required insurance must be issued by companies that have an A rating and a Financial Size Category Class of VII from A.M. Best, and are licensed in the State of Texas and authorized to provide the corresponding coverage. The Customer and DIR will be named as Additional Insureds on all required coverage to the extent of the liabilities assumed by Vendor as set forth in this Contract unless otherwise expressly agreed in writing by the parties. The minimum acceptable insurance provisions are as follows:

1) Commercial General Liability
Commercial General Liability must include $1,000,000 per occurrence for Bodily Injury and Property Damage with a separate aggregate limit of $2,000,000; Medical Expense per person of $5,000; Personal Injury and Advertising Liability of $1,000,000; Products/Completed Operations Aggregate Limit of $2,000,000; and Damage to Premises Rented: $50,000. Agencies may require additional Umbrella/Excess Liability insurance. The policy shall contain the following provisions:
   a) Blanket contractual liability coverage for liability assumed under the Contract;
   b) Independent Contractor coverage;
   c) State of Texas, DIR and Customer listed as an additional insured to the extent of the liabilities assumed by Vendor as set forth in this Contract unless otherwise expressly agreed in writing by the parties; and
   d) Waiver of Subrogation unless otherwise expressly agreed in writing by the parties.

2) Workers’ Compensation Insurance
WORKERS’ COMPENSATION INSURANCE AND EMPLOYERS’ LIABILITY COVERAGE MUST INCLUDE LIMITS CONSISTENT WITH STATUTORY BENEFITS OUTLINED IN THE TEXAS WORKERS’ COMPENSATION ACT (ART. 8308-1.01 ET SEQ. TEX. REV. CIV. STAT) AND MINIMUM POLICY LIMITS FOR EMPLOYERS’ LIABILITY OF $1,000,000 PER ACCIDENT, $1,000,000 DISEASE PER EMPLOYEE AND $1,000,000 PER DISEASE POLICY LIMIT.

3) Business Automobile Liability Insurance
Business Automobile Liability Insurance must cover all owned, non-owned and hired vehicles with a minimum combined single limit of $500,000 per occurrence for bodily
injury and property damage. The policy shall contain the following endorsements in favor of DIR and/or Customer:

   a) Waiver of Subrogation unless otherwise expressly agreed in writing by the parties; and  
   b) Additional Insured to the extent of the liabilities assumed by Vendor as set forth in this Contract unless otherwise expressly agreed in writing by the parties.

G. Appendix A, Section 11, Contract Enforcement, C. Force Majeure is hereby replaced in its entirety as follows:

DIR, Customer, or Vendor will be excused from performance under the Contract for any period when performance is prevented as the result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party experiencing the event of Force Majeure has prudently and promptly acted to take any and all steps that are within the party’s control to ensure performance and to shorten the duration of the event of Force Majeure. The party suffering an event of Force Majeure shall provide notice of the event to the other parties when commercially reasonable. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination. However, a Customer may terminate a Purchase Order for convenience if it is determined by the Customer that Vendor will not be able to deliver services in a timely manner to meet the business needs of the Customer as a result of a Force Majeure Event.

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This Contract is executed to be effective as of the date of last signature.

UNISYS CORPORATION

Authorized By: ___Signature on File_____

Name: ___David Leichner___________

Title: ___VP Public Sector US&C_________

Date: ___3/10/17___________________

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

Authorized By: ___Signature on File_____

Name: ___Hershel Becker_______________

Title: ___Chief Procurement Officer_____

Date: ___3/11/17___________________

Office of General Counsel: ___db 3/10/17___