

## APPENDIX E TO DIR CONTRACT NO. DIR-TSO-3783

### GOV2BIZ Enterprise Software Sistema Technologies, Inc.

#### Standard Terms & Conditions

**VERSION: 1.0**

#### DEFINITIONS

**Affiliate:** Any entity that controls, is controlled by or is under common control with Sistema Technologies.

**Agreement, Enterprise Services Agreement or SA:** Consists of the DIR Contract No. DIR-TSO-3783, Enterprise Services Agreement Cover Page executed by the Customer and accepted by Sistema Technologies, these Enterprise Services General Terms and Conditions (“General Terms and Conditions”), the then current Product-Specific Attachment for each ordered Service (“PSA”), any written amendments to the Agreement executed by both Parties including any supplemental terms and conditions ("Amendment(s)"), and each Sales Order accepted by Sistema Technologies under the Agreement.

**Amendment(s):** Any written amendment to the Agreement, executed by both Parties, including any supplemental terms and conditions.

**Sistema Technologies:** The operating company that provides the Services under the Enterprise Services Service Agreement. References to Sistema Technologies in the Limitation of Liability, Disclaimer of Warranties and Indemnification Articles shall also include its directors, officers, employees, agents, Affiliates, suppliers, licensors, successors, and assigns, as the case may be.

**Sistema Technologies Website or Website:** The Sistema Technologies website where the General Terms and Conditions, PSAs and other Sistema Technologies security and privacy policies applicable to the GOV2BIZ Agreement will be posted. The current URL for the Website is <http://www.gov2biz.com/Sistema> Technologies may update the Website documents and/or URL from time to time. Any term or provision that is in conflict with DIR Contract No. DIR-TSO-3783 shall be deemed null and void.

**Confidential Information: To the extent allowable under the Texas Public Information Act,** all information regarding either Party’s business which has been marked or is otherwise communicated as being “proprietary” or “confidential.” or which reasonably should be known by the receiving party to be proprietary or confidential information. Without limiting the generality of the foregoing, Confidential Information shall include, even if not marked, all Licensed Software, promotional materials, subscriber information, application upgrade information and schedules,

network operation information (including without limitation information about outages and planned maintenance).

**Customer:** The company, corporation, or other entity named on the Enterprise Services Service Agreement Cover Page and a Sales Order.

**Customer-Provided Equipment (CE):** Any and all facilities, equipment or devices supplied by Customer for use in connection with the GOV2BIZ Services.

**Demarcation Point:** The point of interconnection between the GOV2BIZ application and Customer's provided equipment located at a Service Location or a Customer's private cloud environment. In some cases the Demarcation Point shall be the User to Application Interface (UNI) on Sistema Technologies private cloud environment.

**Licensed GOV2BIZ Software:** GOV2BIZ computer software or code provided by Sistema Technologies or required to use the Services, including without limitation, associated documentation, and all updates thereto.

**Network:** Consists of the Sistema Technologies equipment, facilities, private cloud associated with electronics and other equipment and other providers or hosting companies Sistema may engage to provide the Services.

**Party:** A reference to Sistema Technologies or the Customer; and in the plural, a reference to both companies.

**Product Specific Attachment(s) (PSA):** The additional terms and conditions applicable to Services ordered by Customer under the Agreement. Any term found to be in conflict with DIR Contract No. DIR-TSO-3783 shall be deemed null and void.

**Sales Order:** A request for Sistema Technologies to provide the Services to a Service Location(s) (e.g. Data Center) or SaaS Cloud Environment submitted by Customer to Sistema Technologies (a) on a then-current Sistema Technologies form designated for that purpose or (b) if available, through a Sistema Technologies electronic order processing system designated for that purpose.

**GOV2BIZ Service(s):** A service provided by Sistema Technologies pursuant to a Sales Order. All Services provided under the Agreement are for commercial use only.

**Service Commencement Date:** The date(s) on which Sistema Technologies first makes GOV2BIZ Service available for use by Customer. A single Sales Order containing multiple Service Locations or Services may have multiple Service Commencement Dates.

**Service Location(s):** The Customer location(s) where Sistema Technologies provides the GOV2BIZ Services, to the extent the Customer owns, leases, or otherwise controls (i.e. private cloud instance) such location(s).

**Service Term:** The duration of time (commencing on the Service Commencement Date) for which Services are ordered, as specified in a Sales Order.

**Tariff:** A federal or state Sistema Technologies tariff and the successor documents of general applicability that replace such tariff in the event of detariffing.

**Termination Charges:** Charges that may be imposed by Sistema Technologies if, prior to the end of the applicable Service Term (a) Sistema Technologies terminates Services for cause or (b) Customer terminates Services without cause. Termination Charges are as set forth in each PSA, and are in addition to any other rights and remedies under the Agreement. These charges must be approved by DIR and included in Appendix C of DIR Contract No. DIR-TSO-3783.

## **ARTICLE 1. CHANGES TO THE AGREEMENT TERMS**

Sistema Technologies may change or modify the Agreement, and any related policies from time to time, with DIR approval, (“Revisions”) by posting such Revisions to the Sistema Technologies Website. The Revisions are effective upon posting to the Website. Customer will receive notice of the Revisions in the next applicable monthly invoice. Customer shall have thirty (30) calendar days from the invoice notice of such Revisions to provide Sistema Technologies with written notice that the Revisions adversely affect Customer’s use of the Service(s). If after notice Sistema Technologies is unable to reasonably mitigate the Revision’s impact on such Services, then Customer may terminate the impacted Service(s) without further obligation to Sistema Technologies beyond the termination date, including Termination Charges, if any. This shall be Customer’s sole and exclusive remedy.

## **ARTICLE 2. DELIVERY OF GOV2BIZ SERVICE**

**2.1 Orders.** Customer shall submit to Sistema Technologies a properly completed Sales Order to initiate the GOV2BIZ Service to a Service Location(s) e.g. Data Center or Private Cloud. A Sales Order shall become binding on the Parties when (i) it is specifically accepted by Sistema Technologies either electronically or in writing, (ii) Sistema Technologies begins providing the GOV2BIZ Service described in the Sales Order or (iii) Sistema Technologies begins Custom Installation (as defined in Article 2.7) for delivery of the Services described in the Sales Order, whichever is earlier. When a Sales Order becomes effective it shall be deemed part of, and shall be subject to, the Agreement.

**2.2 Access.** In order to deliver certain Services to Customer, Sistema Technologies may require access (“Access”), within the physical Service Location (e.g. Data Center). Customer shall provide an adequate environmentally controlled space and such electricity as may be required for installation, operation, testing and maintenance of the Sistema Technologies GOV2BIZ Service within the Service Location(s). Customer shall be responsible for securing, and maintaining on an initial and ongoing basis during the applicable Service Term and/or Renewal Term, such Access within the Service Location.

**2.4 Sistema Technologies Code Base.** At any time Sistema Technologies may remove or change Sistema Technologies software code in its sole discretion in connection with providing the Services. Customer shall not rewrite, edit, delete or enhance any Sistema Technologies software code or permit others to do so, and shall not use the Sistema Technologies software code for any purpose other than that authorized by the Agreement. Sistema Technologies shall maintain Sistema Technologies code in good operating condition during the term of this Agreement; provided, however, that such maintenance shall be at Sistema Technologies' expense only to the extent that it is related to and/or resulting from the ordinary and proper use of the Sistema Technologies software code.

**2.5 Ownership, Impairment and Removal of GOV2BIZ Code,** The GOV2BIZ software code is and shall remain the property of Sistema Technologies regardless of whether installed within or upon the Service Location(s) (e.g Data Center) or cloud environment. Customer agrees that it shall take no action that directly or indirectly impairs Sistema Technologies' title to the GOV2BIZ software code, or any portion thereof, or exposes Sistema Technologies to any claim, lien, encumbrance, or legal process, except as otherwise agreed in writing by the Parties. Nothing in this Agreement shall preclude Sistema Technologies from using the GOV2BIZ software code for services provided to other Sistema Technologies customers.

**2.6 Customer-Provided Equipment ("CE").** Sistema Technologies shall have no obligation to install, operate, or maintain CE. Customer shall have sole responsibility for providing maintenance, repair, operation and replacement of all CE and other Customer equipment and facilities on the Customer's side of the Demarcation Point. CE shall at all times be compatible with the GOV2BIZ software code as determined by Sistema Technologies in its sole discretion. In addition to any other service charges that may be imposed from time to time, Customer shall be responsible for the payment of service charges for visits by Sistema Technologies' employees or agents to a Service Location when the service difficulty or trouble report results from the use of CE or facilities provided by any party other than Sistema Technologies.

**2.7 Integration Review.** Each Sales Order submitted by Customer may be subject to an integration review. The integration review will determine whether and to what extent the GOV2BIZ software code must be extended, built or upgraded ("Custom Integration") in order to provide the ordered Services at the requested Service Location(s) or cloud environment (e.g. integrations beyond DPS/FBI and Texas.gov). Sistema Technologies will provide Customer written notification in the event Service integration at Service Location will require an additional non-recurring integration fee ("Custom Integration Fee"). Customer will have five (5) days from receipt of such notice to reject the Custom Integration Fee and terminate, without further liability, the Sales Order with respect to the Service Location.

**2.8 Service Acceptance.** Except as may otherwise be identified in the applicable PSA, the Service Commencement Date shall be the date Sistema Technologies completes installation and testing of GOV2BIZ software code at Service Location (physical or cloud) and Customer provides written acceptance.

**2.9 GOV2BIZ Software Access.** Sistema Technologies may furnish Customer with multiple user identifications and/or passwords to access the GOV2BIZ software. Customer must purchase a minimum number of software licenses that will be agreed upon by both parties. Customer shall be responsible for the confidentiality and use of such user identifications and/or passwords and shall immediately notify Sistema Technologies if there has been an unauthorized release, use or other compromise of any user identification or password. In addition, Customer agrees that its authorized users shall keep confidential and not distribute any information or other materials made available by the GOV2BIZ software. GOV2BIZ software licenses are not to be shared by multiple employees. Customer shall be solely responsible for all use of the GOV2BIZ Software and private cloud environment, and Sistema Technologies shall be entitled to rely on all Customer uses of and submissions to the GOV2BIZ software as authorized by Customer. Sistema Technologies shall not be liable for any loss, cost, expense or other liability arising out of any Customer use of the GOV2BIZ software or any information on the private cloud environment hosting the GOV2BIZ software. Sistema Technologies may change or discontinue the GOV2BIZ software, or Customer's right to use the GOV2BIZ software, at any time with DIR approval.

### **ARTICLE 3. BILLING AND PAYMENT**

**3.1 Charges.** Customer agrees to pay all charges associated with the GOV2BIZ Services, as set forth or referenced in the applicable PSA, or Sales Order(s) invoice from Sistema Technologies and as identified in Appendix C of DIR Contract No. DIR-TSO-3783. These charges may include, but are not limited to standard and custom non-recurring customization and integration charges, monthly recurring license fees, charges for on-going maintenance fees. Taxes shall be handled in accordance with Appendix A, Section 8E of DIR Contract No. DIR-TSO-3783.

**3.2 Payment of Bills.** Except as otherwise indicated herein or in a PSA, Sistema Technologies will invoice Customer in accordance with Appendix A, Section 8I of DIR Contract No. DIR-TSO-3783. Payment will be made in accordance with Appendix A, Section 8J of DIR Contract No. DIR-TSO-3783. If a Service Commencement Date is not the first day of a billing period, Customer's first monthly invoice shall include any pro-rated charges for the Services, from the date of installation to the start of the next billing period.

**3.4 Partial Payment.** Partial payment of any bill will be applied to the Customer's outstanding charges in amounts and proportions solely determined by Sistema Technologies. No acceptance of partial payment(s) by Sistema Technologies shall constitute a waiver of any rights to collect the full balance owed under the Agreement.

**3.3.6 Taxes and Fees.** Taxes shall be handled in accordance with Appendix A, Section 8E of DIR Contract No. DIR-TSO-3783.

**3.7 Other Government-Related Costs and Fees.** In the event that any newly adopted law, rule, or regulation increases Sistema Technologies' costs of providing Services, and subject to DIR's prior review, Customer shall pay Sistema Technologies' additional costs of providing Services under the new law, rule, or regulation. Imposition of any such additional cost will entitle Customer to terminate without further obligation.

**3.9 Fraudulent Use of Services.** Sistema Technologies reserves the right to restrict, suspend or discontinue providing GOV2BIZ Service in the event of fraudulent use of Customer's Service.

#### **ARTICLE 4. TERM; REVENUE COMMITMENT**

**4.1 Agreement Term.** Upon execution of the Agreement, Customer shall be allowed to submit Sales Orders to Sistema Technologies during the term referenced on the Service Agreement Cover Page ("SA Term"). After the expiration of the initial SA Term, Sistema Technologies may continue to accept Sales Orders from Customer under the Agreement, or require the Parties to execute a new agreement. This Agreement shall continue in effect until the expiration or termination date of the last Sales Order entered under the Agreement, unless terminated earlier in accordance with Appendix A, Section 11B of DIR Contract No. DIR-TSO-3783

**4.2 Sales Order Term.** The applicable Service Term and Revenue Commitment (if any) shall be set forth in the Sales Order. Unless otherwise stated in these terms and conditions or the applicable PSA, the Service Term shall be one (1) year from the Service Commencement Date.

**4.3 Sales Order Renewal.** Upon the expiration of the Service Term, and unless otherwise agreed to by the Parties in the Sales Order, there will be three (3) one (1) year renewal options exercised by Customer providing Vendor thirty days written notice prior to the then-expiration date. Effective at any time after the end of the Service Term and from time to time thereafter, Sistema Technologies may, modify the charges for GOV2BIZ Services subject to thirty (30) days prior written notice to Customer and DIR approval. Customer will have thirty (30) days from receipt of such notice to cancel the applicable Service without further liability.

#### **ARTICLE 5. TERMINATION**

Terminations shall be handled in accordance with Appendix A, Section 11B of DIR Contract No. DIR-TSO-3783.

#### **5.3 Effect of Expiration/Termination of a Sales Order.**

Upon the expiration or termination of a Sales Order for any reason:

- A. Sistema Technologies terminate access to the applicable GOV2BIZ Service;
- B. Sistema Technologies may delete all applicable data, files, electronic messages, or other information stored on Sistema Technologies' servers or systems;
- C. If Customer has terminated the Sales Order prior to the expiration of the Service Term for convenience, or if Sistema Technologies has terminated the Sales Order prior to the expiration of

the Service Term as a result of material breach by Customer, Sistema Technologies may assess and collect from Customer applicable pre-agreed Termination Charges (if any);

**D.** Subject to record retention laws and policies, Customer's right to use applicable Licensed Software shall automatically terminate, and Customer shall be obligated to return all Licensed Software to Sistema Technologies.

**5.4 Resumption of Service.** If a Service has been discontinued by Sistema Technologies for cause and Customer requests that the Service be restored, Sistema Technologies shall have the sole and absolute discretion to restore such Service. At Sistema Technologies' option, advanced payments, nonrecurring charges, and/or an extended Service Term may apply to restoration of Service.

**ARTICLE 6. LIMITATION OF LIABILITY; DISCLAIMER OF WARRANTIES;**

**6.1 Limitation of Liability.**

**A. LIMITATION OF LIABILITY SHALL BE HANDLED IN ACCORDANCE WITH APPENDIX A, SECTION 10K OF DIR CONTRACT NO. DIR-TSO-3783.**

**6.2 Disclaimer of Warranties.**

**A.** Services shall be provided pursuant to the terms and conditions of DIR Contract No. DIR-TSO-3783, the applicable PSA and Service Level Agreement, and are in lieu of all other warranties, express, implied or statutory, including, but not limited to, the implied warranties of merchantability, fitness for a particular purpose, title, and non-infringement. **TO THE MAXIMUM EXTENT ALLOWED BY LAW, SISTEMA TECHNOLOGIES EXPRESSLY DISCLAIMS ALL SUCH EXPRESS, IMPLIED AND STATUTORY WARRANTIES.**

**B.** Without limiting the generality of the foregoing, and except as otherwise identified in a PSA or Service Level Agreement, Sistema Technologies does not warrant that the Services or Licensed GOV2BIZ Software will be uninterrupted, error-free, or free of latency or delay, or that the Sistema Technologies GOV2BIZ Software will meet customer's requirements, or that the Sistema Technologies Licensed GOV2BIZ Software will prevent unauthorized access by third parties.

**C.** In no event shall Sistema Technologies, be liable for any loss, damage or claim arising out of or related to: (i) stored, transmitted, or recorded data, files, or software; (ii) any act or omission of Customer, its users or third parties; (iii) interoperability, interaction or interconnection of the Services with applications, equipment, services or networks provided by Customer or third parties; or (iv) loss or destruction of any Customer hardware, software, files or data resulting from any virus or other harmful feature or from any attempt to remove it. Customer is advised to back up all data, files and software prior to the installation of GOV2BIZ Service and at regular intervals thereafter.

**6.3 Disruption of Service.** Notwithstanding the performance standards identified in a PSA, the Services are not fail-safe and are not designed or intended for use in situations requiring fail-

safe performance or in which an error or interruption in the Services could lead to severe injury to business, persons, property or environment ("High Risk Activities"). These High Risk Activities may include, without limitation, vital business or personal communications, or activities where absolutely accurate data or information is required.

**6.4** Customer's sole and exclusive remedies are expressly set forth in the Agreement. Certain of the above exclusions may not apply if the state in which a Service is provided does not allow the exclusion or limitation of implied warranties or does not allow the limitation or exclusion of incidental or consequential damages. In those states, the liability of Sistema Technologies is limited to the maximum extent permitted by law.

## **ARTICLE 7. INDEMNIFICATION**

**7.1** Indemnification shall be handled in accordance with Appendix A, Section 10A of DIR Contract No. DIR-TSO-3783

## **ARTICLE 8. SOFTWARE & SERVICES**

**8.1** **License.** If and to the extent that Customer requires the use of Licensed GOV2BIZ Software in order to use the Service supplied under any Sales Order, Customer shall have a personal, nonexclusive, nontransferable, and limited license to use such GOV2BIZ Licensed Software in object code only and solely to the extent necessary to use the applicable Service during the corresponding Service Term. All Licensed Software provided to Customer, and each revised version thereof, is licensed (not sold) to Customer by Sistema Technologies only for use in conjunction with the Service. Customer may not claim title to, or an ownership interest in, any GOV2BIZ Licensed Software (or any derivations or improvements thereto), and Customer shall execute any documentation reasonably required by Sistema Technologies, including, without limitation, end-user license agreements for the GOV2BIZ Licensed Software. Sistema Technologies shall retain ownership of the GOV2BIZ Licensed Software, and no rights are granted to Customer other than a license to use the GOV2BIZ Licensed Software under the terms expressly set forth in this Agreement.

**8.2** **Restrictions.** Customer agrees that it shall not: (i) copy the GOV2BIZ Licensed Software (or any upgrades thereto or related written materials) except for emergency back-up purposes or as permitted by the express written consent of Sistema Technologies; (ii) reverse engineer, decompile, or disassemble the GOV2BIZ Licensed Software; (iii) sell, lease, license, or sublicense the GOV2BIZ Licensed Software; or (iv) create, write, or develop any derivative software or any other software program based on the GOV2BIZ Licensed Software.

**8.3** **Updates.** Customer acknowledges that the use of Service may periodically require updates and/or changes to certain GOV2BIZ Licensed Software resident in the Sistema Technologies Equipment or CE. If Sistema Technologies has agreed to provide updates and changes, such updates and changes may be performed remotely or on-site by Sistema Technologies, at Sistema Technologies' sole option. Customer hereby consents to, and shall provide free access for, such updates deemed reasonably necessary by Sistema Technologies. If Customer fails to agree to such updates, Sistema Technologies will be excused from the applicable Service Level Agreement and

other performance credits, and any and all liability and indemnification obligations regarding the applicable Service.

**8.4 Export Law and Regulation.** Customer acknowledges that any products, software, and technical information (including, but not limited to, services and training) provided pursuant to the Agreement may be subject to U.S. export laws and regulations. Customer agrees that it will not use distribute, transfer, or transmit the products, software, or technical information (even if incorporated into other products) except in compliance with U.S. export regulations. If requested by Sistema Technologies, Customer also agrees to sign written assurances and other export-related documents as may be required for Sistema Technologies to comply with U.S. export regulations.

**8.5 Ownership of Telephone Numbers and Addresses.** Customer acknowledges that use of certain Services does not give it any ownership or other rights in any telephone number or Internet/on-line addresses provided, including but not limited to Internet Protocol (“IP”) addresses, e-mail addresses and web addresses.

**8.6 Intellectual Property Rights in the Services.** Title and intellectual property rights to the GOV2BIZ Licensed Services are owned by Sistema Technologies, its agents, suppliers or affiliates or their licensors or otherwise by the owners of such material. The copying, redistribution, bundling or publication of the GOV2BIZ Services, in whole or in part, without express prior written consent from Sistema Technologies or other owner of such material, is prohibited.

## **ARTICLE 9. CONFIDENTIAL INFORMATION AND PRIVACY**

**9.1 Disclosure and Use.** All Confidential Information disclosed by either Party shall be kept by the receiving party in strict confidence and shall not be disclosed to any third party without the disclosing party’s express written consent. Notwithstanding the foregoing, such information may be disclosed (i) to the receiving party’s employees, affiliates, and agents who have a need to know for the purpose of performing this Agreement, using the Services, rendering the Services, and marketing related products and services (provided that in all cases the receiving party shall take appropriate measures prior to disclosure to its employees, affiliates, and agents to assure against unauthorized use or disclosure); or (ii) as otherwise authorized by this Agreement. Each Party agrees to treat all Confidential Information of the other in the same manner as it treats its own proprietary information, but in no case using a degree of care less than a reasonable degree of care.

**9.2 Exceptions.** Notwithstanding the foregoing, each Party’s confidentiality obligations hereunder shall not apply to information that: (i) is already known to the receiving party without a pre-existing restriction as to disclosure; (ii) is or becomes publicly available without fault of the receiving party; (iii) is rightfully obtained by the receiving party from a third party without restriction as to disclosure, or is approved for release by written authorization of the disclosing party; (iv) is developed independently by the receiving party without use of the disclosing party’s Confidential Information; or (v) is required to be disclosed by law or regulation.

**9.3 Publicity.** The Agreement provides no right to use any Party’s or its affiliates’ trademarks, service marks, or trade names, or to otherwise refer to the other Party in any marketing,

promotional, or advertising materials or activities. Neither Party shall issue any publication or press release relating to, or otherwise disclose the existence of, the terms and conditions of any contractual relationship between Sistema Technologies and Customer, except as permitted by the Agreement or otherwise consented to in writing by the other Party. The foregoing shall not preclude Customer from referring to Sistema Technologies as may be necessary to perform the Customer's obligations relating to the use and performance of this contract.

**9.4 Passwords.** Sistema Technologies may furnish Customer with user identifications and passwords for use in conjunction with certain Services, including, without limitation, for access to certain non-public Sistema Technologies website materials. Customer understands and agrees that such information shall be subject to Sistema Technologies' access policies and procedures located on Sistema Technologies' Web Site.

**9.5 Remedies.** Notwithstanding any other Article of this Agreement, the non-breaching Party shall be entitled to seek equitable relief to protect its interests pursuant to this Article 9, including, but not limited to, injunctive relief.

**9.6 Monitoring of Services.** Except as otherwise expressly set forth in a PSA, Sistema Technologies assumes no obligation to pre-screen or monitor Customer's use of the GOV2BIZ Service, including without limitation postings and/or transmission. However, Customer acknowledges and agrees that Sistema Technologies and its agents shall have the right to pre-screen and monitor such use from time to time and to use and disclose such results to the extent necessary to operate the Service properly, to ensure compliance with applicable use policies, to protect the rights and/or property of Sistema Technologies, and that Sistema Technologies may disclose the same to the extent necessary to satisfy any law, regulation, or governmental request. Sistema Technologies shall have no liability or responsibility for content received or distributed by Customer or its users through the Service.

**9.7 Survival of Confidentiality Obligations.** The obligations of confidentiality and limitation of use described in this Article 9 shall survive the expiration and termination of the Agreement until the information in question is completely returned or destroyed.

## **ARTICLE 10. Use of Service; Use and Privacy POLICIES**

**10.1 Prohibited Uses and Sistema Technologies Use Policies.** Customer is prohibited from using, or permitting the use of, any Service (i) for any purpose in violation of any law, rule, regulation, or policy of any government authority; (ii) in violation of any Use Policy (as defined below); (iii) for any use as to which Customer has not obtained all required government approvals, authorizations, licenses, consents, and permits; or (iv) to interfere unreasonably with the use of Sistema Technologies service by others or the operation of the Network. Customer is responsible for assuring that any and all of its users comply with the provisions of the Agreement. Sistema Technologies reserves the right to act immediately and without notice to terminate or suspend the GOV2BIZ Services and/or to remove from the GOV2BIZ Services any information transmitted by or to Customer or users, if Sistema Technologies determines that such use is prohibited as identified herein, or information does not conform with the requirements set or Sistema Technologies reasonably believes that such use or information may violate any laws, regulations,

or written and electronic instructions for use. Furthermore, to the extent applicable, Services shall be subject to Sistema Technologies' acceptable use policies ("Use Policies") that may limit use. The Use Policies and other security policies concerning the Services are posted on the Website, and are incorporated into this Agreement by reference. Sistema Technologies may update the Use Policies from time to time, and such updates shall be deemed effective immediately upon posting, with or without actual notice to Customer. Sistema Technologies' action or inaction in enforcing acceptable use shall not constitute review or approval of Customer's or any other users' use or information.

**10.2 Privacy Policy.** In addition to the provisions of Article 9, Sistema Technologies' commercial privacy policy applies to Sistema Technologies' handling of Customer confidential information.

**10.3 Privacy Note Regarding Information Provided to Third Parties.** Sistema Technologies is not responsible for any information provided by Customer to third parties. Such information is not subject to the privacy provisions of this Agreement. Customer assumes all privacy and other risks associated with providing personally identifiable information to third parties via the Services.

**10.4 Prohibition on Resale.** Customer may not sell, resell, sublease, assign, license, sublicense, share, provide, or otherwise utilize in conjunction with a third party (including, without limitation, in any joint venture or as part of any outsourcing activity) the GOV2BIZ Services or any component thereof.

**10.5 Violation.** Any breach of this Article 10 shall be deemed a material breach of this Agreement. In the event of such material breach, Sistema Technologies shall have the right to restrict, suspend, or terminate immediately any or all Sales Orders, without liability on the part of Sistema Technologies, and then to notify Customer of the action that Sistema Technologies has taken and the reason for such action, in addition to any and all other rights and remedies under this Agreement.

## **ARTICLE 11. MISCELLANEOUS TERMS**

**11.1 Force Majeure.** Force Majeure shall be handled in accordance with Appendix A, Section 11C of DIR Contract No. DIR-TSO-3783.

**11.2 Assignment or Transfer.** Assignments shall be handled in accordance with Appendix A, Section 4D of DIR Contract No. DIR-TSO-3783.

**11.3 Notices.** Notices shall be handled in accordance with Appendix A, Section 12 of DIR Contract No. DIR-TSO-3783.

**11.4 Entire Understanding.** DIR Contract No. DIR-TSO-3783, the Agreement, together with any applicable Tariffs, constitutes the entire understanding of the Parties related to the subject matter hereof. The Agreement supersedes all prior agreements, proposals, representations, statements, or understandings, whether written or oral, concerning the GOV2BIZ Services or the Parties' rights or obligations relating to GOV2BIZ Services. Any prior representations, promises,

inducements, or statements of intent regarding the GOV2BIZ Services that are not embodied in the Agreement are of no effect. No subsequent agreement among the Parties concerning GOV2BIZ Service shall be effective or binding unless it is made in writing by authorized representatives of the Parties. Terms or conditions contained in any Sales Order, or restrictive endorsements or other statements on any form of payment, shall be void and of no force or effect.

**11.5 Tariffs.** Notwithstanding anything to the contrary in the Agreement, Sistema Technologies may elect or be required to file with regulatory agencies tariffs for certain Services. In such event, the terms set forth in the Agreement may, under applicable law, be superseded by the terms and conditions of the Tariffs. Without limiting the generality of the foregoing, in the event of any inconsistency with respect to rates, the rates and other terms set forth in the applicable Sales Order shall be treated as individual case based arrangements to the maximum extent permitted by law, and Sistema Technologies shall take such steps as are required by law to make the rates and other terms enforceable. If Sistema Technologies voluntarily or involuntarily cancels or withdraws a Tariff under which a GOV2BIZ Service is provided to Customer, the GOV2BIZ Service will thereafter be provided pursuant to the Agreement and the terms and conditions contained in the Tariff immediately prior to its cancellation or withdrawal. In the event that Sistema Technologies is required by a governmental authority to modify a Tariff under which GOV2BIZ Service is provided to Customer in a manner that is material and adverse to either Party, the affected Party may terminate the applicable Sales Order upon a minimum thirty (30) days' prior written notice to the other Party, without further liability.

**11.6 Construction.** In the event that any portion of the Agreement is held to be invalid or unenforceable, the Parties shall replace the invalid or unenforceable portion with another provision that, as nearly as possible, reflects the original intention of the Parties, and the remainder of the Agreement shall remain in full force and effect.

**11.7 Survival.** The rights and obligations of either Party that by their nature would continue beyond the termination or expiration of a Sales Order shall survive termination or expiration of the Sales Order.

**11.8 Choice of Law.** The domestic law of the State of Texas shall govern the construction, interpretation, and performance of this Agreement, except to the extent superseded by federal law. In all cases, exclusive venue for any litigation shall be in the state district courts of Travis County, Texas.

**11.9 No Third Party Beneficiaries.** This Agreement does not expressly or implicitly provide any third party (including users) with any remedy, claim, liability, reimbursement, cause of action, or other right or privilege.

**11.10 Parties' Authority to Contract.** The persons whose signatures appear below are duly authorized to enter into the Agreement on behalf of the Parties name therein.

**11.11 No Waiver; Etc.** No failure by either Party to enforce any right(s) hereunder shall constitute a waiver of such right(s). This Agreement may be executed in counterpart copies.

**11.12 Independent Contractors.** The Parties to this Agreement are independent contractors. Neither Party is an agent, representative, or partner of the other Party. Neither Party shall have any right, power, or authority to enter into any agreement for, or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other Party. This Agreement shall not be interpreted or construed to create an association, agency, joint venture, or partnership between the Parties or to impose any liability attributable to such a relationship upon either Party.

**11.13 Article Headings.** The article headings used herein are for reference only and shall not limit or control any term or provision of this Agreement or the interpretation or construction thereof.

**11.14 Compliance with Laws.** Each of the Parties agrees to comply with all applicable local, state and federal laws and regulations and ordinances in the performance of its respective obligations under this Agreement.

Agreed Upon Date: \_\_\_\_\_

Agreed Upon By:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ Client

Officer of Sistema Technologies, Inc.