

Amendment Number 2
to
Contract Number DIR-TSO-4030
between
State of Texas, acting by and through the Department of Information Resources
and
Gartner, Inc.

This Amendment Number 2 to **Contract** Number **DIR-TSO-4030** ("**Contract**") is between the Department of Information Resources ("**DIR**") and Gartner, Inc. ("**Vendor**"). DIR and Vendor agree to modify the terms and conditions of the **Contract** as follows:

1. **Contract, Section 2. Term of Contract** is hereby amended as follows:

DIR and Vendor hereby agree to extend the term of the Contract for one (1) year through November 10, 2020 or until terminated pursuant to the termination clauses contained in the Contract. The contract will renew automatically in one-year increments for one (1) additional year under the same terms and conditions unless either party provides notice to the other party 60 days in advance of the renewal date stating that the party wishes to discuss modification of terms or not renew. Additionally, the parties by mutual agreement may extend the term for up to ninety (90) additional calendar days.

2. **Appendix C, Statement of Work Waterfall Template** is hereby replaced in its entirety with the Appendix C –Statement of Work (SOW) Agile and Waterfall template.
3. **Previously Authorized Exceptions to Contract and any Appendices.**

A. Appendix A, Section 4. Intellectual Property Matters, B. Ownership is hereby replaced as follows: DocuSign Envelope ID: 2D510D72-EA03-45A4-8046-206533857441 Amendment 1 Contract DIR-TSO-4030 rev. 10/2017 Page 4 As between Vendor and Customer, the Work Product and Intellectual Property Rights therein are and shall be owned exclusively by Customer, and not Vendor. Vendor specifically agrees that the Work Product shall be considered "works made for hire" and that the Work Product shall, upon creation, be owned exclusively by Customer. To the extent that the Work Product, under applicable law, may not be considered works made for hire, Vendor hereby agrees that the Contract effectively transfers, grants, conveys, assigns, and relinquishes exclusively to Customer all right, title and interest in and to all ownership rights in the Work Product, and all Intellectual Property Rights in the Work Product, without the necessity of any further consideration, and Customer shall be entitled to obtain and hold in its own name all Intellectual Property Rights in and to the Work Product. Vendor acknowledges that Vendor and Customer do not intend Vendor to be a joint author of the Work Product within the meaning of the Copyright Act of 1976. Customer shall have access, during normal business hours (Monday thru Friday, (8AM to 5PM) and upon reasonable prior notice to Vendor, to all Vendor materials, premises and computer files containing the Work Product. Vendor and Customer, as appropriate,

will cooperate with one another and execute such other documents as may be reasonably appropriate to achieve the objectives herein. No license or other right is granted hereunder to any Third Party IP, except as may be incorporated in the Work Product by Vendor. Ownership of Prior Rights by Customer — All tangible and intangible property including the Intellectual Property Rights therein, which are owned by Customer prior to the execution of any Statement of Work (e.g., copyrights, trademarks, etc.) shall to be exclusively owned by the Customer and Vendor shall have no ownership thereof and no rights thereto other than the limited, non-exclusive right to use such property for purposes set forth in a Statement of Work and only for the duration of such Statement of Work which is hereby granted to Vendor by Customer.

Ownership of Prior Rights by Vendor — All tangible and intangible property including the Intellectual Property Rights therein, which is owned by Vendor prior to the execution of any Statement of Work (e.g., pre-existing tools, processes, methodologies, proprietary research data and proprietary databases) (hereinafter “Pre-existing Vendor IP”) shall continue to be exclusively owned by the Vendor and Customer shall have no ownership thereof and no rights thereto other than the limited, non-exclusive right to use such Pre-existing Vendor IP for internal business use, solely for purposes set forth in a Statement of Work.

Ownership of Pre-Existing Rights Embodied in Deliverables — To the extent any preexisting rights or property of either party are embodied or contained in the Works or a Deliverable, each party retains ownership of its pre-existing rights and property (e.g., Customer ownership of the Works that include Pre-existing Vendor IP shall extend only to the additional work product or deliverables that do not comprise such Pre-Existing Vendor IP). Each party hereby grants to the other an irrevocable, perpetual, nonexclusive, worldwide, royalty free right and license to use, execute, reproduce and display, perform and distribute copies of the Works as necessary for their business purposes or to enjoy the benefits of the services to be provided under a Statement of Work (and provided further that Vendor does not identify Customer by name or otherwise use any of Customers confidential or proprietary information).

B. Appendix A, Section 4. Intellectual Property Matters, G. Return of Materials Pertaining to Work Product is hereby replaced as follows:

Upon the request of Customer, but in any event upon termination or expiration of this Contract or a Statement of Work, Vendor shall surrender to Customer all documents and things pertaining to the Work Product, including but not limited to drafts, memoranda, notes, records, drawings, manuals, computer software, reports, data, and all other documents or materials (and copies of same) generated or developed by Vendor or furnished by Customer to Vendor, including all materials embodying the Work Product, any Customer confidential information, or Intellectual Property Rights in such Work Product, regardless of whether complete or incomplete that Customer has paid for. This section is intended to apply to all Work Product as well as to all

documents and things furnished to Vendor by Customer or by anyone else that pertain to the Work Product.

C. Appendix A, Section 9. Vendor Responsibilities; A. Indemnification, 2) Acts or Omissions, is hereby replaced 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, ATTORNEY FEES, AND EXPENSES arising out of, or resulting from any intentional, willful, negligent, or otherwise wrongful 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 DEFENDANTS 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.

D. Appendix A, Section 9. Vendor Responsibilities; K. Limitation of Liability, is hereby replaced as follows:

For any claim or cause of action arising under or related to the Contract: i) to the extent permitted by the Constitution and the laws of the State, none of the parties shall be liable to the other for punitive, special, or consequential damages, even if it is advised of the possibility of such damages; and ii) Vendors Liability for damages of any kind to the Customer shall be limited to the greater of one and one half (1.5) times the total amount of fees paid to Vendor under the Task Order or Statement of Work that gave rise to said claim or \$1,000,000.00. However, this limitation of Vendor's liability shall not apply to claims of bodily injury; violation of intellectual property rights including but not limited to patent, trademark, or copyright infringement; indemnification DocuSign Envelope ID: 2D510D72-EA03-45A4-8046-206533857441 Amendment 1 Contract DIR-TSO-4030 rev. 10/2017 Page 6 requirements under this Contract; and violation of State or Federal law including but not limited to disclosures of confidential information and any penalty of any kind lawfully assessed as a result of such violation.

All other terms and conditions of the Contract, not expressly amended herein, shall remain in full force and effect. In the event of conflict among the provisions, the order of precedence shall be Amendment Number 2, Amendment Number 1, and then the Contract.

IN WITNESS WHEREOF, the parties hereby execute this amendment to be effective as of the date of the last signature, but in all events, no later than 11/10/2019.

Gartner, Inc.

Authorized By: Signature on file

Name: George Love

Title: Senior Managing Partner

Date: 10/10/2019 | 8:30 AM PDT

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: 10/14/2019 | 8:03 AM CDT

Office of General Counsel: Signature on file Mark Howard 10/10/2019 | 1:43 PM CDT