

APPENDIX D TO DIR CONTRACT NO. DIR-TSO-4190

Services Agreement

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Exhibits to the Services Agreement

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- Exhibit 3 – Service Level Management
- Exhibit 4 – Pricing and Financial Management
- Exhibit 5 – Human Resource Provisions
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Services Agreement

THIS SERVICES AGREEMENT (this “SA” or this “Agreement”) is made by and between Unisys Corporation, a corporation incorporated under the laws of the State of Delaware USA (“Unisys”), and _____, a governmental entity, _____, [State/Province/Commonwealth] of [name], [or any other form of legal entity] (“Customer”) and shall be effective on _____ (“Effective Date”).

1. Agreement

1.1. Construction

DIR Contract No. DIR-TSO-4190 and this Agreement include the appendices, exhibits and attachments hereto and any New or Changed Service Orders. The Agreement describes the rights and responsibilities of the Parties.

1.2. Local Agreements

1.3. TOrder of Precedence

DIR Contract No. DIR-TSO-4190 and this Agreement incorporate the following documents by this reference and, if there is a conflict among the documents, priority shall be given in descending order. To the extent that any Statement of Work under this Agreement contains terms which explicitly override terms in this Agreement, those terms, and only those terms, will be ranked higher in the order of precedence than this Services Agreement. In all instances DIR Contract No. DIR-TSO-4190 shall prevail. This is not considered a conflict and does not otherwise change the order of precedence set forth below..DIR Contract No. DIR-TSO-4190

- a. This Services Agreement
- b. Statement(s) of Work
- c. Remaining Exhibits

1.4. Definitions

The capitalized terms used in this Agreement have the respective meanings specified in Exhibit 1 (Definitions) or in the provision where the term is first used and defined.

2. Term

2.1. Initial Term

The Agreement shall be effective as of the Effective Date and will continue in effect until _____ from the Services Start Date for one (1) year with three (3) one-year renewal options exercised by Customer providing Vendor thirty days written notice unless otherwise terminated in accordance with Appendix A, Section 10B of DIR Contract No. DIR-TSO-4190 (the “Term”). Services will begin on the relevant Services Start Date and will continue for the relevant Term unless the relevant SOW ends sooner by termination in accordance with the terms of Appendix A, Section 11B of DIR Contract No. DIR-TSO-4190.

2.2. Renewal Term

The Term of the Agreement will renew based on the terms identified in Section 2.1 above.

3. Services

3.1. Scope of Services

Unisys will provide to the Customer and Customer Affiliates, the services as defined in: (i) Exhibit 2 (Statements of Work), (ii) Exhibit 15 (Transition Services) and (iii) New Services in accordance with Section 4 (Additional and New Services) (the "Services").

3.2. Transition Services

3.2.1. Generally

Unisys will perform the Transition Services described in Exhibit 15 (Transition Services) (the "Transition").

3.2.2. Conduct of the Transition

Unisys will be responsible for overall management of the Transition. Unisys and Customer will each perform the respective tasks required of it by the Transition Plan at their own cost, except for any Charges specifically set forth in Exhibit 4 (Pricing and Financial Management) or as agreed in accordance with Section 6 (Change Control Process), and will complete such tasks in accordance with the Transition Plan's schedule unless excused in accordance with Section 5.7 (Excused Performance).

3.3. Acceptance

Customer shall inspect and review all Deliverables prepared by Unisys within the time specified in the SOW and/or Transition Plan or if no time is specified, within five (5) Business Days following delivery for Critical Transition Deliverables and within fifteen (15) Business Days following delivery for all other Deliverables.

3.3.1. Acceptance Procedure

The Parties shall comply with their respective obligations in relation to any acceptance provisions set out in the SOW and/or Transition Plan for Deliverables. Acceptance will occur upon the earlier of: (i) the date Customer notifies Unisys of acceptance; (ii) the end of the time specified in Section 3.3 above if Customer has not notified Unisys of any material deviations from the specifications for such Deliverables; or (iii) the date Customer requests that Unisys commence operations of the Services using the Deliverables that are the subject of acceptance. Failure by Customer to provide a written explanation for rejecting any Deliverable within the time specified shall constitute acceptance of the Deliverable.

3.3.2. Cure

If a Deliverable does not conform to the applicable acceptance criteria and Customer so notifies Unisys in writing, including with such notice an exception report describing the nonconformity (the "Exception Report"), Unisys shall promptly investigate the alleged nonconformity and shall correct such nonconformity within a reasonable amount of time following its receipt of the Exception Report, or such other period as may be mutually agreed, unless Unisys disputes such nonconformity in accordance with Appendix A, Section 11A of DIR Contract No. DIR-TSO-4190 (Dispute Resolution). Upon Unisys notice to Customer that Unisys has cured such nonconformity, Customer shall validate the Deliverable according to the applicable acceptance criteria. Notwithstanding the foregoing, Customer may not reject a Deliverable because of a failure to meet the acceptance criteria to the extent such failure is related to Customer's modifications or alterations to a Deliverable that are not: (i) authorized by Unisys; (ii) specified in the applicable user documentation or product specifications; or (iii) otherwise stated under this Agreement, a Statement of Work or a New or Changed Services Order.

3.4. Service Levels

3.4.1. General

Exhibit 3 (Service Level Management) sets forth Service Levels that will be used to measure Unisys performance of the Services under this Agreement.

3.4.2. Measurement and Monitoring Tools

As of the Services Start Date, Unisys, if Unisys is responsible to provide measurement and monitoring Tools, will implement the measurement and monitoring Tools and procedures required to measure and report Unisys performance of the Service Levels, as specified in Exhibit 3 (Service Level Management). The measurement and monitoring Tools and procedures will: (i) permit reporting at a level of detail sufficient to verify compliance with the Service Levels; and (ii) be subject to audit by Customer or its designee, subject to Appendix A, Section 9C of DIR Contract No. DIR-TSO-4190 (Audit). Unisys will provide Customer or its designees, as applicable, with information concerning access to such measurement and monitoring Tools and procedures upon request, for inspection and verification purposes.

3.4.3. Service Level Reporting

Once a month, or based on the measurement period identified in Exhibit 3 (Service Level Management), Unisys shall report the performance for each of the Service Levels.

3.5. Authorized Users of the Services

Services may be utilized only by Authorized Users and Customer Personnel.

3.6. Acquisitions and Divestitures

3.6.1. Acquisitions

If, after the Effective Date, Customer receives legislative direction of organization change and elects to have Unisys provide the Services to such additional organization, Unisys shall integrate such requirement of Services with those of Customer to the extent requested by Customer and feasible given the solution. Unisys and Customer shall use the Change Control Process to agree upon a New or Changed Services Order to govern such integration.

3.6.2. Divestitures

3.7. Cooperation Of The Parties

The Parties recognize and agree that, due to the nature of the Services; they shall collaborate and cooperate, in good faith, with each other for the purposes of the Agreement. To this effect, the Parties will:

- a) work together for the purposes of the performance of the Services;
- b) keep each other promptly informed of any actions they may have to take and of any events that may occur which, as far as they are aware, are likely to have an impact on the performance of the Services;
- c) work together to remedy any identified issue while always being responsible for their respective obligations under the Agreement; and
- d) direct their Personnel and third parties to collaborate and cooperate in good faith.

3.8. Subcontractors

3.8.1. Use of Subcontractors

In addition to the Approved Subcontractors listed in Exhibit 17 (Subcontractors), Unisys may subcontract with the prior written consent of Customer (i) to companies performing any non- Customer specific effort

that are used by Unisys to provide the Services; ; and (ii) to subcontractors providing supplemental labor under direct management of Unisys.

3.8.2. Approval of Subcontractors

For avoidance of doubt, Unisys Affiliates are not considered subcontractors and may provide Services without prior consent of Customer.

3.8.3. Removal of Subcontractors

If Customer reasonably determines that the performance or conduct of any Unisys subcontractor is unsatisfactory, Customer may notify Unisys of its determination in writing, indicating the reasons therefore, in which event Unisys shall promptly take necessary actions to remedy the performance or conduct of such subcontractor and, if the unsatisfactory performance or conduct is not remedied, to replace such subcontractor as reasonably requested by Customer.

4. Projects and New Services

4.1. Projects

Unisys shall provide proposals with respect to any prospective Projects related to the Services, as reasonably requested by the Customer. A proposed Project shall be agreed in accordance with the Change Control Process identified in Section 6 (Change Control Process). Once agreed by the Parties, Unisys shall perform the Project. Any Projects underway as of the Effective Date must be specified in Exhibit 9 (Current and Planned Projects). Any Projects started during the Transition period must be specified in an attachment to the relevant Statement of Work. Customer shall request, define and set the priority for Projects in its discretion, with reasonable notice to Unisys. As reasonably requested by Customer, Unisys shall assist Customer in prioritizing Projects. Unisys shall use commercially reasonable efforts to perform Projects without impacting the established schedule for other tasks or the performance of the Services in accordance with this Agreement, including any applicable Service Levels; to the extent not possible Unisys will be relieved from any Service Level Failure, Service Level Credits or breach of contract exposure.

4.2. New Services

Customer may from time to time request that Unisys perform a New Service. Unisys will deliver a proposal for New Services to Customer as soon as practical after its receipt of the New Service request, unless otherwise agreed. Once agreed in accordance with the Change Control Process, such New Services will be performed by Unisys pursuant to agreed New or Changed Services Order.

5. Customer Responsibilities

Unisys performance of the Services is dependent on Customer cooperating with Unisys and carrying out its responsibilities as set out in this Agreement or as may otherwise be reasonably inferred or necessary for Unisys to perform the Services. Unisys shall not be responsible for any delay or other consequences to the extent they are resulting from Customer's failure to perform its obligations under this Agreement, including any breach by Unisys of its obligations.

5.1. Customer's Responsibilities

5.1.1. Customer is responsible for all Customer functions and activities as documented (including timeliness) in the Statement(s) of Work and Transition Plan;

5.1.2. Customer will consider and respond timely to items submitted in accordance with Exhibit 6 (Governance), or if no specific process on Exhibit 6 (Governance) is applicable, then to items submitted in writing to the Customer Contract Manager;

5.1.3. Customer will participate in governance activities as documented in Exhibit 6 (Governance);

- 5.1.4. Customer will provide notice to Unisys of any changes in Customer Locations as specified in Exhibit 7 (Customer Locations) or in Customer policies of general applicability that may reasonably be expected to impact Services, subject to Section 5.4 (Relocation);
- 5.1.5. Customer will manage Third Party Suppliers engaged by Customer and be responsible for the quality of their input and work, and for the payment of their fees, except to the extent that Unisys is responsible for such management as specified in the Statement(s) of Work. Unless otherwise explicitly specified in the Statement(s) of Work, Unisys shall not review services, information or materials provided by such third parties;
- 5.1.6. Customer will assist in the coordination of third party services;
- 5.1.7. Customer will provide such other functions as the Parties specifically identify in a New or Changed Services Order; and
- 5.1.8. Customer will provide all functions that are a condition precedent to Unisys obligations to perform its obligations under such New or Changed Services Order.
- 5.1.9. Furnish all documentation and information reasonably required for Unisys to successfully perform the Services under this Agreement.

5.2. Customer Personnel

Customer shall maintain sufficient personnel for the continuance of operations and training through the Services Start Date as well as throughout the Term to fill the roles identified in each Statement of Work or New or Changed Services Order and shall assign such other personnel as required to perform all its obligations under this Agreement. Customer Personnel will be competent in their roles and possess suitable training and skills.

5.3. Facilities

- 5.3.1. Unless explicitly excluded in an SOW, Customer shall make available at no cost to Unisys and without interruption to Unisys during the Term reasonable space including, furnishings, fixtures, telephones, internet access, network printer access, telephone service, utilities (including air conditioning), office-related equipment, duplicating services, secure storage, and office supplies (the "Facilities") at the locations as specified in Exhibit 7 (Customer Locations) for the sole and exclusive purpose of providing the Services to Customer. Unisys shall comply with any policies or lease restrictions provided in writing to Unisys and applicable to Unisys performance of Services at the Customer Facilities.
- 5.3.2. Unless otherwise specified in the Statement of Work, Customer shall be responsible for data backup and virus protection for computer operations at Customer Facilities and on Customer Devices.

5.4. Relocation

Customer may relocate the Customer Facilities being used by Unisys, subject to prior agreement via the Change Control Process. Customer shall inform Unisys as soon as it becomes aware of the likelihood of any relocation of the Customer Facilities to allow the Parties sufficient time to prepare for and implement such change or relocation.

5.5. Safety

Customer shall provide to Unisys employees and representatives present in, or at, Customer Facilities the same hazard communication information that Customer provides to its own employees pursuant to local safety and health regulations or legislation. Customer shall also provide instruction to Unisys Personnel on Customer Facilities regarding emergency response procedures and site safety requirements. Customer will

inform Unisys as soon as possible of any condition(s) known to Customer in, or at, Customer Facilities that may at any time pose a hazardous or unsafe condition to Unisys Personnel.

5.6. Customer Required Consents

5.6.1. Customer Approvals

Customer will obtain or provide all Required Consents and governmental approvals applicable to Customer that are necessary for Customer to receive the Services and perform its obligations under this Agreement.

5.6.2. Customer Licenses

Customer will grant Unisys all necessary rights and licenses to use Customer Software made available by Customer to Unisys, including those listed in Exhibit 11 (Software Assets), or Third Party Contracts, Customer Data and other Customer provided material. As part of this obligation, Customer shall obtain and maintain, at its expense, any consents or licenses, or both, from any third parties necessary for Unisys use of Customer-Licensed Software or Third Party Contracts.

5.6.3. Customer Non-performance

If Customer fails to carry out its functions and such failure affects Unisys ability to perform Services which results in increasing the volume of resources and/or the duration of said resources necessary to complete such Services, Unisys shall have the right to charge Customer for such increased level and/or duration of such resources at the rates detailed in Exhibit 4 (Pricing and Financial Provisions).

5.7. Excused Performance

Unisys shall not be liable for any failure to comply with its obligations or duties arising under or in connection with this Agreement to the extent such failure is caused by any failure by Customer to comply with its obligations under this Agreement or other acts or omissions of Customer, Customer Affiliates, or their subcontractors, employees, agents or Third Party Suppliers, but Unisys shall make commercially reasonable efforts to perform its obligations despite such noncompliance or other acts or omissions. Further, the Parties will address any related impact to contract terms and Charges through the agreed Change Control Process.

6. Change Control Process

Should the Parties mutually agree upon any addition, modification or change to any terms of the Agreement, including the Services, fees, or schedules thereof, such addition, modification or change shall be completed as per the procedure stated below and be signed by the Parties' authorized representatives. Any change to terms shall not weaken or conflict with the terms provided for in DIR Contract No. DIR-TSO-4190 and any fee changes must be approved by DIR.

a. The following process will be followed if a change is required to the Agreement:

(1) A change request will be the vehicle for communicating change and such change request must describe the change, the rationale for the change and the effect the change will have on the Services. An authorized representative of the requesting Party will submit the request to the other Party.

(2) Authorized representatives of each Party will review the change request and agree upon its further investigation or rejection. A change request must be signed by authorized representatives from both Parties to authorize further investigation of the recommended changes. The investigation will determine the effect that the implementation of the change request will have on price, schedule and other terms and conditions of the Agreement.

7. Compliance with Laws and Customer Policies

7.1. Compliance with Laws

7.1.1. Legal Compliance

Each Party shall at all times and at its sole expense, perform its obligations hereunder in compliance in all material respects with laws and regulations applicable to the operation of its business. In addition, Unisys shall comply with laws and regulations that regulate it in its capacity as a provider of the Services, and Customer shall comply with all laws and regulations that are specifically promulgated for implementation or compliance by businesses in its industry.

7.1.2. Regulatory Compliance

Each Party shall comply with mandatory national and international laws and regulations applicable to their respective obligations and rights under this Agreement, including all applicable export laws and rules relating to the use, disclosure, export or re-export of the Services. For the avoidance of doubt, the Services do not include the provision of any advice constituting legal, tax or accounting services or advice or the validation of the legal and regulatory aspects of the Services. Customer shall remain solely responsible for the compliance with law applicable to its own business and operation and that the Services fulfill all legal and regulatory requirements applicable to Customer as amended from time to time under the Change Control Process.

7.2. Compliance with Customer Policies

7.2.1. Security

Unisys Personnel shall be subject to and shall at all times conform to Customer's security rules and requirements for the protection of Customer's facilities materials, equipment and personnel while on Customer premises, in accordance with the policies specified in Exhibit 16 (Customer Policies).

7.2.2. Computer Information and Access

Unisys shall comply with Customer rules concerning access to computers of Customer and its Affiliates and use of computer data and Software, as specified in Exhibit 16 (Customer Policies).

7.2.3. Changes to Policies

Changes to any Customer Policies must be notified to Unisys in writing and shall only become effective in accordance with the Change Control Process.

8. Personnel

8.1. Human Resource Provisions

Exhibit 5 (Human Resource Provisions) specifies the terms and conditions applicable to Unisys and Customer Personnel.

8.2. Quality of Personnel

The Unisys Personnel assigned to perform the Services will possess the training, education, experience, necessary certifications and skill levels to perform the Services.

8.3. Non-Solicitation of Employees

To the extent permitted by applicable law, the Parties agree that during the Term and for the one (1) year period thereafter, neither Party nor its Affiliate will, without the other Party's prior written approval, solicit or hire any person employed by the other Party or any other Party Affiliate involved in the provision of Services

at any time during the preceding twelve (12) months; provided, however, that the hiring of a person as a result of their responding to a general solicitation to hire shall not be a violation of this provision.

8.4. Key Personnel

Each Party will assign Key Personnel to the extent provided for and in accordance with the applicable SOW. Key Personnel will be the primary contact point(s) for all Service related matters. Key Personnel shall work collaboratively supporting the performance of the Services and this Agreement and shall communicate and meet with each other at mutually agreed times and locations to promote the efficient and effective management of the Services. Each Party will notify the other Party in writing promptly in the event of any change to these assignments.

8.5. Background Checks

To the extent permitted by applicable law, Customer may request Unisys employees, contractors, agents, or subcontractors who are dedicated to the provision of the Services for Customer, as well as those who are required to have access to Customer Locations or Customer Confidential Information, to submit to a reference and criminal background investigation, at Customer's expense, to the extent such background check has not already been performed by Unisys.

9. Software and Intellectual Property Rights

9.1. Ownership of Work Product

9.1.1. Generally

All Work Product and General Knowledge owned by Unisys, in existence on the Effective Date or created or acquired by Unisys thereafter and any modifications thereto (collectively, "Unisys Work Product"), shall continue to be owned exclusively by Unisys and Customer shall not have any rights thereto except as provided herein. All Work Product and General Knowledge owned by Customer, in existence on the Effective Date or created or acquired by Customer thereafter and any modifications thereto (collectively, "Customer Work Product"), shall continue to be owned exclusively by Customer and Unisys shall not have any rights thereto except as provided herein.

9.1.2. Covered Work Product

All Work Product created by Unisys specifically for Customer in the course of performing the Services and that is required to be delivered under the terms of this Agreement and created solely by Unisys or Unisys agents, or jointly by one or more of them and Customer or its agents, excluding Work Product derived from Unisys Work Product or Third Party Software, ("Covered Work Product") shall be owned exclusively by Customer or its designee and, effective in each case upon its creation (subject to the payment of any applicable Charges therefor), will be assigned by Unisys to Customer or its designee. Unisys shall retain a license to such Covered Work Product during the Term, solely for purposes of carrying out its duties hereunder. To the extent that Work Product is created by the embedding or compiling of Unisys Work Product with newly created Work Product, Customer's or its designee's ownership interest shall not extend to Unisys Work Product included therein, but Customer is granted a license to such embedded Unisys Work Product solely for use as an integral part of the newly created Work Product. Notwithstanding the foregoing, any ideas, concepts, know-how, data processing techniques, schematics or blueprints developed by Unisys personnel (alone or jointly with Customer) in connection with Covered Work Products provided to Customer will be the property of Unisys.

9.1.3. Unisys Work Product

To the extent any Unisys Work Product is used in the performance of the Services or otherwise delivered to Customer hereunder, Unisys grants Customer and its Affiliates a worldwide, non-exclusive, non-transferable, royalty-free right and license to use and copy, such Unisys Work Product solely in order to receive the Services from Unisys during the Term. With respect to any item of Unisys Work Product designated in the applicable Statement of Work or New or Changed Services Order to be licensed pursuant to a separate license agreement, the terms of such license agreement shall take precedence.

9.2. Rights in Developed Materials

In the event that Covered Work Product consists of or includes Software of any kind, Unisys shall deliver complete source code for such Software to Customer, together with sufficient documentation to make use of the source code to maintain, modify, use, update, upgrade and otherwise fully utilize the Software, but Unisys shall not be obligated to deliver source code for Unisys Work Product unless explicitly agreed by the parties.

10. Governance

The Parties shall manage their relationship under this Agreement based on the governance model, as set forth in Exhibit 6 (Governance). Each Party shall provide all resources (including appropriate personnel) to support the governance activities required by or established pursuant to Exhibit 6 (Governance).

11. Audits and Records Retention

11.1. Audit

11.1.1. Audits shall be handled in accordance with Appendix A, Section 8C of DIR Contract No. DIR-TSO-4190.

11.1.2. Unisys will deliver (1) one copy of each applicable audit report resulting from a Unisys site level SSAE-16, SOC 1, Type II Audit performed by Unisys Auditors in its normal course of operations, or such standard as may replace the SSAE-16 Audit, to Customer no later than thirty (30) days after the audit report is made available to Unisys by its auditors.

11.2. Audit Follow-up

11.2.1. Charges Audit

Subject to Unisys right to dispute the findings of the audit of Charges as set forth in Appendix A, Section 10A of DIR Contract No. DIR-TSO-4190 (Dispute Resolution), Unisys shall pay Customer the amount of any net overcharge, together with interest, in accordance with Appendix A, Section 9C of DIR Contract No. DIR-TSO-4190 and Customer shall pay Unisys the amount of any net undercharge. Customer's election to conduct an audit will have no effect on Customer's obligation for timely payment. Service Performance Audit

If any audit of Unisys service performance reveals a material inadequacy, deficiency or insufficiency of Unisys performance of the Services, then, upon receiving written notice detailing such inadequacy, deficiency or insufficiency, Unisys shall have the right to dispute the audit findings,). Upon agreement with audit findings, Unisys shall promptly develop and provide to Customer, upon request, a corrective action plan, and promptly thereafter take reasonable steps to implement such plan. Unisys shall cooperate with Customer and Customer's auditor in their review and assessment of the report. Customer may perform an additional follow up audit to verify performance under the corrective action plan.

11.3. Customer Security Questionnaire

Once annually, Customer may require Unisys to answer security questionnaires directly relevant to the Services.

11.4. Records Retention

To the extent allowable under Texas record retention laws and policies, Unisys shall retain records for the greater of: (a) the minimum time required by applicable law, if any, or (b) the time required by Unisys then-current record retention policies. Thereafter, unless otherwise specified in this Agreement, Unisys may destroy records in its possession according to Unisys then-current record retention policy.

12. Charges

12.1. Payment

Unisys will charge and the Customer will pay Unisys the Charges for Services at the times and in the amounts specified in Exhibit 4 (Pricing and Financial Provisions) and in accordance to the project SOW and related purchase order subject to DIR Contract No. DIR-TSO-4190.

12.2. Pass-Through Expenses

Customer will reimburse Unisys for certain pre-approved expenses incurred by Unisys in connection with the performance of the Services, in accordance with the expense reimbursement provisions set forth in the Texas Travel Management Guide issued by the Texas Comptroller of Public Accounts. Unisys will provide Customer detailed invoices that provide categories of reimbursable expenses (e.g., airfare, lodging, ground transportation and meals).

12.3. Taxes

Taxes shall be handled in accordance with Appendix A, Section 7E of DIR Contract No. DIR-TSO-4190.

12.4. Inflation Adjustment

Unisys will apply adjustment to the Fees based upon changes in an agreed inflation index as specified in Exhibit 4 with DIR approval.

13. Invoicing

13.1. Invoice Process

Unisys will submit invoices to Customer in accordance with Appendix A, Section 8I of DIR Contract No. DIR-TSO-4190.

13.2. Payment Terms

13.2.1. Payments

Customer will pay, in accordance to Appendix A, Section 8J of DIR Contract No. DIR-TSO-4190 undisputed, properly invoiced amounts without any set-off, reduction, or abatement.

13.2.2. Currency

Unisys will invoice Customer in US Dollars.

13.3. Disputed Charges

If Customer disputes in good faith any portion of the amount in an invoice submitted by Unisys, Customer shall pay the portion of the amount stated in the invoice that is not in dispute, and shall notify Unisys in writing (within seven (7) days of receipt of invoice) of the reasons for disputing the remainder of the invoice.

14. Protection of Customer Data

14.1. Use of Customer Data

Customer may, in connection with this Agreement, provide Customer Data to Unisys. Each of the Parties will comply with its respective obligations under applicable data protection and privacy laws and regulations. Unisys will not use Customer Data for any purpose other than to provide the Services to Customer under this Agreement. Unisys will not disclose, sell, assign, lease or otherwise provide Customer Data to third parties or commercially exploit Customer Data, except as otherwise provided in this Agreement.

14.2. Return of Customer Data

As between Unisys and Customer, Customer Data will be and remain the property of Customer and Unisys will, as soon as reasonably practicable, return in the format then stored, or, if Customer so elects, destroy (and in the case of such destruction, certify, on reasonable notice, that such destruction has taken place) Customer Data upon Customer's request; or upon the termination or expiration of this Agreement or any Termination Assistance Period (whichever is later).

14.3. Personal Information and Privacy Requirements.

14.3.1. General.

In order for Unisys to fulfill its obligations under the Agreement, it may be necessary for Customer to provide Unisys with, or with access to, Personal Information. Customer warrants that it shall only provide Unisys with access to Personal Information that it has the authority to fairly and lawfully process and transfer to Unisys for the purposes of this Agreement, that the processing of personal data in connection with the Services and this Agreement will not place Unisys or its subcontractors in breach of any data protection and privacy laws or regulations, and that Customer has obtained all necessary consents and permissions to permit such processing.

The Parties recognize that it is possible for data to be collected from users of the Services that is not Personal Information (e.g., "hits," "clickstream data," and the like). Any such data entered by or collected from users of the Services, to the extent relating specifically to Customer or its customers, prospective customers, employees or recruits ("Usage Data"), is Customer Data and will be deemed Customer's Confidential Information.

Nothing in this Section is intended to limit the obligations of Unisys with respect to Customer Confidential Information.

14.3.2. Protection of Personal Information.

Each party will implement and maintain commercially reasonable administrative, technical and physical safeguards to protect Personal Information it receives from the other party against unauthorized access to or disclosure or use of such Personal Information, and to protect against accidental or unlawful destruction or accidental loss or alteration of such Personal Information.

If a party is required by Law, regulation, or judicial or government order to disclose Personal Information, the other party will be given prior notice of the disclosure to the extent permitted by law, so that it may, in its sole discretion, seek to block or minimize the disclosure. The foregoing notwithstanding, in the event of an audit of a party by a Governmental Authority, the party may disclose Personal Information to such Governmental Authority, without prior notice to the other party, in response to queries for randomly selected data or other data not identified entirely or in part by reference to such other party. Unisys may disclose Personal Information to a third party if (1) the disclosure is required by Law, regulation, or judicial or government order; (2) the disclosure is made pursuant to written and proper

Customer direction; or (3) the disclosure is made to a third party that either (a) performs services on behalf of Customer or Unisys and the disclosure is made in order to perform the Services, or (b) performs clerical, administrative, technical, or security-related services for Unisys and such disclosure is incidental to the performance of such services; and (c) agrees to in writing to maintain the confidentiality of disclosed Personal Information in a manner not inconsistent with this Section and applicable privacy laws.

14.3.3. Data Controller Provisions.

Each Party will, at all times, comply with its respective obligations under all Laws applicable to Personal Information that is processed under the Agreement. Customer or its designee or Affiliate will be the “data controller” and Unisys or its designee or Affiliate will be the “data processor” as defined by the EU Data Protection Directive.

14.3.4. Onward Transfer and Data Processor Records.

DIR Customer data shall not be transferred outside the continental USA.

14.3.5. Personal Information Security Occurrences.

In the event of any (a) Security Incident or Security Threat involving any Personal Information or (b) breach of any Privacy Law or other applicable Law regarding Personal Information (each, a “Personal Information Security Occurrence”), then in addition to any other applicable requirements of this Article, Unisys will promptly (i) notify Customer of the Personal Information Security Occurrence and provide Customer with all known details relating to such Personal Information Security Occurrence; (ii) investigate the Personal Information Security Occurrence and provide Customer with detailed information about the investigation; (iii) take reasonable steps to mitigate the effects and minimize the damage of any such Personal Information Security Occurrence; and (iv) cooperate with Customer in the manner reasonably requested by Customer and as required by law, to notify affected persons, credit bureaus, and other persons or entities.

Customer will have the sole right to determine (a) whether notice of a Personal Information Security Occurrence is to be provided to any individuals, Government Authorities, consumer reporting agencies or others (b) the contents of such notice, (c) whether any type of remediation may be offered to affected persons, and (d) the nature and extent of any such remediation.

If a Personal Information Security Occurrence is found to have occurred because Unisys breached its obligations under this Section and the breach is the fault of Unisys, Unisys will be responsible for (a) fines, penalties, interest and other amounts required to be paid by Customer under any Law or by Governmental Authority, or incurred to satisfy an order or directive of a Governmental Authority; and (b) expenses, liabilities, assessments and all other reasonable costs (including reasonable attorney’s fees and disbursements) incurred by Customer, including the costs of preparation and mailing of notification letters and of the provision of services (e.g., credit monitoring services, toll-free information services for affected individuals, identity theft insurance, reimbursement for credit freezes, fraud resolution services and identity restoration services) as required by Law.

15. Protection of Confidential Information

15.1. Confidentiality

To the extent allowable under the Texas Public Information Act, each Party agrees that all information communicated to it by the other Party, whether before the Effective Date of this Agreement or during the Term, and (i) marked as “confidential” or “proprietary” or in a manner that gives notice of its proprietary nature; (ii) regarding customers, human resources, financial costs and information, inventory, purchasing or

merchandising plans, strategies or forecasts; (iii) relating to Unisys techniques, Software and Tools used to provide the Services; or (iv) that a Party, acting prudently, knew or should have known is confidential in nature (collectively referred to as "Confidential Information") shall be used only for the purposes of this Agreement, and that no Confidential Information of the disclosing Party shall be disclosed except to the Receiving Party's (a) related entities and their directors, officers and employees and (b) consultants and financial and legal advisers who have agreed to be bound by substantially similar confidentiality obligations, no less protective than those of this Agreement, with the receiving Party. Each Party agrees to take reasonable precautions to prevent the disclosure to third parties of Confidential Information of the other Party, including the precautions described in this Agreement. A Party shall have no obligations for information that is (i) already known by or available to the Party or a related entity at the time of disclosure; (ii) independently generated by the Party or a related entity and not derived from the Confidential Information of the other Party; (iii) generally known or available publicly, or which may later become generally known or available publicly, except where such knowledge or availability is the result of an unauthorized disclosure by the Party; (iv) disclosed by a third party to the receiving Party or a related entity without notice that the disclosure is unlawful; or (v) made available by the other Party to a third Party without similar restrictions. Any obligation of confidentiality shall cease [two (2) years after the destruction or return of such Confidential Information to the disclosing Party by the receiving Party or [two (2) years] after the termination of this Agreement, whichever is later, except in the case of intellectual property or Personal Information, for which such obligations shall not terminate until the occurrence of any circumstance listed in exceptions (i) – (v) above.

15.2. Disclosure

In the event of any improper disclosure or loss of Confidential Information, the receiving Party shall promptly notify the disclosing Party. The receiving Party or related entity may disclose Confidential Information to the extent required by applicable law, regulation, court order, or other legal process, provided the receiving Party first gives the other Party written notice of the intended disclosure so the other Party may seek protection of the information by any lawful means.

15.3. Injunctive Relief

Each Party acknowledges that any breach of any provision of this Section 15 (Confidentiality) by either Party may cause immediate and irreparable injury to the non-breaching Party, and in the event of such breach, the injured Party shall be entitled to seek injunctive relief in addition to any and all other remedies available at law or in equity.

15.4. Return of Confidential Information

Subject to Texas record retention laws and policies, unless a receiving Party is expressly authorized by this Agreement to retain the disclosing Party's Confidential Information, the receiving Party shall promptly return or destroy, at the disclosing Party's option, the disclosing Party's Confidential Information, and any notes, reports or other information to the extent incorporating or derived from such Confidential Information, and all copies thereof, upon termination of the Agreement or within thirty (30) days after the disclosing Party's written request if the Confidential Information is not required for the performance of any receiving Party's obligations under the Agreement, at which time it shall certify to the disclosing Party that it no longer has in its possession or under its control any Confidential Information of the disclosing Party in any form whatsoever, or any copy thereof. Notwithstanding the above, Unisys acknowledges that Customer shall have no obligation to return to Unisys any Deliverables (or portions thereof) or any notes, reports or other information incorporating or derived from such Deliverables.

16. Covenants, Representations and Warranties

16.1. Work Standards

Unisys shall perform the Services in a competent and workman like manner. Customer shall perform its obligations as set out in this Agreement with reasonable care and skill.

16.2. Unisys Representations and Warranties

Unisys hereby represents and warrants to Customer as follows:

16.2.1. Organization; Power

Unisys is a corporation duly organized, validly existing and in good standing under the Laws of [the State of Delaware. Unisys has all requisite corporate power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement.

16.2.2. Authority; Enforceability

The execution and delivery of this Agreement have been duly authorized by all requisite corporate action on the part of Unisys. This Agreement constitutes the legal, valid and binding agreement of Unisys, enforceable against Unisys in accordance with its terms (except insofar as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally, or by principles governing the availability of equitable remedies).

16.2.3. Noncontravention

The execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement will not (i) conflict with or result in any violation of any provision of the organizational or governing documents of Unisys, as amended to date; (ii) conflict with, result in any violation or breach of, constitute a default under, give rise to any right of termination or acceleration (with or without notice or the lapse of time or both) pursuant to, or result in being declared void or voidable, any term or provision of any note, bond, mortgage, indenture, lease, license, contract or other instrument to which Unisys is a Party or by which any of its properties or assets are or may be bound; or (iii) violate any order, writ, injunction, decree, statute, rule or regulation applicable to Unisys.

16.3. Customer Representations and Warranties

Customer hereby represents and warrants to Unisys as follows:

16.3.1. Organization; Power

Customer is a governmental entity of the State of Texas or the state in which the governmental entity resides. Customer has all requisite power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement.

16.3.2. Authority; Enforceability

The execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement have been duly authorized. This Agreement constitutes the legal, valid and binding agreement of Customer, enforceable against Customer in accordance with its terms (except insofar as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally, or by principles governing the availability of equitable remedies).

16.3.3. Noncontravention

The execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement will not (i) conflict with or result in any violation of any provision of the charter or bylaws of Customer, each as amended to date; (ii) conflict with, result in any violation or breach of, constitute a default under, give rise to any right of termination or acceleration (with or without notice or the lapse of time or both) pursuant to, or result in being declared void or voidable, any term or provision of any note, bond, mortgage, indenture, lease, license, contract or other instrument to which Customer is a Party or by which any of its properties or assets are or may be bound; or (iii) violate any order, writ, injunction, decree, statute, rule or regulation applicable to Customer.

16.4. Viruses

Each Party shall implement and use commercially reasonable practices to identify, screen and prevent the introduction, and shall not knowingly introduce any viruses, Trojan horses, worms, spyware, back doors, email bombs, malicious code or similar items (collectively, “**Malware**”) into the Systems. Each Party will also use reasonable efforts to prevent Malware from being introduced into the Systems by any third parties. In the event that Unisys introduces Malware into the Systems, Unisys will use commercially reasonable efforts to remedy the effects of the Malware from loss of operational efficiency or loss of data.

16.5. Disabling Devices

Unisys will not introduce, and will use commercially reasonable efforts to prevent its third parties from introducing, into any Deliverables any Disabling Device and all Services will be performed utilizing commercially reasonable security measures, including those required under this Agreement. If at any time the licensor of any third party software invokes or threatens to invoke any disabling code in third party software licensed to Unisys, which could adversely affect the Services, Unisys will use commercially reasonable efforts to preclude such action on the part of such licensor.

16.6. Disclaimer

EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, THERE ARE NO CONDITIONS, WARRANTIES OR TERMS, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE EXCEPT WHERE SUCH WARRANTIES CANNOT LAWFULLY BE EXCLUDED, AS TO THE PRODUCTS OR SERVICES PROVIDED BY UNISYS HEREUNDER. UNISYS DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE FOR PRODUCTS AND SERVICES. UNISYS WARRANTIES EXTEND SOLELY TO CUSTOMER AND NOT TO ANY THIRD PARTY.

17. Insurance

17.1. Insurance Requirements

Unisys shall comply with the insurance provisions in accordance with Appendix A, Section 9N of DIR Contract No. DIR-TSO-4190.

17.2. Risk of Loss

Unisys shall bear the risk of loss of Unisys property utilized in connection with the Services. Customer shall bear the risk of loss of Customer property.

18. Indemnities

18.1. Indemnification for bodily injury and property damage.

Indemnification shall be handled in accordance with Appendix A, Section 10A of DIR Contract No. DIR-TSO-4190.

19. Limitation of Liability

Limitation of Liability

Limitation of Liability shall be handled in accordance with Appendix A, Section 10K of DIR Contract No. DIR-TSO-4190.

20. Force Majeure

Force Majeure shall be handled in accordance with Appendix A, Section 11C of DIR Contract No. DIR-TSO-4190.

21. Dispute Resolution

Dispute Resolution shall be handled in accordance with Appendix A, Section 11A of DIR Contract No. DIR-TSO-4190.

22. Termination

Terminations shall be handled in accordance with Appendix A, Section 11B of DIR Contract No. DIR-TSO-4190.

23. General

23.1. Binding Nature and Assignment

23.1.1. Assignment

Assignments shall be handled in accordance with Appendix A, Section 4D of DIR Contract No. DIR-TSO-4190.

23.1.2. Entire Agreement

DIR Contract No. DIR-TSO-4190 and this Agreement, including the Exhibits incorporated in this Agreement, is the entire agreement between Customer and Unisys with regard to the Services, and any other items provided under this Agreement. This Agreement supersedes all prior proposals and agreements with regard to the Services, whether written or oral, and all other written and oral communications between Customer and Unisys. The terms and conditions of DIR Contract No. DIR-TSO-4190 will supersede all other terms and conditions submitted by Customer, including any preprinted terms on any of Customer's purchase orders. Neither Party has relied on any representations, proposals, presentations or communications, except as provided in this Agreement.

23.1.3. Amendment

Only a written document signed by authorized representatives of Customer and Unisys will modify this Agreement.

23.2. Governing Law

This Agreement shall be subject to interpretation in accordance with the laws of the state of Texas, notwithstanding its conflict of law provisions. Nothing herein shall be construed to waive the sovereign immunity of the state of Texas.

23.3. Notices

23.4. Notices shall be handled in accordance with Appendix A, Section 12 of DIR Contract No. DIR-TSO-4190.

23.5. Counterparts

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall be deemed the same agreement.

23.6. Relationship of the Parties

In providing Services to Customer under this Agreement, Unisys is acting only as an independent contractor. Except as expressly provided in this Agreement, Unisys does not undertake to perform any obligation of Customer, whether regulatory or contractual, or to assume any responsibility for Customer's business or operations. This Agreement establishes and will only be construed as establishing a contract between unrelated business entities for the provision and purchase of certain services and does not and will not be deemed to create a partnership, joint venture, agency or any other type of joint relationship. With respect to its own personnel, each Party is independently responsible for all obligations incumbent upon an employer. Each Party maintains its right to do business with and/or enter agreements with other parties.

23.7. No Resale

The Services under this Agreement are provided to Customer for its internal use and may not be offered for resale unless otherwise agreed in writing by Unisys.

23.8. Severability

If any provision of this Agreement, or the application of any such provision to any person or circumstance, is declared judicially to be invalid, unenforceable or void, such decision will not have the effect of invalidating or voiding the remainder of this Agreement, and it is the intent and agreement of the Parties that this Agreement will be deemed amended by modifying such provision to the extent necessary to render it valid, legal and enforceable while preserving its intent or, if such modification is not possible, by substituting therefor another provision that is legal and enforceable and that achieves the same objective in all material respects.

23.9. Waiver of Default

No purported waiver by either Party of any default by the other Party of any term or provision contained herein (whether by omission, delay or otherwise) shall be deemed to be a waiver of such term or provision unless the waiver is in writing and signed by the waiving Party. No such waiver in any event shall be deemed a waiver of any subsequent default under the same or any other term or provision contained herein.

23.10. Survival

Any terms of this Agreement which, by their nature extend beyond its termination or cancellation, remain in effect until fulfilled and apply to respective successors and assigns. These terms include Exhibit 1 (Definitions), Section 9 (Software and Intellectual Property Rights), Section 12 (Charges), Section 15 (Protection of Confidential Information), Section 16 (Covenants, Representations and Warranties), Section 18 (Indemnities), Section 19 (Limitation of Liability), Section 22 (Termination), and Section 23 (General).

23.11. Public Disclosures

Neither Party may make public announcements, either written or otherwise, in relation to the existence of or subject matter of this Agreement, without the other Party's consent.

23.12. Trademarks

Neither Party may use the other Party's name (or the names of such other Party's subsidiaries or parent (if any), or any derivatives thereof), or any service marks or trademarks of such other Party in any publicity or advertising, including media releases, public announcements, or public disclosures, without the other Party's consent.

23.13. Third Party Beneficiaries

This Agreement does not create any right enforceable by a third party (being any person other than the Parties and their permitted successors and assignees).

23.14. Rules of Construction

The article and section headings and the table of contents contained in this Agreement are for reference purposes only and will not affect in any way the meaning or interpretation of this Agreement. Unless otherwise provided to the contrary all references to days, months or quarters will be deemed references to calendar days, months or quarters. Unless the context otherwise requires, as used in this Agreement, all terms used in the singular will be deemed to refer to the plural as well, and vice versa. References to “this Agreement” include each amendment executed and delivered pursuant to this Agreement.

23.15. Neither Party Deemed Drafter

Despite the possibility that one Party or its representatives may have prepared the initial draft of this Agreement or any provision thereof or played a greater role in the preparation of subsequent drafts, the Parties agree that neither of them shall be deemed the drafter of this Agreement and that, in construing this Agreement, no provision hereof shall be construed in favor of one Party on the ground that such provision was drafted by the other.

23.16. Good Faith/Reasonableness

Unless otherwise specified in this Agreement, all consents, approvals, notices and requests, acceptances or similar actions to be given by either Party shall not be unreasonably withheld, delayed or conditioned and each Party shall make only reasonable requests under this Agreement.

IN WITNESS WHEREOF, both Parties have caused this Agreement to be executed by their respective duly authorized representatives.

UNISYS

CUSTOMER

BY: _____
(Signature)

BY: _____
(Signature)

NAME: _____
(Print or type)

NAME: _____
(Print or type)

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____