

**AMENDMENT, RATIFICATION AND CONSENT TO ASSIGNMENT AGREEMENT**

**BY AND AMONG**

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

**XEROX STATE AND LOCAL SOLUTIONS, INC.**

**AND**

**XBS DISPOSITION SUBSIDIARY TWO, LLC**

**AND**

**ATOS S.E.**

**April 22, 2015**

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## AMENDMENT, RATIFICATION AND CONSENT TO ASSIGNMENT AGREEMENT

This Amendment, Ratification and Consent to Assignment Agreement (including any exhibits and attachments hereto, collectively the "ARCA Agreement"), is effective as of the Cutover Date, defined below in Section 2.1 (which shall also become the "ARCA Effective Date"), and is entered into by and among the State of Texas acting by and through the Texas Department of Information Resources ("DIR"), Xerox State and Local Solutions, Inc. ("Xerox S&L"), XBS Disposition Subsidiary Two, LLC (the "Successor Service Provider"), and Atos S.E., and, *inter alia*, amends that certain Master Services Agreement, DIR Contract No. DIR-DCS-SCP-MSA-002, dated December 30, 2011, between DIR, and Xerox S&L, as amended (the "MSA"). For the avoidance of doubt, upon the ARCA Effective Date this ARCA Agreement shall be considered as an amendment to the MSA and not a stand-alone agreement.

**WHEREAS**, ACS State & Local Solutions, Inc. ("ACS") and DIR entered into the MSA;

**WHEREAS**, Xerox Corporation acquired Affiliated Computer Services, Inc., including its wholly owned subsidiary Xerox State & Local Solutions, Inc., pursuant to the terms of that certain Agreement and Plan of Merger dated as of September 27, 2009 among Xerox Corporation, Boulder Acquisition Corp. and Affiliated Computer Services, Inc.

**WHEREAS**, pursuant to the terms of a further acquisition agreement (the "Further Acquisition Agreement") and upon satisfaction of the closing conditions agreed by Xerox and Atos S.E., Successor Service Provider, is going to acquire certain assets of Xerox S&L, including all of the rights and obligations of Xerox S&L under the MSA;

**WHEREAS**, pursuant to the terms of the MSA, Xerox S&L may not assign all or any portion of its rights or interests in the MSA without the prior written consent of DIR;

**WHEREAS**, pursuant to the provisions of this ARCA Agreement, Xerox S&L and Successor Service Provider have requested that DIR consent to the assignment of the MSA from Xerox S&L to Successor Service Provider, all as further provided herein; and

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

### 1. DEFINITIONS

#### 1.1 Certain Definitions.

As used in this ARCA Agreement:

(a) **Agreed Benchmark Report.** Report provided on or about April 8, 2015 as a result of the tripartite benchmark exercise entered into by and between Xerox S&L, DIR, and Alsbridge on or about November 15, 2014, pursuant to Section 11.10 of the MSA. The benchmark exercise included the following services: mainframe, server, data center, and network.

(b) **Variance.** The amount by which current in scope DCS pricing, as established by the MSA, exceeds adjusted market price as provided for in the Agreed Benchmark Report.

## **1.2 Other Terms.**

Other capitalized terms used in this ARCA Agreement are either defined in the context in which they are used, or are defined elsewhere in this ARCA Agreement or the MSA, and in each case shall have the meanings there indicated.

## **2. CONSENT AND MODIFICATIONS**

### **2.1 Consent.**

Pursuant to Section 21.6(b) of the MSA, and subject to the terms and conditions set forth in this ARCA Agreement, including, without limitation, the execution and delivery of (i) the Ninth Amendment as set forth in Section 2.2 below, (ii) the Parent Guaranty as set forth in Section 2.4 below, and (iii) the Ratifications and Commitment as set forth in Exhibit C, attached, DIR consents to (X) the assignment of the MSA by Xerox S&L to XBS Disposition Subsidiary Two, LLC and (Y) contemporaneously with such assignment, the purchase by Atos Group of the entire equity interest of various affiliates of Xerox, including the XBS Disposition Subsidiary Two, LLC.

Upon satisfaction of the closing conditions agreed by Xerox S&L and the Atos Group, the MSA will be assigned to XBS Disposition Subsidiary Two, LLC and contemporaneously with such assignment, Atos Group will purchase the entire equity interest of various affiliates of Xerox, including XBS Disposition Subsidiary Two, LLC, whereby the Successor Service Provider will then be the owner of the MSA, (the "Cutover Date").

### **2.2 Modifications to the MSA.**

As a condition to DIR's consent to the assignment of the MSA by Xerox S&L to Successor Service Provider as provided above, and as a material condition to the effectiveness of this ARCA Agreement the Parties agree to the modifications to the MSA specifically set forth in the Ninth Amendment to the Master Services Agreement, substantially in the form set forth in **Exhibit A**. Such modifications to the MSA will be effective as of the ARCA Effective Date.

### **2.3 Termination for Change of Control**

Xerox S&L and Successor Service Provider acknowledge and agree that the consummation of the transaction set forth in the Definitive Agreement constitutes a Change of Control for purposes of Section 20.3 of the MSA. Accordingly, notwithstanding the consent to assignment set forth in Section 2.1 above, the Parties hereto acknowledge and agree that pursuant to Section 20.3 of the MSA, DIR may within 12 months of the events described in Section 20.3 of the MSA, terminate the MSA upon 90-days prior written notice. The Parties intend and specifically agree that in no event shall DIR be deemed to have waived any right to terminate the MSA for a Change of Control as set forth in Section 20.3 as a result of the execution of this ARCA Agreement and/or the consent to assignment set forth above.

### **2.4 Parent Guaranty**

As a condition to DIR's consent to the assignment of the MSA by Xerox S&L to Successor Service Provider as provided above, and as a material condition to the effectiveness of this ARCA Agreement, Successor Service Provider shall cause Atos SE (Societas Europaea) to execute and deliver to DIR, within 10 business days of DIR signing this ARCA Agreement, a guaranty substantially in the form as set forth in **Exhibit B**.

### **2.5 Benchmark Results**

As a condition to DIR's consent to the assignment of the MSA by Xerox S&L to Successor Service Provider as provided above, and as a material condition to the effectiveness of this ARCA Agreement, Successor Service Provider hereby waives any rights provided under Subsection 11.10(d) of

the MSA and accepts the results specified in the Benchmark's report issued on April 8, 2015 (the "Agreed Benchmark Report"). Successor Service Provider hereby agrees to eliminate the Variance specified in the Agreed Benchmark Report in accordance with the terms of Subsection 11.10(c) of the MSA in a manner substantially similar to the approach as outlined in **Exhibit C**.

### **3. COOPERATION AND UNINTERRUPTED SERVICES**

#### **3.1 Cooperation, Knowledge Transfer and Access.**

(a) (a) Xerox S&L shall be responsible, prior to the Cutover Date: (A) to coordinate with, manage, facilitate, and direct communications between and among DIR, Xerox S&L, Successor Service Provider and other third parties; (B) to serve as DIR's single point of contact for all issues and communications, including issues regarding regulatory requirements and changes, problem management and resolution; (C) to monitor, oversee and verify that the Services are being performed in accordance with the MSA; and (D) to perform all oversight of any changes to the Services being provided, including verifying that such modifications are performed within required time frames and in accordance with the obligations as set forth in the MSA. Xerox S&L and Atos S.E. confirm that as part of the Further Acquisition Agreement, there are transitional arrangements aimed at enabling the Successor Service Provider to provide the Services under the MSA from the ARCA Effective Date. Xerox S&L and Successor Service Provider assume upon the terms of the MSA all liability, financial and otherwise, to provide the necessary personnel, processes, tools, technologies, Software, and Equipment which are the responsibility of Xerox S&L/the Successor Service Provider to provide under the MSA as of the ARCA Effective Date so that the Services continue to be delivered in accordance with and upon the terms of the MSA after the ARCA Effective Date.

(b) Xerox S&L, in coordination with Successor Service Provider shall obtain all the Required Consents and perform such other actions required to transfer or grant the rights of ownership, use or access to DIR (or to Successor Service Provider as DIR's designee) that Xerox S&L is required to transfer or grant under the MSA with respect to Third Party Materials, Third Party Software, Service Provider Owned Materials, and other Materials and maintenance agreements, and any other agreed arrangements with respect to Third Party Service Contracts as necessary for Successor Service Provider to perform the Services on and after the Cutover Date. If a third party consent is not obtained, then, unless and until such consent is obtained, Xerox S&L and Successor Service Provider shall mutually agree on alternative approaches as are necessary and sufficient for DIR to receive the Services until such time as the third party consents are obtained; provided such alternative approaches shall not in any way limit or waive any rights DIR may have under the MSA or cause DIR to incur any costs or expenses it is not otherwise required to incur under the MSA. In the event of any transfer, re-licensing, termination charges, or any other costs, fees, or expenses arising from or related to any transfer or grant of rights of ownership, use or access to DIR (or to Successor Service Providers) arising from or related to the Successor Service Provider's acquisition of certain assets of Xerox S&L and the related assignment of the MSA from Xerox S&L to Successor Service Provider or as otherwise necessary to allow the Successor Service Provider to perform the Services, all such transfer, re-licensing, termination charges, and any other costs, fees, or expenses will be the sole liability of Successor Service Provider or Xerox S&L and there shall be no financial liability upon DIR or DIR's customers.

(c) Xerox S&L will retain or provide to Successor Service Provider to retain such Contract Records necessary to satisfy Xerox S&L's rights and obligations under Section 9.9 of the MSA. As such, for purposes of this Section, the date at which Xerox S&L will be deemed to have stopped performing any Services will be the Cutover Date.

#### **3.2 Service Levels.**

(a) Xerox S&L and Successor Service Provider acknowledge and agree that they shall continue to perform the Services in accordance with the Service Levels. As of and after the ARCA Effective Date, Successor Service Provider shall be responsible to DIR for any Service Level Credit payable pursuant to the MSA as it pertains to DIR.

#### **4. TERMINATION**

**4.1** Xerox S&L and Successor Service Provider acknowledge and agree that DIR may terminate the MSA in accordance with the Section 20.1 of the MSA if the Successor Service Provider commits a series of persistent non-material breaches and the failure to perform the obligations set forth in this ARCA Agreement will be deemed breaches of the MSA, including, without limitation, for purposes of Section 20.1 of the MSA.

#### **5. ACKNOWLEDGEMENT BY ATOS S.E. AND RELEASE OF XEROX'S PARENT GUARANTEE**

**5.1** Atos S.E. acknowledges, as both a signatory to this ARCA Agreement and as the Parent Guarantor to Successive Service Provider (upon completion of the transaction contemplated by the Further Acquisition Agreement) that it is aware of the contents of this ARCA Agreement.

**5.2** Subject to satisfaction of the conditions in paragraph 1 of Exhibit B, Guarantee, the Guarantor hereby irrevocably and unconditionally releases and discharges Xerox Corporation from all obligations (present or future, actual or contingent) under or in connection with the Parent Guaranty granted by it in favor of the Texas Department of Information Resources pursuant to and subject to the terms and conditions of the MSA for any claim arising on or after the date the conditions in paragraph 1 of Exhibit B are satisfied.

#### **6. MISCELLANEOUS**

##### **6.1 Entire Agreement.**

This ARCA Agreement, including any Exhibits, constitutes the entire agreement between the Parties with respect to the subject matter described in this ARCA Agreement and supersedes all prior agreements, whether written or oral, with respect to the subject matter contained in this ARCA Agreement.

##### **6.2 Order of Precedence.**

In the event of a conflict between the provisions of this ARCA Agreement and the provisions of the MSA, the provisions of this ARCA Agreement shall control.

##### **6.3 Notice.**

All notices, requests, demands and determinations under this ARCA Agreement (other than routine operational communications), shall be in writing and shall be deemed duly given: (a) when delivered by hand, (b) on the designated day of delivery after being timely given to an express overnight courier with a reliable system for tracking delivery, or (c) six (6) days after the day of mailing, when mailed by United States mail, registered or certified mail, return receipt requested and postage prepaid, and addressed as follows:

In the case of DIR to:

Texas Department of Information Resources  
300 W. 15<sup>th</sup> Street, Suite 1300  
Austin, Texas 78701  
Attention: Sally Ward, DCS Director  
Telephone: 512-463-9003  
E-mail Address: sally.ward@dir.texas.gov

with copies to:

Texas Department of Information Resources  
300 W. 15 Street, Suite 1300  
Austin, Texas 78701  
Attention: Martin Zelinsky, General Counsel  
Telephone: 512-475-4759  
Email Address: martin.zelinsky@dir.texas.gov

In the case of Xerox S&L to:

ACS State & Local Solutions, Inc.  
8260 Willow Oaks Corporate Drive  
Fairfax, VA 22031  
Attention: Contracts  
Telephone: 703-891-8727  
E-mail Address: andre.gamrasni@acs-inc.com

with copies to:

ACS State & Local Solutions, Inc.  
8260 Willow Oaks Corporate Drive  
DIR Contract No. DIR-DCS-SCP-MSA-002  
Fairfax, VA 22031  
Attention: Legal Department  
Telephone: 703-891-8845  
E-mail Address: paul.webber@acs-inc.com

In the case of Successor Service Provider to:  
XBS Disposition Subsidiary Two, LLC  
Group President, IT Outsourcing  
2828 N. Haskell Avenue  
Dallas, TX 75204

with copies to:  
XBS Disposition Subsidiary Two, LLC  
Attn: Office of General Counsel  
2828 N. Haskell Avenue  
Dallas, TX 75204

In the case of Atos S.E. to:

Atos SE  
80 Quai Voltaire  
Bezons  
Cedex 95877  
France  
Attention: Alexandre Menais – Executive Vice  
President – Group General Counsel  
Telephone: +33 1 73 364 215  
E-mail Address: alexander.menais@atos.net

with copies to:

Atos S.E  
80 Quai Voltaire  
Bezons  
Cedex 95877  
France  
Attention: Patrick Byron – Group Senior Vice  
President Mergers & Acquisitions  
Telephone: +33 1 73 26 08 66  
E-mail address: Patrick.byron@atos.net

A Party may from time to time change its address or designee for notification purposes by giving the others prior written notice of the new address or designee and the date upon which it will become effective.

#### **6.4 Headings.**

The section headings and the table of contents used in this ARCA Agreement are for reference and convenience only and shall not enter into the interpretation of this ARCA Agreement.

**6.5 Severability.**

If any provision of this ARCA Agreement conflicts with the law under which this ARCA Agreement is to be construed or if any such provision is held invalid by a competent authority, such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the Parties in accordance with applicable law. The remainder of this ARCA Agreement shall remain in full force and effect.

**6.6 Ratification.**

The terms and provisions of the MSA, as expressly modified by this ARCA Agreement, are ratified and confirmed and shall continue in full force and effect, and shall continue to be legal, valid, binding and enforceable obligations of the Parties.

**6.7 Counterparts.**

This ARCA Agreement may be executed in several counterparts, all of which taken together shall constitute a single agreement between the Parties.

**6.8 No Waiver.**

The Parties intend and specifically agree that in no event shall either Party be deemed to have waived any claim, cause of action or remedy, whether known or unknown, currently existing or arising in the future, nor to have released the other Party from any obligation or liability with respect to the Services, as a result of the execution of this ARCA Agreement.

**6.9 Waiver of Default.**

A delay or omission by a Party in any one or more instances to exercise any right or power under this ARCA Agreement shall not be construed to be a waiver thereof. A waiver by a Party of any of the covenants to be performed by the other(s) or any breach thereof shall not be construed to be a waiver of any succeeding breach thereof or of any other covenant herein contained.

**6.10 Cumulative Remedies.**

Except as otherwise expressly provided in this ARCA Agreement, all remedies provided for in this ARCA Agreement shall be cumulative and in addition to and not in lieu of any other remedies available to a Party at law or in equity.

**6.11 Covenant of Good Faith.**

Each Party in its respective dealings with the other Party(ies) under or in connection with this ARCA Agreement, shall act reasonably and in good faith.

**[Signature Page to Follow]**

**IN WITNESS WHEREOF**, each of the Parties has caused this ARCA Agreement to be executed by its respective duly authorized representative as of the ARCA Effective Date.

**XEROX STATE AND LOCAL SOLUTIONS,  
INC.**

**DIR**

By: signature on file

By: signature on file

Print Name: Donald Hubicki

Print Name: Todd Kimbriel

Title: Senior Vice President

Title: Interim Executive Director

Date: May 12, 2015

Date: May 22, 2015

**XBS DISPOSITION SUBSIDIARY ONE, LLC**

**ATOS S.E.**

By: signature on file

By: \_\_\_\_\_

Print Name: Michael Festa

Print Name: Elie Girard

Title: Manager

Title: Group CFO

Date: May 15, 2015

Date: May 19, 2015