

**THIRD AMENDMENT TO THE
MASTER SERVICES AGREEMENT**
between
**THE STATE OF TEXAS, ACTING BY AND THROUGH
THE TEXAS DEPARTMENT OF INFORMATION RESOURCES**
and
XEROX CORPORATION

This Third Amendment ("Amendment") is to the Master Services Agreement ("Agreement"), executed January 23, 2012, between the State of Texas, acting by and through the Texas Department of Information Resources ("DIR"), with its principal place of business at 300 West 15th Street, Suite 1300, Austin, Texas 78701, and Xerox Corporation ("Service Provider"), a New York corporation, with a principal place of business at 6836 Austin Centre Blvd., Suite 300, Austin, Texas, 78731.

RECITALS

WHEREAS, the Parties entered into the Agreement for Data Center Services dated January 23, 2012, with an anticipated Commencement Date of July 1, 2012; and

WHEREAS, the incumbent provider (IBM) of Data Center Services concluded its tenure prematurely on April 30, 2012 and in order to provide essential data center services beginning May 1, 2012, DIR required a short-term agreement for Service Provider, First Amendment, to provide Interim, Walk In Take Over (WITO) services for Data Center Services operations; and

WHEREAS, as a result of those additional services provided per WITO and to ensure the provision of data center services under this Agreement henceforth, the Parties required and agreed upon a Second Amendment in which major contract milestones and deliverables were realigned to account for the additional resources required for WITO; and

WHEREAS, this Third Amendment is now required to align provisions in Exhibit 3 related to the implementation of Service Level Credits and amendments to Xerox State and Locals Master Service Agreement's Exhibit 1, Attachment 4-B and Attachment 4-D.

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to amend the Agreement as follows:

- I. Exhibit 1, Definitions, of the Agreement, shall be amended as follows:

Email Minimum Volume Floor Means the volume floor at which the billing mechanism for Consolidated and Non-Consolidated Email Accounts ceases to be an RU and will be charged according to the terms of Section 7.1 of Exhibit 4.

<u>Microsoft Office 365</u>	<u>Means the cloud-based, subscription email/messaging software as a service suite offered by Microsoft.</u>
<u>Microsoft Office 365 Email Accounts</u>	<u>Means the Resource Unit Categories associated with the Microsoft Office 365 Email Services described in Sections 19.5 and 19.5(c) of Exhibit 4.</u>
<u>Microsoft Office 365 Annual Minimum Volume Commitment Date</u>	<u>Means the date on which a DIR Customer who has elected to receive Microsoft Office 365 Email Services commits to a volume of mailboxes to be provisioned by Service Provider for the coming year. Pursuant to the requirements set forth in Exhibit 4, a DIR Customer must give Service Provider sixty (60) days' notice of its license volume order.</u>
<u>Microsoft Office 365 Outsourcer Enrollment Agreement</u>	<u>Means the three-party agreement between DIR, Service Provider, and Microsoft which permits Service Provider to aggregate license from and manage orders on behalf of DIR Customers.</u>
<u>Service Level Credit Start Date</u>	<u>Means the period beginning ninety (90) days after the Commencement Date wherein Service Provider will be liable for Service Level Credit(s) or CAP Failure Credit(s).</u>

II. Section 9, Service Delivery Failure; CAP Failure Event, of Exhibit 3 Service Levels, shall be amended to add language to the end of subsections (2) as follows:

- (2) Upon the occurrence of (i) a CAP Failure Event, or (ii) if Service Provider fails to implement the SD Corrective Action Plan in the specified timetable or if after the implementation of the SD Corrective Action Plan performance has not consistently improved, then Service Provider will be liable for a Service Level Credit in an amount equal to one and one quarter percent (1.25 %) of the then-current Service Level Invoice Amount (the "CAP Failure Credit"). The CAP Failure Credit will be applied to the monthly invoice until such time as Service Provider has demonstrated effective Service delivery, as evidenced by either (i) no reoccurrence of the Service Level Defaults which triggered the applicable Service Delivery Failure or (ii) in DIR's reasonable judgment, Service Provider has remedied the failure which is the subject of the CAP Notice. If the CAP Failure Event or Service Delivery Failure reoccurs within three (3) months, the CAP Failure Credit will be reapplied to the then-current and each subsequent monthly invoice until the CAP Failure Event or Service Delivery Failure has been resolved. The CAP Failure Credit will not be subject to Earnback. The Service Provider acknowledges and agrees that the CAP Failure Credit shall not be deemed or construed to be liquidated damages or a sole and exclusive remedy or

in derogation of any other rights and remedies DIR has hereunder or under the Agreement. For purposes of clarity, the CAP Failure Credit is separate from and therefore additive to any other Service Level Credits due in a given month, even if the Service Level Credits are for Service Level Defaults related to the Service Delivery Failure. In no event shall the sum of the CAP Failure Credit and any Service Level Credits credited to DIR with respect to all Service Level Defaults occurring in a single month exceed, in total, the At-Risk Amount. The Service Provider will not be liable for a CAP Failure Credit any earlier than 90 days after the Commencement Date.

- III. Section 12, Commencement of Obligations, of Exhibit 3 Service Levels, shall be amended as follows:

The obligations set forth herein shall commence on the Commencement Date or as otherwise specified in Attachment 3-A referencing the column "Comm + mos**". The numbers used in the column "Comm +mos**" are in the format X where "X" represents the number of months after the Commencement Date when the Service Provider will be responsible to provide measurement data in support of the Critical Service Level or Key Measurement ~~and~~. Beginning ninety (90) days after the Commencement Date (the "Service Level Credit Start Date"), the Service Provider will be responsible for Service Level Credits for any failures to attain the Critical Service Level. For those Service Levels which commence after the Service Level Credit Start Date, Service Provider will be liable for Service Level Credits as of the date specified in Attachment 3-A.

- IV. Attached Appendix 1 of Third Amendment, Attachment 4-B, Financial Responsibility Matrix, shall replace in its entirety and supersede all previous agreements relating to Attachment 4-B, Financial Responsibility Matrix, of the Agreement.
- V. Attached Appendix 2 of Third Amendment, Attachment 4-D, Resources Baseline, shall replace in its entirety and supersede all previous agreements relating to Attachment 4-D, Resources Baseline, of the Agreement.
- VI. General Terms and Conditions
- (a) Capitalized terms not defined herein shall have the same meanings as set forth in the Agreement.
 - (b) All other provisions of the Agreement not specifically amended hereby remain in full force and effect. In the event of conflict among provisions, the provisions of this Amendment shall take precedence over the terms of the MSA.

IN WITNESS WHEREOF, Service Provider and DIR execute this Amendment effective September 28, 2012.

THE STATE OF TEXAS,
acting by and through
THE TEXAS DEPARTMENT OF INFORMATION RESOURCES
[Signature on File]

By: _____
Name: Carl Marsh
Title: Chief Operating Officer

XEROX CORPORATION

[Signature on File]

By: _____
Name: JAMES LOGAN
Title: CONTROLLER