

**AMENDMENT NUMBER 5
TO
CONTRACT NO. DIR-SDD-1075
BETWEEN
THE STATE OF TEXAS, DEPARTMENT OF INFORMATION RESOURCES
AND TEXAS NICUSA, LLC**

This Amendment Number 5 (the “Amendment”) to the TexasOnline 2.0 Master Agreement (as previously amended, the “Master Agreement”) dated July 31, 2009 is entered into by and between The State of Texas, acting by and through the Texas Department of Information Resources (“DIR”) and Texas NICUSA, LLC, a limited liability company with a principal place of business at 100 Congress Avenue, Suite 600, Austin, Texas 78701 (“Vendor”). Capitalized terms used but not otherwise defined in this Amendment shall have the meaning set forth in the Master Agreement. This Amendment is executed in accordance with the authority granted in the Master Agreement, Section 5 *Contract Amendments*.

All other terms and conditions of the Master Agreement as amended, not specifically modified herein, shall remain in full force and effect. In the event of any inconsistencies between the terms and conditions contained in the Master Agreement and the terms and conditions contained in this Amendment, the terms and conditions contained in the Amendment shall control.

Background

Whereas, in compliance with Executive Order No. RP-80, issued by the Governor of Texas, change is made to the the Governing Law and Regulations terms and conditions of the Master Agreement in respects to immigration.

Whereas, the Parties wish to revise certain discrepancies between operational phrasing of Section 5 of the Terms in Amendment 4 and processes currently in place.

Whereas, DIR intends that timing and nomenclature related to USAS File Delivery and Transaction Detail Integrity be properly stated on behalf of the parties involved (to include CPA Treasury).

Now, therefore, for good and valuable consideration the sufficiency of which is agreed upon by the Parties, the Parties hereby agree as follows:

Terms

- 1. Article 5 Governing Law and Regulations of Exhibit B Terms and Conditions, Section 5.03 *Immigration Reform and Control Act of 1986* is hereby retitled as Section 5.03 *Immigration* and replaced in its entirety as follows:**

The Vendor shall comply with all requirements related to federal immigration laws and regulations, to include but not be limited to, the Immigration and Reform Act of 1986, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA") and the Immigration Act of 1990 (8 U.S.C.1101, et seq.) regarding employment verification and retention of verification forms for any individual(s) who will perform any labor or services under this Contract.

Pursuant to Executive Order No. RP-80, issued by the Governor of Texas on December 3, 2014, and as subsequently clarified, the Vendor shall, as a condition of this Contract, also comply with the United States Department of Homeland Security's E-Verify system to determine the eligibility of:

- all persons 1) to whom the E-Verify system applies, and 2) all persons who are hired by the Vendor, beginning from the date of the execution of this Amendment to continue through the term of this Contract to perform duties within Texas; and
- all subcontractors' employees 1) to whom the E-Verify system applies, and 2) who are hired by the subcontractor, beginning from the date of the execution of this Amendment to continue during the term of this Contract and assigned by the subcontractor to perform work pursuant to this Contract.

The Vendor shall require its prospective subcontractors to comply with the requirements of this Section and the Vendor is responsible for the compliance of its subcontractors. Nothing herein is intended to exclude compliance by Vendor and its subcontractors with all other relevant federal immigration statutes and regulations promulgated pursuant thereto.

2. Exhibit D Performance Criteria, following Section 2.11 Customer Satisfaction the following **Section 2.12 USAS File Delivery and Transaction Detail Integrity** is replaced in its entirety:

- (a) The Vendor will measure on-time file delivery and transaction accuracy as defined below, and report on performance as described in *Exhibit F Reporting* Section 2.03.
- (b) The following table of activities and expectations provides additional specific criteria regarding potential liquidated damages. DIR reserves the right to modify the monitoring frequency through the Contract Amendment process in accordance with the Master Agreement Section 5 Contract Amendments.
- (c) The Vendor will comply with the following service levels; subject to the following metric exclusions:
 1. Force Majeure Events
 2. Events determined to be caused by an entity other than or outside the control of the Vendor, including but not limited to events in which the root cause is determined to be out of the control of the Vendor.

(d) Vendor, for the purposes of delivering the following files, will observe the holiday schedule as published by the Federal Reserve System and found at: [Holidays Observed by the Federal Reserve System](#)

(e) The following definition is taken from the Electronic Code of Federal Regulations Title 12, Chapter II, Subchapter A, Part 229, Subpart A, §229.2, (f) an applies to the below table:

Banking day means that part of any business day on which an office of a bank is open to the public for carrying on substantially all of its banking functions.

ID	Service Level Name and Description	Liquidated Damage Amount	Service Level	Cure Period
1	TP029 File Delivery File to be made available to Comptroller of Public Accounts ("CPA") Treasury Operations by 6:00 p.m. Central Time every day (Sunday through Saturday). TP029 will include all transactions settled by the credit card processor for that day.	\$2000 per instance	100%	3 Hours
2	Raw File Delivery File to be made available to CPA Treasury Operations on or before 5:00 p.m. each business day (Monday through Friday). File will include all transactions processed from 5:00 a.m. of previous business day thru 4:59:59 a.m. of the current business day.	\$2000 per instance (commencing upon the date documented in the Raw File Delivery Plan approved by CPA Treasury)	100%	3 Hours
3	USAS Detail File Delivery File to be made available to CPA Treasury Operations by 7:00 a.m. each Banking Day. File will include all transactions processed prior to 2:00 a.m. Central Time if through ECHO, and 3:00 a.m. Central Time if through WorldPay, for that day.	\$2000 per instance	100%	0 Hours
4	ACH File Delivery File to be made available to CPA Treasury Operations by 5:45 p.m. each Banking Day. File will include all successful transactions that processed prior to 5:00 p.m. Central Time and transactions not previously sent.	\$2000 per instance	100%	0 Hours
	NOTE: Performance Category = USAS File Delivery			

SERVICE LEVEL NAME	START DATE
<i>Transaction Accuracy Rate</i>	January 1, 2015
METRIC DESCRIPTION	The Vendor is responsible for maintaining a reliable system. This metric refers to the percentage of transactions that cause reconciliation issues divided by the total number of transactions processed.
METRIC INCLUSIONS	Transaction Accuracy will be monitored and measured for all payment transactions, including ACH and credit card.
METRIC EXCLUSIONS	<ul style="list-style-type: none"> a. Force Majeure Events b. Events determined to be caused by an entity other than or outside the control of the Vendor, including but not limited to events in which the root cause is determined to be out of the control of the Vendor.
HOURS OF MEASUREMENT	24 hours
DAYS OF MEASUREMENT	7 days
EXPECTED SERVICE LEVEL	99.999%
ALGORITHM	<p>Transaction Accuracy shall be calculated, for a given measurement window, as (a) transactions that cause reconciliation problems during such measurement window divided (b) the total number of transactions with the result expressed as a percentage to four (4) decimal places.</p> <p>Transactions that cause reconciliation problems include the following:</p> <ul style="list-style-type: none"> 1) Transactions missing detail, 2) Duplicate Transactions, 3) Reported Transactions not matching transactions processed through credit card processor, and 4) All other transactions that cause reconciliation problems for agencies.
COLLECTION PROCESS	TP029 File, Raw File, USAS Detail File and ACH File
REPORTING TOOLS	Monthly Application Service Levels Report
REMEDY UNIT	\$400 for one thousandth of a percentage below target
EARN BACK UNIT	\$200 for one thousandth of a percentage above target
PERFORMANCE CATEGORY	Transaction Accuracy
MEASUREMENT WINDOW	<input checked="" type="checkbox"/> Monthly <input type="checkbox"/> Quarterly <input type="checkbox"/> Semi Annual

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IN WITNESS WHEREOF, the Parties having read and understood the foregoing sections of the Master Agreement as Amended including all Attachments and Exhibits incorporated therein by reference, expressly agree to these terms and conditions as evidenced by their respective dated signatures below and execute this Amendment effective as of the last date of the signatures below:

DEPARTMENT OF INFORMATION RESOURCES

TEXAS NICUSA, LLC

Signature: Signature on File

Signature: Signature on File

Name: Janet Gilmore

Name: Craig Shinn

Title: Director of Digital Government

Title: Executive Director

Date: 3/17/2015

Date: 3/9/2015

Legal: Signature on File