

Amendment Number 2
to
Contract Number DIR-TSO-3150
between
State of Texas, acting by and through the Department of Information Resources
and
IMMIXTECHNOLOGY, INC.

This Amendment Number 2 to Contract Number DIR-TSO-3150 (“Contract”) is between the Department of Information Resources (“DIR”) and IMMIXTECHNOLOGY, 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 June 24, 2017, or until terminated pursuant to the termination clauses contained in the Contract. Prior to expiration of the term, DIR and Vendor may extend the Contract, upon mutual agreement, for up to two (2) additional one-year renewal terms.

2. **Appendix A, Standard Terms and Conditions For Product and Related Services Contracts**, is hereby restated in its entirety and replaced with the attached **Appendix A. Standard Terms and Conditions For Product and Related Services Contracts** dated 06/21/2016, except where previous authorized exceptions to Appendix A were allowed and documented as part of the Contract. In such cases, the previously authorized exceptions shall be applied to the portions of the new Appendix A which are comparable to those in the earlier Appendix A for which they were written, and this without regard for the numbering or lettering associated with any of the documents. Applied in such manner, the exceptions shall remain in full force and effect until such time the contract expires or is terminated.
3. **Appendix C, Pricing Index**, is hereby deleted in its entirety and replaced with the attached **Appendix C, Pricing Index**.
4. **Contract, Section 8. Authorized Exceptions to Contract or any Appendices**, is hereby restated in its entirety as follows:

A. Appendix A, Section 5, Intellectual Property Matters is hereby restated in its entirety as follows:

This Contract does not contemplate, authorize, or support acquisition of custom software products or services. If Vendor and Customer seek to contract for such products or services, the Parties must use a separate contract.

B. Appendix A, Section 8.A, Manufacturer's Suggested Retail Price (MSRP) or List Price is hereby restated in its entirety as follows:

MSRP is defined as the product sales price list published in some form by the manufacturer or publisher of a product and available to and recognized by the trade. A price list especially prepared for a given solicitation is not acceptable. Notwithstanding the foregoing, the MSRP or List Price for products provided under Contractor's General Services Administration (GSA) IT 70 Schedule Contract GS-35F-0265X and GS-35F-0511T shall be based on the prices published by GSA and Contractor.

C. Appendix A, Section 8.G, Change to Prices is hereby restated in its entirety as follows:

Subject to the requirements of this section, Vendor may change the price of any product or service at any time, based upon changes to the MSRP or Contractor's GSA IT70 Schedule Contract GS-35F-0265X and GS-35F-0511T, but discount levels shall remain consistent with the discount levels specified in this Contract.

- 1) Price increase or decrease change requests must be requested with a signed cover letter indicating the change in price. Price increase requests must be accompanied by a copy of the manufacturer or publisher's price list.
- 2) Price decreases shall take effect automatically during the term of this Contract and shall be passed onto the Customer immediately.
- 3) Requests for price increases will be accepted or rejected by DIR within thirty (30) calendar days after receipt of a properly submitted request. Increases that are not accepted within thirty (30) calendar days will be deemed rejected. If a properly submitted increase is rejected, Vendor may request that the product or service rejected be removed from the Contract. The product or service will be removed from the Contract upon execution of a written Contract amendment, which shall be transmitted to Vendor by DIR within thirty (30) calendar days after receipt of the written request to remove the product or service and executed by both parties without undue delay. Existing pricing must be honored up to the date of execution of the Contract amendment. Prices may not be increased for at least ninety (90) calendar days after the contract start date. Price reductions will be accepted at any time.

C. Appendix A, Section 9.B. Reporting and Administrative Fees is Prices is hereby restated in its entirety as follows:

2) Detailed Monthly Report

Vendor shall electronically provide DIR with a detailed monthly report in the format required by DIR showing the dollar volume of any and all sales under the Contract for the previous calendar month period. Reports shall be submitted to the DIR Cooperative Contracts E-Mail Box at ict.sales@dir.texas.gov. Reports are due on the fifteenth (15th) calendar day after the close of the previous month period. If the 15th calendar day falls on a weekend or state or federal holiday, the report shall be due on the next business day. The monthly report shall include, per transaction: the

detailed sales for the period, Customer name, invoice date, invoice number, description, quantity, MSRP or List Price, unit price, extended price, Customer Purchase Order number, contact name, Customer's complete billing address, the administrative fee due for the reporting period, subcontractor name, EPEAT designation (if applicable), configuration (if applicable), contract discount percentage, actual discount percentage, negotiated contract price (if fixed price is offered instead of discount off of MSRP), and other information as required by DIR. Each report must contain all information listed above per transaction or the report will be rejected and returned to the Vendor for correction in accordance with this section. Vendor shall report in a manner required by DIR which is subject to change dependent upon DIR's business needs and with at least thirty (30) days' notice to Vendor. Failure to do so may result in contract termination.

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

(Remainder of page intentionally left blank)

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 June 24, 2016.

IMMIXTECHNOLOGY, INC.

Authorized By: Signature on File

Name: Adam Hyman

Title: Director

Date: 9/16/2016

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: 9/16/2016

Office of General Counsel: Signature on File 9/16/2016