

ENGAGEMENT ADDENDUM Number 1
to
PARTICIPATING ADDENDUM
WESTERN STATES CONTRACTING ALLIANCE
PUBLIC CLOUD HOSTING SERVICES
Administered by the State of Utah (hereinafter "Lead State")

STATE OF UTAH COOPERATIVE CONTRACT ("CONTRACT")
UNISYS Corporation
(hereinafter "Contractor")
Utah Contract Number: MA268

And

State of Washington, Department of Enterprise Services
(Participating Entity Contract Number: 01413)

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A. SCOPE OF USE: This Engagement Addendum covers the use of the Contract and Participating Addendum for eligible Buyers that are "state agencies" as that term is defined in RCW 43.41A.006(15) within the Participating State (each a "State Buyer"). This Engagement Addendum is not for personal use. Any capitalized term not defined herein shall have the meaning ascribed to it in either the Contract or the Participating Addendum.

B. INDIVIDUAL CUSTOMER: The individual state agency that purchases products/services under this Engagement Addendum will be treated as if they are an Individual Customer. Except to the extent modified below, each State Buyer will be responsible to follow the terms and conditions of the Master Agreement and the Participating Addendum; and they will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement. Each State Buyer will be responsible for their own charges, fees, and liabilities. Each State Buyer will have the same rights to any indemnity or to recover any costs allowed in the Contract for their purchases. The Contractor will apply the charges to each State Buyer individually.

C. SCOPE OF ENGAGEMENT ADDENDUM: This Engagement Addendum only covers the use, licensing, or purchase by State Buyers of any PUBLIC CLOUD HOSTING SERVICES available under the Participating Addendum for Purchase Orders accepted by Contractor and that include a Statement of Work in which State Buyer data to be accessed, stored and processed in a PUBLIC CLOUD HOSTING SERVICE that has been classified by the State Buyer, and explicitly identified to Contractor in the SOW, as either Category 3 (Confidential Information) or Category 4 (Confidential Information Requiring Special Handling) as set forth in Section 4.1, *Data Classification*, of the Office of the Chief Information Officer Standard 141.10, *Securing Information Technology Assets*. Purchase Orders that do not include these data categories must be made under another engagement addendum under the Participating Addendum.

D. MODIFICATIONS OR ADDITIONS TO PARTICIPATING ADDENDUM TERMS AND CONDITIONS. The modifications or additions to the Participating Addendum Terms and Conditions set forth in this section apply only to Purchase Orders accepted by Contractor from State Buyers within the Participating State and within the scope of this Engagement Addendum as set forth above.

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1. The section titled LIMITATION OF LIABILITY of the Contract is hereby **deleted** in its entirety and **replaced** by the following:

LIMITATION OF LIABILITY: EXCEPT AS FURTHER LIMITED ELSEWHERE IN THE CONTRACT:

WITH RESPECT TO CONTRACTOR'S AND ITS PROVIDERS', SUPPLIERS', LICENSORS' AND SUBCONTRACTORS' LIABILITY TO PARTICIPATING ENTITY AND ALL STATE BUYERS,

a.(1) IN NO EVENT SHALL CONTRACTOR, ITS PROVIDERS, SUPPLIERS, LICENSORS, OR ITS SUBCONTRACTORS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, CONSEQUENTIAL, OR PUNITIVE DAMAGES ARISING OUT OF OR IN ANY WAY RELATED TO THE CONTRACT, ANY PARTICIPATING ADDENDUM, ANY ENGAGEMENT ADDENDUM, ANY PURCHASE ORDER, AND ANY STATEMENT OF WORK, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICES, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, REGARDLESS OF CAUSE, EVEN IF THE PARTY FROM WHOM DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S PROVIDERS, SUPPLIERS, LICENSORS, OR SUBCONTRACTORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(2) FOR THE PURPOSES OF THIS SECTION, DAMAGES NOT SUBJECT TO EXCLUSION SET FORTH ABOVE (BUT SUBJECT TO THE LIMITATION STATED IN PARAGRAPH B. BELOW) INCLUDE (i) STATE BUYER'S COSTS IN DISCLOSING OR NOTIFYING AFFECTED INDIVIDUALS OF UNAUTHORIZED ACCESS TO OR DISCLOSURE OF THE DATA SUBJECT'S PERSONAL INFORMATION, (ii) CREDIT MONITORING FOR UP TO TWENTY-FOUR (24) MONTHS FOR AFFECTED INDIVIDUALS, (iii) DAMAGES ASSESSED AGAINST STATE BUYER AND AWARDED TO INDIVIDUALS WHOSE PERSONAL INFORMATION IS SUBJECT TO SUCH UNAUTHORIZED ACCESS OR

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DISCLOSURE, (iv) ANY ADDITIONAL REASONABLE AND DOCUMENTED COSTS OF ANY MITIGATION, REMEDIES OR PLANS IMPLEMENTED BY STATE BUYER IN RESPONSE TO SUCH UNAUTHORIZED ACCESS OR DISCLOSURE, AND (v) GOVERNMENT FINES, PENALTIES AND AWARDS TO THIRD PARTIES AGAINST STATE BUYER FOR FAILURE TO COMPLY WITH APPLICABLE OPEN RECORDS LAWS AS A RESULT OF A LOSS OF STATE BUYER DATA. FURTHER, TO THE EXTENT CONTRACTOR, ITS PROVIDERS, ITS SUPPLIERS AND/OR ITS SUBCONTRACTORS ARE THE DIRECT CAUSE OF LOSS OF DATA, CONTRACTOR SHALL RESTORE SUCH DATA FROM THE STATE'S BACKUP SYSTEM AT NO ADDITIONAL CHARGE TO THE STATE.

b. CONTRACTOR'S AND ITS PROVIDERS', SUPPLIERS', LICENSORS' CUMULATIVE LIABILITY FOR ANY AND ALL CAUSES OF ACTION ARISING OUT OF OR RELATING TO THIS ENGAGEMENT ADDENDUM AND ANY AND ALL PURCHASE ORDER(S) AND STATEMENTS OF WORK UNDER THIS ENGAGEMENT ADDENDUM, WITHOUT REGARD TO ANY AND ALL TYPES OF DAMAGES ALLOWABLE, SHALL NOT EXCEED AN AMOUNT EQUAL TO THE CHARGES PAID UNDER THE APPLICABLE PURCHASE ORDER OR RELATED STATEMENT OF WORK UNDER WHICH THE DAMAGE AROSE DURING THE TWELVE (12) MONTH PERIOD PRECEDING STATE BUYER'S CLAIM; PROVIDED, HOWEVER, THAT SHOULD STATE BUYER'S CLAIM ACCRUE DURING THE FIRST TWELVE (12) MONTHS OF THE APPLICABLE PURCHASE ORDER/STATEMENT OF WORK, THE DAMAGES ALLOWABLE SHALL NOT EXCEED AN AMOUNT EQUAL TO THE CHARGES THAT WOULD HAVE BEEN PAID DURING THE FIRST TWELVE (12) MONTHS.

c. WITH RESPECT TO STATE BUYER'S LIABILITY TO CONTRACTOR, STATE BUYER SHALL BE LIABLE TO CONTRACTOR FOR ALL FEES/CHARGES/EXPENSES DUE ACCORDING TO THE CONTRACT, INCLUDING UNPAID AND UNDISPUTED INVOICES, ANY AND ALL FEES/CHARGES/EXPENSES INCURRED OR ACCRUED THROUGH THE STATE BUYER'S ACCOUNT FOR THE PUBLIC CLOUD HOSTING SERVICES, AND

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EXPENSES AND FEES (INCLUDING ANY INVOICES LATER DETERMINED TO BE VALID).

d. Notwithstanding anything contained herein to the contrary, the limitations on liability set forth in paragraphs b. and c. above shall not apply to: (1) third party claims asserted against a party (i) for bodily injury, including death, to the extent caused by the other party or its employees, agents and/or subcontractors; or (ii) for damage to real property or tangible personal property (which, for the avoidance of any doubt, the parties agree excludes loss of, or damage to, data) to the extent caused by the other party or its employees, agents and/or subcontractors; (2) claims covered by the patent and copyright indemnification, breach of confidentiality obligations, fraud or fraudulent representation; (3) any amounts owed by Contractor to Participating Entity as a Participating Addendum Administration Fee; and (4) any gross negligence or willful misconduct on the part of a party.

e. If, at any time: (1) (i) the total aggregate liability of Contractor for claims asserted by Participating Entity or State Buyer under or in connection with this Engagement Addendum or a Purchase Order, as applicable for claims subject to the limitations of liability set forth above, exceeds seventy percent (70%) of the limitation of liability amount set forth above; and (ii) Participating Entity or State Buyer requests in writing that Contractor agree in writing to increase such amount by the amount required to restore the full original value of the limitation of liability amount stated within thirty (30) days following its receipt of a written request that it do so and Contractor does not agree; or (2) the total aggregate liability of Contractor equals or exceeds the limitation of liability amount stated in paragraph b above, then Participating Entity or State Buyer shall have the respective right to terminate solely for its convenience the applicable Purchase Order/Statement of Work (in whole or in part, but only in part if the remaining elements are not dependent upon the terminated elements) as provided in the Contract by delivering a written notice of such termination to Contractor at least thirty (30) days in advance of the intended termination date. Any termination pursuant to this paragraph shall not constitute a termination under any other provision of this Engagement Addendum or a Purchase Order.

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- f. To the extent a party elects to cure any failure by it to comply with its obligations under this Engagement Addendum or a Purchase Order/Statement of Work, all costs and expenses associated with such cure shall be borne solely by the curing party and shall in no event count toward satisfaction of the cap on damages described in this section.
2. The last sentence of Section 2 of ATTACHMENT D to the Contract is hereby **deleted and replaced** with the following:

Subject and according to the exclusion in paragraph 1.a. of the Engagement Addendum and the limitation in paragraph 1.b. of the Engagement Addendum, Contractor will be responsible for the loss of, or unauthorized access to, State Buyer's data and materials to the extent caused by Contractor and only: (1) where Contractor has assumed responsibility for security and backup of data under the applicable Statement of Work; or (2) where such loss or unauthorized access is the result of Contractor's gross negligence, or willful misconduct. State Buyer agrees that it will comply with all State of Washington data security policies.

3. *Ownership/Rights in Data.* All parties agree that all State Buyer data shall be owned by State Buyer.

Material that is owned by Contractor and delivered by Contractor under this Addendum, but is not created under a Statement of Work under this Addendum ("Pre-existing Material"), shall be available to State Buyer (whether under a license or as a service as Contractor and State Buyer may agree in the applicable Statement of Work) for a mutually agreed upon period according to the applicable Statement of Work. Should the Statement of Work not specify a specific period, then Pre-existing Materials shall available for the subscription period for the Services, plus a reasonable time for State Buyer to in-source the services or to transition to another provider.

Unless otherwise provided in a Purchase Order or Statement of Work, all materials provided by Contractor or a Provider under this Engagement Addendum, but not owned by Contractor, are Pre-existing Materials.

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In the event a third party infringement claim is made against any Pre-existing Materials, Contractor will provide prompt, written notice of such claim to the State Buyer that Contractor, or Provider in the case of Provider's Pre-existing Materials, that Contractor or Provider supplies to all of its affected customers.

Where a Statement of Work expressly identifies deliverables developed specifically by Contractor or Provider for the State Buyer and to be owned by the State Buyer, ("Work Product") any such deliverables shall be considered work made for hire under the U.S. Copyright Act, 17 U.S.C. §101 et seq, and shall be owned by State Buyer. Upon payment in full for such Work Product, Contractor agrees to assign and transfer, to State Buyer, the entire right, title and interest in and to all rights in the Work Product developed by Contractor or Provider and any registrations and copyright applications relating thereto and any renewals and extensions thereof. Contractor shall execute all documents and perform such other proper acts as may be necessary to secure for the State Buyer the rights pursuant to this section.

4. *Breach Notice and Security and Audit Requirements.* Unless otherwise provided in the applicable Statement of Work, the provisions of this section apply to a public cloud hosting service provider (called a "Provider" under Attachment D of the Contract) that provides its services under a Purchase Order/Statement of Work under this Engagement Addendum. A Provider may disclose its compliance with the standards set forth in this Section 4 to a State Buyer directly under a confidentiality agreement and Contractor understands that certain Providers have shared such standards with the Participating State directly. Contractor shall not withhold any standards, notices, and reports provided by the Provider to Contractor and its customers in general for the contracted service. Any additional or different security, auditing, or notification standards that a State Buyer wants to apply shall be included in the applicable Statement of Work for the service as Contractor, State Buyer, and the applicable Provider may agree. Unless otherwise provided in a Purchase Order or Statement of Work:

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- a. *Data Breach Notice.* Contractor will require Provider to report, in writing, any unauthorized use or disclosure of State Buyer data in connection with the contracted service, including any reasonable belief that an unauthorized individual has accessed State Buyer data ("Notification Event"). Contractor shall either forward the report to State Buyer immediately following receipt of the report from the Provider after discovery of the Notification Event, or require Provider to submit such report directly to State Buyer. Contractor will require Provider to identify: (i) the nature of the unauthorized use or disclosure, (ii) the State Buyer data used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure (if known), (iv) what Provider has done or will do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Provider has taken or will take to prevent future unauthorized use or disclosure. Contractor will cooperate, and Contractor will require Provider to cooperate, with State Buyer's reasonable requests in the investigation or mitigation efforts of State Buyer following a Notification Event, including cooperating with any third party identified by a State Buyer in connection with such mitigation or investigation efforts.
- b. *Participating State Security Requirements.* Contractor will require Providers to comply with (i)(1) the standards set forth in ISO 27001 and 27002, (2) the objectives and principles set forth in the Auditing Standards Board's Statement on Standards for Attestation Engagements (SSAE) No. 16, and (3) NIST Special Publication 800-53 Revision 3 Moderate-Impact System Baseline; or each of their successor (the "Security Policies"); and, (ii) the Security Policies with respect to (1) any electronic transfer of code or data; (2) prevention of unauthorized access; and (3) prevention of any and all undisclosed programs, extraneous code, self-help code, unauthorized code, or other data that may be reasonably expected to damage data, code, software, systems or operations of any network, system or data.
- c. *Additional Audit Requirements.*
- (1) Contractor (if Contractor is hosting State Buyer data) or each Provider (if Provider is

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hosting State Buyer data) will audit the security of the computers and computing environment that it uses in processing State Buyer data in performing Services/Tools (as those terms are used in Section 1 of Attachment D to the Contract) under this Engagement Addendum and the physical data centers from which such Services/Tools are provided. This audit: (a) will be performed at least annually; (b) will be performed according to ISO 27001 standards; (c) will be performed by independent third party security professionals at Contractor's expense; (d) will result in the generation of an audit report ("Security Audit Report"); and (e) may be performed for other purposes in addition to satisfying this section. Within thirty (30) days of Contractor's completion of the audit if Contractor is hosting State Buyer data, otherwise within thirty (30) days of receipt from Provider, Contractor will provide the Security Audit Report to Participating Entity. At its sole cost and expense, Participating Entity will have the right, through its internal staff, another agency of the Participating State, or a third party auditor, to audit Contractor's or Provider's, if acceptable to Provider, security standards related to the services provided under this Master Contract. Any such audit will occur on Contractor's or Provider's premises, during normal working hours, subject to Contractor's or Provider's reasonable policies and regulations, and no more than once annually. Contractor will be, or Contractor will require Provider to be, responsible for correcting any deficiencies identified in either the Security Audit Report or any Participating Entity security audit.

(2) This provision shall apply to Contractor and to each Provider providing any component of the Services/Tools. Without limiting the generality of the foregoing, any data center provider (if an entity other than Contractor or a Provider) shall constitute a Provider for purposes of this Engagement Addendum.

(i) In connection with providing the Services/Tools, Contractor and Providers shall comply with SOC 1 financial and operational control objectives and SOC 2 criteria for complying with the trust services principles (collectively, the "Control Objectives"). Contractor or Provider shall provide to Participating Entity for its review no later than sixty (60) days prior to the commencement of audits undertaken in this subsection an electronic or written copy of the

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scope of audit (including the services and classes of transactions, procedures, accounting records, control environment and customer reporting) and Control Objectives used or to be used in the audits described below in this subsection. Control Objectives shall include the audit of policies, practices and procedures involving the delivery of the Services via mobile devices and platforms. If Participating Entity determines as a result of any such review that Contractor must comply with additional and/or different control objectives or expand the scope of its audit, Participating Entity shall so notify Contractor in writing and such control objectives and/or expanded scope of audit thereafter shall constitute the scope of audit and/or Control Objectives for purposes of this Engagement Addendum. If Contractor or a Provider wants to change the control environment, reduce the scope of audit or any of the Control Objectives subsequent to the delivery of the last SOC 1 Type 2 Report or SOC 2 Type 2 Report, Contractor shall so notify Participating Entity in writing at least sixty (60) days prior to the proposed change, including identifying the planned effective date of such change, and such proposed changed control environment, scope of audit and/or Control Objective(s) shall be subject to the Participating Entity review process described above in this Section. Contractor shall cooperate with Participating Entity and its auditors (including internal, independent third party, and/or Participating State, auditors) in connection with the terms, obligations and rights set forth in this Section.

(ii) In accordance with the requirements set forth in this provision, Contractor and Provider shall cause a nationally-recognized independent certified public accounting firm to conduct audits with respect to the Control Objectives at least once annually and to promptly prepare, SOC 1 Type 2 Reports and SOC 2 Type 2 Reports following each such audit. Contractor shall deliver to Participating Entity a full and complete electronic copy of each such SOC 1 Type 2 Report and SOC 2 Type 2 Report, each of which must cover the previous calendar year, within thirty (30) days of such report being provided to Provider. Within forty-five (45) days following Participating Entity's written request for a letter updating the most recently issued SOC 1 Type 2 Report or

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SOC 2 Type 2 Report, an authorized senior executive officer of Contractor or Provider shall deliver to Participating Entity a letter that contains a written description of any material changes to the control environment that would adversely affect the prior delivered SOC 1 Type 2 Report or SOC 2 Type 2 Report to cover the time period not covered under the scope of such most recently issued audit report from the date of such report until the date requested in Participating Entity's written request, or if there have not been any such changes, a letter stating that there have not been any changes since the date of the most recently issued report.

(iii) At Participating Entity's sole cost and expense, Participating Entity shall have the right (either through its own audit staff, an independent third party auditor or an agency of Participating State) to conduct reviews and audits of the type covered by SOC 1 Type II Reports and SOC 2 Type II Reports or other reviews and audits to ensure compliance with the Control Objectives and Contractor's or Provider's other obligations. Such reviews or audits will be conducted during regular business hours, will be subject to Contractor's or Provider's reasonable security policies (which will not apply to the extent they prevent or interfere with Participating Entity's right to conduct a review or audit as described in this provision.) and will not unreasonably interfere with Contractor's or Provider's business activities. Further, within the scope of each such review or audit, such reviewers and/or auditors shall have the right to examine and audit the records and question and interview any personnel with knowledge about the Control Objectives and other financial, operational, security, physical or other aspects of the Services. If the report identifies Deficiencies (defined below) requiring remediation, Participating Entity shall deliver to Contractor or Provider a full and complete copy of the report.

(iv) In order to assure auditor independence, within sixty (60) days of the effective date of a Statement of Work under this Engagement Addendum, Contractor shall provide Participating Entity written notice of the auditing firm used by Contractor and the auditing firms used by the Statement of Work

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Provider(s) to conduct audits resulting in SOC 1 Type II Reports and SOC 2 Type II Reports. If Contractor or Provider or any Subcontractor intends to use an auditing firm other than the one identified in such written notice to conduct such audits, at least ninety (90) days prior to the date of such change, Contractor shall provide Participating Entity written notice of the new or replacement auditing firm, Contractor shall discuss with Participating Entity, and address any concerns that Participating Entity may have regarding such change of auditors.

(v) If any SOC 1 Type 2 Report, SOC 2 Type 2 Report or other audit report reveals any deficiencies and/or exceptions with respect to the Control Objectives or otherwise (the "Deficiencies"), Contractor or Provider shall prepare and deliver to Participating Entity a detailed plan for remedying all such Deficiencies (each such plan, a "Remedial Plan"). Contractor or Provider shall deliver such Remedial Plan to Participating Entity within a reasonable period of time following identification of any Deficiencies based on the nature and complexity of the Deficiencies to be remedied, not to exceed thirty (30) days following Participating Entity's written request for same. Contractor or Provider shall bear all costs and expenses associated with correcting all Deficiencies.

5. Notice of Legal Process.

(a) If Contractor is requested or required to disclose any State Buyer data by subpoena, discovery request, or other legal process, and as Contractor determines is permitted under applicable law, Contractor will provide State Buyer with reasonable written notice prior to disclosure so that State Buyer may seek a protective order or other appropriate remedy to prevent the disclosure of such State Buyer data may be sought. Contractor agrees to cooperate with State Buyer in its efforts to obtain such protective order or other appropriate remedy.

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(b) Contractor's supplier or subcontractor. Contractor will require Provider (and its lower tier providers in care, custody and control of State Buyer data) to notify State Buyer as determined permissible under applicable law by the recipient of the request or other legal process, if served with request for State Buyer data by subpoena, discovery request, or other legal process. Contractor will also provide State Buyer with any written notice received from Contractor's suppliers or subcontractors at any lower tier. At State Buyer's cost and expense, Contractor agrees to request its Providers to cooperate with State Buyer in State Buyer's efforts to obtain such protective order or other appropriate remedy.

E. PRIMARY CONTACTS: The primary contact individuals for this Engagement Addendum are the same as set forth in Section 5, *Primary Contacts*, in the Participating Addendum.

F. PRICING

WSCA PUBLIC CLOUD pricing of ATTACHMENT C of the Master Agreement applies to the catalogue services listed thereunder with only the terms of the Master Agreement. Prices for services provided under this Engagement Addendum may differ from the pricing of such ATTACHMENT C, and if different, will be as agreed upon and set forth in the applicable Statement of Work.

G. Reserved.

H. PRICE AGREEMENT NUMBER:

All purchase orders issued by purchasing entities within the jurisdiction of this engagement addendum shall include the Participating State contract number: 01413 and the Lead State price agreement number: MA268.

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I. ENTIRE AGREEMENT:

This Engagement Addendum, the cited Participating Addendum and the Contract, together with their exhibits, and any Statement of Work under this Engagement Addendum shall set forth the entire agreement between State Buyer and Contractor with respect to the subject matter hereof and shall supersede and replace any preprinted terms and conditions contained in, and any additional or different terms of, any Purchase Order issued by the State Buyer. Nothing in this Engagement Addendum or the Participating Addendum shall prohibit a State Buyer and Contractor from entering into a Statement of Work that contains different or additional terms, and such Statement of Work shall have priority. However, the terms of any such Statement of Work will be binding only upon Contractor and the State Buyer that entered into such Statement of Work.

J. ORDER OF PRECEDENCE:

In the event of any inconsistency between the documents in or pursuant to this Contract, the inconsistency shall be resolved in the following order of precedence:

- 1) Applicable federal and state statutes, laws, and regulations;
- 2) A Statement of Work under this Engagement Addendum
- 3) This Engagement Addendum
- 4) The Participation Addendum;
- 5) The terms and conditions of Lead State Contract MA268 including its various attachments and exhibits.

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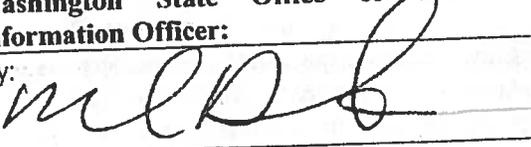
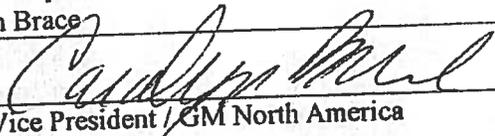
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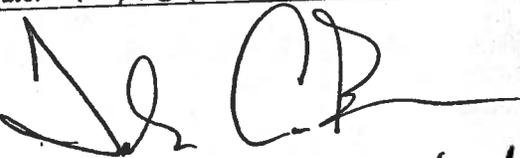
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IN WITNESS WHEREOF, the parties have executed this Engagement Addendum as of the date of execution by both parties below.

Washington State Office of the Chief Information Officer:	Contractor:
By: 	By: Unisys Corporation Caralyn Brace
Name: MICHAEL DEANGELO	Name: 
Title: DEPUTY CIO, STATE OF WA	Title: Vice President / GM North America TCIS
Date: 10/16/13	Date: October 16, 2013


 Procurement Unit Manager