

**PARTICIPATING ADDENDUM**  
**(hereinafter "Addendum")**  
**WESTERN STATES CONTRACTING ALLIANCE**  
**PUBLIC CLOUD HOSTING SERVICES**  
**Administered by the State of Utah**  
**(hereinafter "Lead State")**

STATE OF UTAH STATE COOPERATIVE CONTRACT ("Contract")  
**Unisys Corporation**  
(hereinafter "Contractor")  
Utah Contract Number: MA 268

And

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

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**1. Scope:** This Addendum between Contractor and the state of Washington ("Participating State") acting by and through the Department of Enterprise Services ("Participating Entity") (collectively with Contractor, the "Parties") modifies and amends the Contract between the Contractor and Lead State for PUBLIC CLOUD HOSTING SERVICES for use by state agencies and other entities located in the Participating State authorized by that state's statutes to utilize WSCA contracts. This Addendum is not for personal use.

**2. Participation:** Use of specific WSCA cooperative contracts by agencies, political subdivisions and other entities (including cooperatives) authorized by the Participating State's statutes to use WSCA contracts are subject to the prior approval of the Participating Entity. Issues of interpretation and eligibility for participation are solely within the authority of the Participating Entity.

**INDIVIDUAL CUSTOMER:** Each agency and political subdivision of the Participating State that purchases products/services under this Participating Addendum will enter into a Statement of Work under an Engagement Addendum and executed between Buyer and the Contractor (each a "Purchase Order"). Each Buyer will be treated as if they were Individual Customers. Except to the extent modified by this Addendum, each Buyer will be responsible to follow the terms and conditions of this Addendum; and they will have the same rights and responsibilities for their purchases as Participating Entity has in the Contract. Each Buyer will be responsible for their own charges, fees, and liabilities. Each 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 Buyer individually.

**3. Participating State Modifications or Additions to Contract:**

**A. Modifications to the Contract**

1. The second paragraph of the section titled PATENTS, COPYRIGHTS, ETC. is hereby deleted and replaced with the following:

Contractor will defend and indemnify Participating Entity and Buyer at Contractor's expense against these claims provided (1) Contractor is given prompt written notice of the claim, (2) Buyer and/or Participating Entity uses its best efforts to encourage the Office of the Attorney General of Washington ("Attorney General") to grant Contractor sole control of the defense and all related settlement negotiations and the Attorney General agrees; and

(3) Participating Entity and Buyer reasonably cooperate in the defense and/or settlement of the claim.

Contractor acknowledges and agrees that the state of Washington, through the Attorney General, in its sole subjective judgment/discretion, shall decide whether to give Contractor sole control and authority to defend and settle a claim; if the Attorney General does not give Contractor the sole control and authority to defend and settle the claim, Contractor shall have no obligations under this PATENTS, COPYRIGHTS, ETC. provision for failure of a condition. Without regard to the party that has the sole control and authority to defend and settle a claim, the other party may participate in the defense and settlement of the claim, at its own expense and with counsel of its own choosing. Unisys understands that its participation in the State's defense is subject to the discretion of the Attorney General.

2. The following sentence is **added** to the end of the section titled DEFAULT AND REMEDIES: "All rights granted to WSCA under this section are also granted to the Participating Entity with regard to this Addendum, and to any Buyer with regard to any Purchase Order placed by such Buyer."
3. The following sentence is **deleted** from the section titled DELIVERY: "The minimum shipment amount will be found in the special terms and conditions."
4. The following is **added** to the section titled ASSIGNMENT/SUBCONTRACT: "Participating Entity may assign the Addendum to any state-wide agency, commission, board, or the like, within the political boundaries of the Participating State, provided that such assignment shall not operate to relieve Participating Entity of any of its duties and obligations hereunder."
5. All periods of retention described in the section titled RECORDS ADMINISTRATION are **changed** to six (6) years for records related to this Addendum or any purchase order placed hereunder.
6. The following is **added** to the section titled AUDIT OF RECORDS: "All books, records, documents and other evidence relating to the proper payment of PA Administration Fees under this Participating Addendum shall be subject at reasonable times, and upon prior notice, to examination, inspection, copying, or audit by personnel so authorized by the Participating Entity's contract administrator and/or the Participating State's Office of the State Auditor and federal officials so authorized by law, rule, regulation or contract, when applicable, at the Participating Entity's cost and expense. Contractor will not charge for its participation in or cooperation with such examination, inspection, or audit. During this Participating Addendum's term, Contractor shall provide access to electronic copies of these items within Thurston County, Washington; provided, however, that if originals are requested, Contractor will designate locations for inspection. Contractor shall be responsible for any audit exceptions or disallowed amounts charged by Contractor or any of its Subcontractors in the provision of services under this Participating Addendum."
7. The section titled ENTITY PARTICIPATION is **deleted** in its entirety.

8. *Confidentiality*. The **Confidentiality** Section of Contract MA268 Standard Contract Terms and Conditions is amended as follows:

A. By inserting the following after the words "tools used to provide the Services" in line five:

"(iv) exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other state or federal statutes"

B: The following is added in line twenty after the sentence ending "protection of the information by any lawful means."

Immediately upon expiration or termination of this Addendum or any Purchase Order, Contractor shall, as applicable, at Participating Entity's or Buyer's option: (i) certify that Contractor has destroyed all Confidential Information; or (ii) return all Confidential Information; or (iii) take whatever other steps are required of Contractor to protect such Confidential Information

B. Additions to the Contract

1. *Ownership/Rights in Data*. Any code, concepts, data, designs, developments, documentation, methodologies, materials, multi-media files, processes, programs, software, techniques, technology, text, tools, and web pages furnished by any Buyer ("Buyer Data") and whether or not used by or accessible to Contractor in the performance of Services under an Engagement Addendum or SOW remain the property of such Buyer.

2. *Privacy*. Contractor represents and warrants that it will comply with all state and federal data protection and privacy laws when applicable to Contractor for certain services as provided in an Engagement Addendum or SOW under this Participating Addendum, including but not limited to the Health Information Privacy and Accountability Act, the Gramm-Leach-Bliley Act, and the Family Educational Records Protection Act. Contractor will not use or disclose Buyer Data for any purpose other than to provide services to the Buyer. Contractor and its Subcontractors may disclose Buyer Data to law enforcement as required by law. Each will attempt to redirect the law enforcement agency to request Buyer Data directly from Buyer. If compelled to disclose Buyer Data to law enforcement, each will use reasonable efforts to notify Buyer in advance of a disclosure unless legally prohibited.

3. *Washington Public Records Act*: Contractor acknowledges that Participating Entity and Buyers under this Addendum are subject to chapter 42.56 RCW and that this Addendum shall be a public record as defined in chapter 42.56 RCW. Any specific information that is claimed by Contractor to be confidential must be clearly identified as such by Contractor ("Proprietary Information"). If a public disclosure request is made to view Contractor's Proprietary Information, the requested entity will notify Contractor of the request and of the date that such records will be released to the requester unless Contractor obtains a court order from a court of competent jurisdiction enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, such entity will release the requested information on the date specified.

4. *Contract Activity Report:* Contractor shall submit a quarterly Contract Activity Report of all Cloud Services Hosting products and related services purchased under this Addendum ("Total Cloud Spend"). The report shall identify:
- i. This Addendum's number;
  - ii. The month in which the purchase occurred;
  - iii. Each Buyer, identified by state, local, educational, or other entity, making purchases during the reporting quarter;
  - iv. The total purchase price (excluding tax) for each Buyer;
  - v. The PA Administration Fee (defined below) for each Buyer;
  - vi. The sum of all purchase prices (excluding tax) for all Buyers; and
  - vii. The total amount of the PA Administration Fee.

Reports are required to be submitted electronically, in either Microsoft Word or Excel format, via email to: madmin@des.wa.gov. No quarterly report is required if no activity occurred.

Upon request by Participating Entity, Contractor shall provide, in the format requested, the contact information for all Buyers during the term of this Addendum.

5. *Participating Entity Administration Fee.* Contractor will pay a Participating Entity administration fee not to exceed 0.74% of the Total Cloud Spend for purchases made under this Addendum (the "PA Administration Fee"). Contractor shall hold the PA Administration Fee in trust for Participating Entity until such fees are remitted to the Participating Entity.

The PA Administration Fee will be included in Contractor's pricing, and will not be included as a separate line item on any invoice submitted to a Buyer.

Participating Entity may, at its sole discretion, increase, decrease or eliminate the PA Administration Fee upon ninety (90) days written notice to Contractor. Any change to or elimination of the PA Administration Fee, shall be reflected in contract pricing commensurate with the adjustment.

The PA Administration Fee payment must reference the Contract number, Work Request Number (if applicable) and the year and quarter for which the Management Fee is being remitted. All payments must be sent to:

Name:	Department of Enterprise Services ATTN: Finance Department
Address:	1500 Jefferson Street Mail Stop 41460 Olympia WA 98504-1460
Additional:	Contract #: 01413 Quarter/Year: _____

6. *Schedule.* Contractor will provide PA Administration Fees and Contract Activity Reports quarterly, per the following schedule:

<b>FOR ACTIVITY IN THESE MONTHS:</b>	<b>FEES AND USAGE REPORTS DUE:</b>
January, February and March	May 1st of same year
April, May and June	August 1st of same year
July, August and September	November 1st of same year
October, November and December	February 1st of following calendar year

7. *Failure to Remit Reports and Fees.* Failure of Contractor to remit the reports described above together with the PA Administration Fee may be considered a failure to perform on the part of Contractor, which, if such failure is not remedied after notice and 30 days opportunity to cure may result in Participating Entity terminating this Addendum, the charging of interest or penalties, or the exercise of other remedies provided by law.

8. *Invoice Information.* Contractor will submit properly itemized invoices to the person identified by Buyer at the address provided by Buyer. Invoices shall provide and itemize, as applicable:

- i. Addendum number;
- ii. Buyer's name, address and Order Number;
- iii. Contractor name, address, phone number, and Federal Tax Identification Number;
- iv. Description of Cloud Services Hosting products, including quantity ordered, model and serial numbers;
- v. Description of all Cloud Services Hosting services provided, including hourly rate and total hours for each labor category employed;
- vi. Date(s) of delivery of products or services ;
- vii. Price for each item;
- viii. Total purchase price;
- ix. Applicable taxes;
- x. Other applicable charges;
- xi. Total invoice amount; and
- xii. Payment terms including any available prompt payment discounts.

9. *Publicity.* The award of this Addendum to Contractor is not in any way an endorsement of Contractor or Contractor's products by the Participating State, the Participating Entity, or any Buyer, and shall not be so construed by Contractor in any advertising or other publicity materials. Contractor agrees to submit to a Buyer all advertising, sales promotion, and other publicity materials relating to this Addendum or any Cloud Services Hosting products or related services furnished by Contractor wherein the name of such Buyer is mentioned, language is used, or Internet links are provided, from which the connection of Buyer's name therewith may, in Buyer's judgment, be inferred or implied. Contractor further agrees not to publish or use such advertising, sales promotion materials, publicity or the like through print, voice, the World Wide Web, and other communication media in existence or hereinafter developed without the express written consent of Buyer prior to such use.

Either party may use the other party's name and logo (except for the seal of the state of Washington) in advertising, sales promotion, and other publicity materials relating to this Addendum, without royalty, provided that this Addendum and the relationship between the

parties is not misrepresented.

10. *Governing Law.* Notwithstanding anything to the contrary in the Contract, this Addendum and any purchase order made hereunder will be governed in all respects by the law and statutes of the state of Washington, without reference to its conflict of law principles. The jurisdiction for any action hereunder shall be exclusively in the Superior Court for the state of Washington. The venue of any action hereunder shall be in the Superior Court for Thurston County or the county in which Buyer is located within the Participating State.

11. *Amendments.* No modification, amendment, alteration, addition, or waiver of any section or condition of this Addendum shall be effective or binding unless it is in writing and signed by Contractor and Participating Entity.

**4. (Purposely Left Blank)**

**5. Primary Contacts:** The primary contact individuals for this Addendum are as follows (or their named successors):

Lead State

Name	Pam Rugg
Address	State of Utah, Division of Purchasing and General Services 3150 State Office Building, Capitol Hill PO Box 141061 Salt Lake City, UT 84114-1061
Telephone	801-538-3232
Fax	801-538-3882
E-mail	<a href="mailto:prugg@utah.gov">prugg@utah.gov</a>

Contractor

Name	Tracy Sylvester
Address	Unisys Corporation 801 Lakeview Drive, Suite 100 Blue Bell, PA 19422
Telephone	724-693-8888
Fax	
E-mail	<a href="mailto:tracy.sylvester@unisys.com">tracy.sylvester@unisys.com</a>

Participating Entity

Name	Sylvia Sammons
Address	1500 Jefferson Street SE P.O. Box 41411 Olympia, WA 98504-1411
Telephone	(360) 407-8226
Fax	(360) 407-9174
E-mail	<a href="mailto:sylvia.sammons@des.wa.gov">sylvia.sammons@des.wa.gov</a>

**6. Subcontractors:**

With the prior express written consent of the Participating Entity, the Contractor may use subcontractors; however, the Contractor will be responsible for any agreements with the subcontractors. The Participating Entity is not agreeing to and is not responsible for any terms and conditions with a subcontractor.

**7. Purchase Order Instructions:**

The form of "engagement" and required information on the invoice related to services provided under the Contract have been determined by WSCA and agreed to by the Contractor. Any additional information requirements should be detailed in Paragraph 3 (above).

**8. Contract Number:**

All purchase orders issued by purchasing entities within the jurisdiction of this participating addendum shall include the Addendum Number: 01413; and the Contract Number: MA 268.

**9. Incorporation of Documents:**

Each of the documents listed below is, by this reference, incorporated into this Addendum as though fully set forth herein.

- a) The Contract;
- b) Any Engagement Agreement entered into between Contractor and the Participating State's Office of the Chief Information Officer;
- b) Lead State Solicitation #PR12063, WSCA Posting Public Cloud Hosting Services, dated December 1, 2011 (the "Lead State RFP") and Lead State's Request for Best and Final Offers, #PR12063, dated February 10, 2012 (the "Lead State BAFO"); and
- c) Contractor's proposals submitted in response to the Lead State RFP, dated January 18, 2012 (the "Contractor Proposal"), and the Lead State BAFO, dated February 28, 2012 (the "Contractor BAFO").

**10. Order of Precedence:**

In the event of any inconsistency in this Contract, the inconsistency shall be resolved in the following order of precedence:

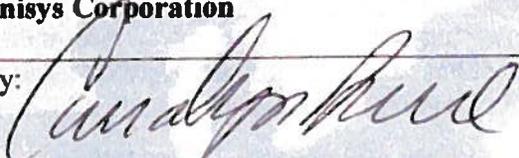
- a) Applicable federal and state statutes, laws, and regulations;
- b) Any Engagement Addendum entered into under this Participating Addendum
- c) This Participation Addendum;
- d) The terms and conditions of Lead State Contract MA268 including its various attachments

This Addendum and the Contract together with its exhibits, set forth the entire agreement between the Parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to, the terms and conditions of this Addendum and the Contract, together with its exhibits, shall not be added to or incorporated into this Addendum or the Contract and its exhibits, by any subsequent purchase order or otherwise without the written consent of both parties, and any such attempts to add or incorporate such terms and conditions are hereby rejected.

WSCA Contract No. MA 288 between Unisys Corporation and the State of Washington, Department of Enterprise Services

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

<b>State of Washington, Department of Enterprise Services</b>	<b>Unisys Corporation</b>
By: 	By: 
Name: <u>Christine Warnock</u>	Name: <u>Carolyn Brace</u>
Title: Chief Procurement Officer	Title: <u>Vice President / GM North America</u>
Date: <u>6/11/13</u>	Date: <u>6/5/13 TCS</u>
<b>State of Washington, Office of the Chief Information Officer</b>	 Procurement Unit Manager
By: 	
Name: <u>MICHAEL DEANGELO</u>	
Title: Chief Information Officer <u>DEPUTY</u>	
Date: <u>6/12/13</u>	

[Additional signatures as required by Participating State]