

**INTERIM COMPREHENSIVE
INFRASTRUCTURE AGREEMENT**

BY AND BETWEEN

THE COMMONWEALTH OF VIRGINIA

AND

**NORTHROP GRUMMAN
INFORMATION TECHNOLOGY, INC.**

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INTERIM COMPREHENSIVE INFRASTRUCTURE AGREEMENT

This Interim Comprehensive Infrastructure Agreement, dated as of November __, 2005, is a contract by and between the Commonwealth of Virginia (the "Commonwealth") acting through the Virginia Information Technologies Agency ("VITA"), and Northrop Grumman Information Technology, Inc. ("Vendor"), a Delaware corporation, having a principal place of business at 2411 Dulles Corner Park, Herndon, Virginia 20171, under which Vendor shall provide the Commonwealth with certain IT services on the terms and conditions set forth below.

For and in consideration of the mutual promises and covenants contained herein, the receipt, sufficiency, and adequacy of which are hereby acknowledged, the Parties, intending to be legally bound, hereby contract and agree as follows:

1. BACKGROUND AND PURPOSE

1.1 The Commonwealth's Objectives

The Commonwealth has undertaken a comprehensive IT infrastructure transformation initiative, the primary goal of which is to significantly improve the Commonwealth's IT systems and the manner in which such systems are operated, supported, and maintained. The Commonwealth therefore desires to engage a service-provider to provide a broad range of IT goods and services related to the ongoing operation, support, and maintenance of the Commonwealth's IT systems and infrastructure, as well as certain transitional services whereby Vendor shall assume responsibility for such IT goods and services from the Commonwealth and certain of its current third-party service-providers. Vendor acknowledges and agrees that the Commonwealth has entered into this Agreement in order to achieve the general objectives identified above in this Section and the following:

- (i) Integrate and manage the IT infrastructure of executive branch agencies;
- (ii) Implement a secure Intranet encompassing in-scope agencies;
- (iii) Establish a state-of-the-art data center and back-up facility;
- (iv) Consolidate agency servers in their most cost-effective locations;
- (v) Implement a desktop management program for all in-scope agencies;
- (vi) Establish a unified statewide electronic mail services;
- (vii) Provide a statewide customer care center;

(viii) Employ innovative procurements, supplier partnerships, and financing arrangements to fund, expedite, and ensure the performance of future initiatives;

(ix) Introduce innovative technology solutions supporting redefined, improved agency mission-critical citizen service programs;

(x) Improve major IT project success rates to best-in-class levels;
and

(xi) Achieve significant annual return on investments.

The Parties agree that the objectives are not intended to expand the scope of Services described herein nor add additional warranties or representations, but that ambiguous or unclear terms are to be construed in a manner consistent with these objectives.

1.2 Proposals

Vendor has represented that it is a competent, qualified, experienced provider of IT and transitional goods and services of the types required by this Agreement, has advised the Commonwealth that it could fulfill and fully satisfy the requirements of this Agreement, and has set forth details of how it would do so, in its proposal dated June 20, 2005, as amended as set forth in the Addendum to the Appendices of Schedule 3.3, and certain other related documents as amended (collectively, the "Proposals").

1.3 Engagement

In reliance upon such representations of Vendor and the Proposals, as described in Section 1.2, and in furtherance of the purposes for which the Proposals were submitted, the Commonwealth hereby engages Vendor to perform all of the Services and other obligations of Vendor that are described in this Agreement, and Vendor hereby accepts such engagement, upon the terms and conditions set forth herein. Vendor shall be the prime contractor and, subject to the terms and conditions hereof, hereby assumes full and total responsibility for obtaining and providing all Software, hardware, documentation, services, and other equipment and resources (other than those resources expressly identified herein as resources to be supplied by the Commonwealth) necessary and appropriate for it to perform the Services and to provide the Deliverables, in accordance with this Agreement. In performing such Services and providing such Deliverables, Vendor shall be subject to the exercise of the Commonwealth's management and oversight functions and prerogatives, and the Commonwealth's retained responsibilities, as described in this Agreement.

1.4 Approval by the Commonwealth

On the date that Vendor executes this Agreement (the "Signing Date"), and for and in consideration of the mutual promises and covenants contained herein, the receipt, sufficiency, and adequacy of which are hereby acknowledged, this Agreement shall constitute the firm offer by Vendor to provide the Services to the Commonwealth for the Fees, in accordance herewith. This Agreement shall not be binding or of any legal force or effect on the

Commonwealth until the authorized execution of this Agreement by the Commonwealth. Notwithstanding foregoing, from the Signing Date until such time as the Commonwealth executes this Agreement (the "Effective Date"), Vendor shall continue planning and working with the Commonwealth to ensure the timely completion of tasks necessary and sufficient to prepare for and achieve a smooth and seamless transition of the IT services related to the ongoing operation, support, and maintenance of the Commonwealth's IT infrastructure from the Commonwealth and certain of its current third party service-providers to Vendor.

1.5 Interim Phase

1.5.1. Activities of the Parties

Beginning on the Effective Date and continuing until June 30, 2006, or such other date as mutually agreed by the Parties in writing (the "Interim Phase"), Vendor shall commence activities related to the Services, including, but not limited to, project planning, development of detailed workplans, designs, schedules, cost projections, procedures and processes required to implement the Services. Within thirty (30) days after the Effective Date, Vendor shall prepare for the Commonwealth's review and approval an Interim Phase Workplan describing the tasks and activities related to the Services to be accomplished by Vendor during the Interim Phase. A preliminary draft of the Interim Phase Workplan providing an outline of the tasks and activities related to the Services to be accomplished by Vendor during the Interim Phase is attached hereto as Schedule 1.5. All tasks and activities to be performed by Vendor pursuant to the Interim Phase Workplan, including the creation thereof, shall be considered Services under this Agreement. During the Interim Phase, VITA will be presenting details and other information relating to the Agreement to the Commonwealth Legislative and Executive Branch members for review. Vendor shall reasonably cooperate with VITA in connection with such efforts as requested by VITA.

1.5.2. End of Interim Phase

The Interim Phase will terminate upon the earlier of: (a) the Chief Information Officer of VITA providing written notice to Vendor that all necessary Commonwealth legislative and executive reviews have been completed; (b) June 30, 2006, unless such date is extended by mutual written agreement of the Parties; or (c) the date on which Vendor receives written notice from the Commonwealth that this Agreement is terminated, it being expressly acknowledged by Vendor that the Commonwealth will have the right to terminate this Agreement during the Interim Phase without further liability, penalty or obligations (other than the compensation obligations set forth below) upon written notice to Vendor. In the event the Interim Phase ends as set forth in subsection (a), above: (i) this Agreement shall automatically move into an operational phase during which all Services as contemplated hereunder will be fully performed by Vendor, and (ii) the Parties shall agree on any necessary adjustments to the scheduled Service Commencement Date. In the event that the Interim Phase ends as set forth in subsection (b) or (c), above, this Agreement shall automatically terminate in its entirety, without any obligation for the Commonwealth to pay Exit Fees or Resolution Fees.

1.5.3. Vendor Compensation

In the event that the Interim Phase ends as set forth in subsection (a), above, Vendor's compensation for the performance of Services during the Interim Phase shall be included as part of the Fees described in Schedule 10.1. In the event the Interim Phase ends as set forth in subsection (b) or (c), above, Vendor shall be compensated by the Commonwealth for the performance of Services during the Interim Phase on a time-and-materials basis at the Hourly Rates set forth in Schedule 10.1, it being agreed by the Parties that such compensation in the aggregate for the Interim Phase shall not exceed \$3,500,000 without the prior written consent of the Commonwealth.

2. TRANSITION OF RESOURCES

2.1 Assets; Ownership Responsibility

Vendor shall be operationally and financially responsible for the replacement of all hardware and software assets in accordance with Section 3.11 and the Technology Refresh Plan, and Vendor shall have all right, title, and interest in such replacement hardware and software assets.

2.2 Contracts

All Contracts shall be treated as Assumed Contracts, Retained Contracts, or Unquantifiable Contracts, and the Parties shall have the financial, operational and managerial responsibilities for such Contracts as further described below. During the first one hundred twenty (120) days after the Effective Date, the Parties shall work together in good faith to validate and finalize the list of Contracts set forth in the Schedule 2.2 attached hereto as of the Effective Date and the classification of such Contracts (i.e., Assumed Contracts, Retained Contracts, or Unquantifiable Contracts) set forth therein. Such finalized and validated version of Schedule 2.2 shall be incorporated herein and replace the version of Schedule 2.2 attached hereto as of the Effective Date.

2.2.1. Assumed Contracts

As of the Service Commencement Date the Parties shall enter into assignment and assumption agreements, in the form attached hereto as Exhibit 2.2.1 (each such agreement, an "Assignment and Assumption Agreement"), pursuant to which the Commonwealth shall assign to Vendor all of the Commonwealth's rights and obligations (including all legal, financial, operational and managerial responsibilities) under the Contracts identified in the final Schedule 2.2 as "Assumed Contracts." Vendor shall be responsible for the performance of all obligations of the Commonwealth under the Assumed Contracts, including payment of all ongoing charges (e.g., maintenance and license renewal) set forth therein and to be performed with respect to periods on or after the Service Commencement Date. In the event that the Parties mutually agree that Vendor shall not take assignment of an Assumed Contract due to a significant fee associated with transferring the Assumed Contract or some other mutually agreed upon reason, Vendor may not take assignment of an Assumed Contract, and instead, Vendor will accept financial, operational and managerial responsibility of such Assumed

Contract as of the Service Commencement Date and for such period until the Parties mutually agree that Vendor will take assignment of such Assumed Contract. If necessary, the Commonwealth will make payment of the ongoing charges therein, and Vendor shall, except during the Current Operations Phase, promptly reimburse or credit the Commonwealth for such charges.

The Parties' further financial responsibilities with respect to the Assumed Contracts shall include:

(a) Vendor shall be responsible for paying all relicensing, transfer, third party administrator/agency and termination fees associated with the Assumed Contracts.

(b) Vendor shall reimburse the Commonwealth for any prepayments in respect thereof (provided that, all "prepayments," as such term is used in this Agreement, shall be for goods or services of which Vendor receives the benefit after the Service Commencement Date and that will be utilized on or after the Service Commencement Date in connection with the performance of Services by Vendor hereunder, including, for example, prepaid support and maintenance service fees) only to the extent such Prepayments are expressly identified in the final Schedule 2.2.

(c) The Commonwealth shall reimburse Vendor for an appropriate proportionate amount of any post-payments made by Vendor under the Contracts (provided that, all "post-payments," as such term is used in this Agreement (for example, with regard to balloon payments), shall be identified by Vendor in writing to the Commonwealth within a reasonable period of time (not to exceed one hundred eighty (180) days) after the Commonwealth's responsibility with respect to the applicable Assumed Contract ceases and shall be for goods or services for which the Commonwealth has received the benefit of such post-payment prior to the Commonwealth's responsibility with respect to the applicable agreement having ceased.

2.2.2. Retained Contracts

(a) General. Except as otherwise set forth herein, the Commonwealth shall retain all legal, financial and operational responsibility for those Contracts identified in the final Schedule 2.2 as "Retained Contracts." Vendor shall manage such Retained Contracts on the Commonwealth's behalf as set forth in the Procedures Manual. The Commonwealth shall use commercially reasonable efforts to obtain for Vendor and Vendors Subcontractors, with all necessary or required cooperation and assistance of Vendor and Vendor's Subcontractors, the right to use or access (but in no event to copy or reverse-engineer) any Software related to the Services (e.g., operating systems and desktop applications installed on Machines) that is the subject of the Retained Contracts, which right shall allow Vendor and Vendor's Subcontractors to use or access such Software: (i) during the Term; (ii) subject to and in accordance with this Agreement and the applicable Retained Contracts, to the extent that a copy thereof is provided to Vendor; and (iii) solely for the purpose of Vendor's performing the Services. Vendor shall in no event transfer any copy of any such Software to any other Machine, nor shall Vendor be able to copy or reproduce such Software. The Commonwealth shall likewise use commercially reasonable efforts to obtain for Vendor and Vendors Subcontractors, with all necessary or required cooperation and assistance of Vendor and Vendor's Subcontractors, any other rights

with respect to the Retained Contracts necessary for the provision of the Services. Vendor and the Commonwealth will meet to discuss access or use rights and third party administrator/agency fees associated with Vendor providing managerial services with respect to such Retained Contracts. Vendor shall reimburse the Commonwealth for (i) all fees charged in connection with obtaining such rights for Vendor and Vendor's Subcontractors; and (ii) all third party administrator/agency fees associated with Vendor providing managerial services with respect to such Retained Contracts.

(b) Shared Contracts. The Commonwealth shall retain all legal, financial and operational responsibility with respect to Retained Contracts that are also Shared Contracts, provided, however, that Vendor shall manage (as set forth in the Procedures Manual) such Shared Contracts and shall be responsible for the performance of those obligations of the Commonwealth including payment of ongoing charges, set forth in the Shared Contracts that relate to the portions of such Shared Contracts applicable to the Eligible Customers receiving Services under this Agreement. Vendor and the Commonwealth will meet to discuss access or use rights and third party administrator/agency fees associated with Vendor providing managerial services with respect to such Shared Contracts. In the event Vendor enters into agreements with Shared Contract vendors: (i) Vendor shall be responsible for all fees, costs and expenses associated with such separate agreements and the negotiation thereof; and (ii) Vendor shall ensure that all usage and volume under such separate agreements related to the Services is credited to the Commonwealth for purposes of the Shared Contract. Vendor shall reimburse the Commonwealth for (x) all penalties imposed under the Shared Contracts relating to any decrease in Commonwealth usage or volumes directly related to Vendor's use of such other agreement with the Shared Contract vendors to provide the Services but only if Vendor failed to obtain the usage or volume credits described in clause (ii) above; (y) all fees charged in connection with obtaining access or use rights for Vendor and Vendor's Subcontractors; and (z) all third party administrator/agency fees associated with Vendor providing managerial services with respect to such Shared Contracts. Vendor shall not be entitled to accept assignment or terminate Shared Contracts.

2.2.3. Unquantifiable Contracts

In the event that (i) there are Assumed Contracts for which the Parties mutually agree that they are unable as of the Effective Date to assess the amount of relicensing, transfer, third party administrator/agency or termination fees associated with Vendor's assumption of such Contracts, or (ii) the parties discover the existence of any unexpected Contract that is not listed as an Assumed Contract or a Retained Contract as of the Effective Date, all such Contracts shall be considered "Unquantifiable Contracts." Either (i) the Parties shall enter into Assignment and Assumption Agreements pursuant to which the Commonwealth shall assign to Vendor all of the Commonwealth's rights and obligations (including all legal, financial, operational and managerial responsibilities) under the Unquantifiable Contracts, or (ii) Vendor shall assume financial (subject to the qualifications set forth in Section 2.2.4 below), operational and managerial responsibility for such Unquantifiable Contracts, but the legal responsibility for such Contracts shall remain with the Commonwealth. Subject to the qualifications set forth in Section 2.2.4 on Vendor's financial responsibilities and clause (ii) above, the Unquantifiable Contracts shall be treated in an identical manner as that described in

Section 2.2.1 with respect to Assumed Contracts, except that prepayments subject to reimbursement by Vendor must be identified by the Commonwealth within one hundred eighty (180) days of the identification of the applicable Unquantifiable Contract.

2.2.4. Financial Responsibility

With respect to the financial responsibility for any relicensing, transfer, third party administrator/agency and termination fees associated with all Contracts, including Unquantifiable Contracts identified within twelve (12) months immediately following the Effective Date (the “Contract Fees Amount”), [financial information redacted by the Commonwealth to maintain the parties bargaining position in relicensing matters with non-parties to this Agreement] Notwithstanding the foregoing, Vendor shall be solely financially responsible for any relicensing, transfer, third party administrator/agency and termination fees associated with all Contracts, including Unquantifiable Contracts, after the above referenced twelve (12) month period. The Parties will use all reasonable efforts to identify all previously unidentified Unquantifiable Contracts within twelve (12) months immediately following the Effective Date.

2.2.5. Obligation to Mitigate Fees

Each Party shall use commercially reasonable efforts to minimize and mitigate all relicensing, transfer, third party administrator/agency and termination fees associated with the Contracts. The Parties agree that, where such fees are likely to exist, the Parties shall work together to agree upon alternative actions and/or solutions that will incur lesser or no such fees while, at the same time, achieving the same allocation of ongoing financial, operational and managerial responsibility with respect to such Contracts.

2.3 Required Consents

With the Commonwealth’s cooperation, Vendor shall obtain, at Vendor’s cost and expense, all Required Consents (other than the Government Approvals, as to which each Party shall take such actions as are required of it by the applicable laws or regulations). The Commonwealth’s cooperation shall include, at the Commonwealth’s cost and expense, the Commonwealth’s performance of all obligations under the Contracts to be performed by it prior to the Service Commencement Date, as described in Sections 2.2, and the Commonwealth’s agreement to abide by the terms of the Contracts after the Service Commencement Date. In the event that any Required Consent is not obtained by Vendor prior to the Service Commencement Date, despite the use of commercially reasonable efforts, then, unless and until such Required Consent is obtained, the Parties shall cooperate with each other in achieving a reasonable alternative arrangement under which Vendor may perform the Services without causing a material breach or violation of any Contract under which a Required Consent is to be obtained. Such reasonable alternative arrangements may include: (i) Vendor’s obtaining such consent to Vendor’s usage of the assets and rights under the Contracts as the relevant third party will agree to provide consistent with the Section 12.4; or (ii) Vendor’s procuring, at Vendor’s cost and expense, a suitable replacement for the Contracts, for which it is unable to obtain the Required Consent.

2.4 Use of Resources

2.4.1. Dedicated Resources

All Machines used in Vendor's performance pursuant to this Agreement, all Commonwealth Software, and all Locations, shall be accessed and used by Vendor and its employees, agents, and Subcontractors, only and exclusively for the provision of Services to the Commonwealth and not for Vendor's (or its Subcontractors') internal use or use for the benefit of third parties, except for any such assets and Locations that will be used by Vendor to provide services to third parties in addition to the Commonwealth (the "Shared Resources"), as designated on Schedule 2.4, or unless Vendor has provided written notice of its intent to use such assets to provide services to third parties in addition to the Commonwealth and the Commonwealth has approved of such use, in writing and in its reasonable discretion, prior to commencement of such use by Vendor. Prior to migrating or relocating any of the Services to a Shared Resource environment, Vendor shall provide to the Commonwealth, for the Commonwealth's approval, a proposal for such migration or relocation, including benefits, savings, or risks to the Commonwealth during the Term and upon the expiration or termination of this Agreement. As part of the Disentanglement process, upon the expiration of this Agreement or termination of this Agreement for any reason, the Vendor shall identify, and assist the Commonwealth in procuring, a suitable, functionally-equivalent replacement for any shared hardware or Software then used by Vendor to provide the Services that are not otherwise transferred to the Commonwealth in a Disentanglement in accordance with Section 15. In the event that Vendor shall provide services to any third party using Shared Resources with which Vendor provides Services to the Commonwealth hereunder, such use with such third party shall be subject to all appropriate confidentiality and security-related provisions, which shall ensure that none of the Commonwealth Confidential Information is shared with any third party, except as permitted hereunder. The Locations described in Section 4 are deemed Dedicated Resources. If Vendor desires to provide services to other Vendor customers from such Locations, Vendor may submit a written proposal describing the proposed use of the Locations, and all Machines and equipment contained therein, and the manner in which the Commonwealth shall share in the benefit of such use of such Locations (which, unless otherwise agreed by the Commonwealth, shall at a minimum be consistent with the requirements set forth in Schedule 10.1).

2.4.2. Shared Resources

Vendor shall use the Shared Resources (if any) in such a manner so as to avoid any material adverse impact or other negative effect on the Systems or the performance of the Services as a result of any other use or user of such Shared Resources. Vendor shall ensure that the Commonwealth is not charged any Fees for the time of Vendor Personnel spent, or any other resources expended by Vendor, while using Shared Resources for the benefit of any Person other than the Commonwealth.

2.5 Joint Verification

During the first three months after the Effective Date, Vendor may gather, inventory, and validate certain information relating to the Contracts, including the existence of material obligations under any such Contract that are not related to the Services to be performed,

or the Deliverables to be provided, by Vendor hereunder. If, during such period, Vendor discovers information causing it to reasonably believe that any particular Contract contains material obligations not related to the Services, Vendor shall promptly bring the matter to the attention of the Commonwealth. If the Parties are subsequently unable to resolve such matter to their mutual satisfaction, either Party may submit such matter to the dispute-resolution process described in Section 24.

3. SERVICES

3.1 Agreement to Perform Services

3.1.1. Definition of Services

As used herein, “Services” means all of the following:

(i) tasks, services, and functions described in this Section 3 and elsewhere in the Agreement or in any of the associated Schedules and Exhibits to this Agreement;

(ii) all IT services being performed by the Affected Employees prior to the Service Commencement Date;

(iii) all IT services accounted for in the categories of the Commonwealth IT Base Case;

(iv) all tasks and services that are incidental, ancillary, customary, or necessary, to and for the performance and receipt of any of the Services and the ongoing operation, integration, modification, configuration, support, and maintenance of the Systems (or the use thereof), or any of the other services described in Section 3 of this Agreement and the associated Schedules, exclusive, however, of services or functions for which the Commonwealth expressly retains responsibility hereunder.

Although the Parties have attempted in this Section 3 and the associated Schedules to delineate the specific services to be provided by Vendor, the Parties acknowledge that some items may not have been specifically identified herein. The specific enumeration in any particular Section of this Agreement of certain of Vendor’s duties or obligations is not an implied limitation on, or alteration of, other duties or obligations imposed on Vendor elsewhere in this Agreement. In the event of any dispute between the Parties as to whether a particular service or function falls within the scope of the services to be provided by the Commonwealth’s third party service-providers, or by the Commonwealth itself, or within the scope of those to be provided by Vendor, such particular service or function shall be considered to be a part of the Services hereunder if, considering all of the provisions of this Agreement the service or function is consistent with the Statements of Work hereunder and is reasonably inferable to be within the scope of the Statements of Work hereunder.

3.1.2. Performance of Services

Vendor shall perform all of the Services, and provide the Deliverables, to and for the benefit of the Commonwealth and applicable Eligible Customers and End-Users, in accordance with the terms of this Agreement, including the provisions of this Section 3, and all Schedules and Exhibits hereto, and with all performance standards, Critical Milestones, timetables, and deadlines set forth therein. If not otherwise provided in this Agreement, with respect to any tasks, functions, and services that are within the scope of Services but with regard to which there is no set or fixed timetable or schedule for performance and which are therefore to be provided upon the Commonwealth's request, Vendor shall promptly perform such Services, or provide the appropriate Deliverables, in accordance with an In-Scope Work Request from the Commonwealth. Subject to any mutually agreed Service Levels or express performance standards set forth herein, Vendor shall use industry best practices and methods to avoid, prevent, and mitigate any material adverse effect on the Systems or the continuity and quality of the Services being provided to the Commonwealth. Except as expressly set forth in this Agreement, Vendor shall furnish all labor, materials, equipment, products, tools, transportation, and supplies required to perform the Services, operate and support and maintain the Systems, and provide the Deliverables. With regard to, and as part of, the Services to be performed, Vendor shall function at all times and in all respects as if it were the Commonwealth's internal data processing and network operations and support department, and Vendor shall perform all Services and functions, and fulfill all responsibilities, appropriately associated with that role.

3.2 Cutover

3.2.1. Preparation

Prior to the Service Commencement Date, Vendor shall make such offers of employment as are necessary in order for Vendor to provide all Services on and after the Service Commencement Date.

3.2.2. Transition

On the Service Commencement Date, Vendor, with the reasonable cooperation of the Commonwealth, shall accomplish the seamless and orderly transition from the manner in which the Commonwealth is then receiving the kinds of services that are encompassed within the Services to be provided by Vendor under this Agreement, to the provision of the Services to the Commonwealth by Vendor. Such transition shall be accomplished by Vendor in accordance with the Transition Plan in a timely, seamless manner, so as to have no material adverse effect upon the Commonwealth or upon the quality or continuity of the Systems, or the services that are to constitute the Services, and without any material impact whatsoever on any of: (i) the Eligible Customers or the End-Users; (ii) the Systems; or (ii) the functions, services, operations, usage, development, support, or maintenance of the underlying IT infrastructure. From and after the opening of business on the Service Commencement Date, Vendor shall ensure that there is no material adverse effect on the quality of the IT-related services provided to the Commonwealth and to the End-Users, that would not have otherwise occurred had the transition or migration contemplated by this Agreement not taken place. If Vendor fails to complete the transition of all Services to Vendor by the transition completion date as set forth in

the Transition Plan, the Commonwealth may terminate this Agreement for cause without opportunity for cure effective as of the date in a corresponding notice of termination. In the event the Commonwealth chooses to exercise its right to terminate as permitted by this Section, the Commonwealth shall provide notice of termination to Vendor within one hundred eighty (180) days following the above date.

3.2.3. Transition Plan

The Transition Plan, an initial version of which is attached as Schedule 3.2 hereto, sets forth a number of tasks, activities, and projects to be completed by Vendor, for the benefit of the Commonwealth, between the Effective Date and such times on or after the Service Commencement Date as all Systems and Services have been successfully transitioned to Vendor. In order to achieve the timely and seamless transition of the Systems and the Services to Vendor, the Transition Plan sets forth the particular party responsible for the completion of each listed task, activity, and project and the date by which such completion shall occur. Within ninety (90) days after the Effective Date, Vendor shall develop to the satisfaction of the Commonwealth, a refined version of the Transition Plan. The tasks, activities, and projects described in the Transition Plan include specific technology development, installation, and procurement activities, and the development and implementation of Vendor's operational and change-control processes for the IT environment at the Locations. Vendor's Relationship Manager shall provide the Commonwealth's Relationship Manager with a written update as to the status and progress of the activities described in the Transition Plan at least weekly, commencing with the Effective Date and continuing until all such Transition Plan activities have been successfully completed.

3.2.4. Early Access

During the period between the Effective Date and the Service Commencement Date, the Commonwealth shall provide Vendor with full access to the Affected Employees, but solely for the purpose of reasonably cooperating with Vendor in the accomplishment of the transition to Vendor's provision of the Services on the Service Commencement Date, and to provide information and answer questions from Affected Employees regarding offers of employment.

3.2.5. Cutover

In the event that the Commonwealth determines, in its sole discretion, at any time during the transition of the Services, and of the operation and support and maintenance of the System, to Vendor, that the Commonwealth, the End-Users, or the quality or continuity of the Services or the Systems has been materially and adversely affected in any way, or that any such material and adverse effect seems reasonably likely to occur, then upon notice the Commonwealth may direct Vendor to stop and proceed no further with such transition until such time as Vendor shall have: (i) analyzed the cause of such effect; (ii) developed a reasonable plan for resuming such transition in such a manner as to eliminate or avoid such effect (and any other negative or adverse consequences of such transition; and (iii) received the Commonwealth's approval to proceed with such transition, which approval shall not be unreasonably withheld. Following any resumption of the transition of the services to Vendor, if the Commonwealth again determines that a material and adverse effect has occurred, then the process described

above in the Section 3.2.5 shall be repeated. Nothing in this Section 3.2.5, nor the Commonwealth's exercise of its rights, as described above, pursuant to this Section 3.2.5, shall in any way reduce, limit, or obviate any obligation of Vendor to meet any unaffected Critical Milestone or schedule, target, completion schedule, or commitment specified in this Agreement.

3.3 Statements of Work

From and after the Effective Date, at all times during the Term, except as otherwise expressly stated herein, Vendor shall perform all of the tasks and functions, provide the Commonwealth with all of the Services, and fulfill all of the responsibilities and obligations described in this Agreement (including in the statements of work included in Schedule 3.3 hereto (each, a "Statement of Work") and all other Schedules and Exhibits hereto), as such tasks, functions, services, responsibilities, and obligations may be modified, supplemented, and enhanced during the Term, in accordance with this Agreement.

3.4 Administrative Services

As an integral part of each category of Services, Vendor shall provide all administrative and clerical Services required to ensure the prompt, efficient, and productive functioning of all Vendor Personnel and Managed Employees. Such Services shall include: ensuring appropriate cost and budget performance under the Agreement and preparing and delivering all financial and status reports; managing the current budget and planning and forecasting future-year budgets; preparing and distributing all contract Deliverables; ordering supplies; preparing payroll and billing; maintaining inventories of supplies, technology, and equipment; entering and compiling data from statistical and other reports required by the Commonwealth; promptly filling all Vendor Personnel vacancies through the recruiting and hiring of qualified individuals; participation in required reporting-functions, including the preparation of periodic reports and annual-plan updates, in accordance with Section 17.1; and performing other business functions that are necessary to enable and facilitate the performance of the Services, and the operation and support and maintenance of the Systems, in accordance with this Agreement.

3.5 Technological Improvements

The Parties acknowledge that the Services will evolve and be supplemented, modified, enhanced and/or replaced in the normal course of business during the Term, both to keep pace with and utilize technological advancements and improvements in the method of delivering IT-related services, and to keep pace with changes and additions to the services and products offered by the Commonwealth. Vendor also acknowledges that the IT environment is critical to the Commonwealth's business success, that the Commonwealth's needs and requirements with regard to the IT environment shall evolve and change over time, and that the need for new or modified functionality will arise from time to time. Therefore, from time to time during the Term, but not less frequently than once each Contract Year, Vendor shall meet and confer with VITA and suggest any reasonable and appropriate changes needed or that might be considered to keep pace with and take advantage of the latest and most useful technological advancements and improvements in Vendor's performance of the Services and the use, operation, support and maintenance of the Systems, and any changes to the Fees that would be

associated with the development, implementation, and use of such advancements and improvements. VITA may consider such suggestions, along with other factors affecting or related to the Commonwealth's need for IT services. Any such suggestions that VITA approves and requests Vendor to develop and implement following such discussions shall be promptly developed, delivered and implemented by Vendor, subject to reasonable and thorough acceptance testing procedures.

3.6 Asset-Related Responsibilities

With regard to the Commonwealth's IT environment, Vendor shall at all times:

(a) have sole support, operational, administrative, and financial responsibilities for the refreshed assets;

(b) have sole procurement responsibilities and support/operational responsibilities for the refreshed assets that are necessary to and for the performance and delivery of any Services in accordance with this Agreement; and

(c) be the owner, licensee or lessee, as the case may be, of such refreshed assets as are described in clauses (a) and (b) above;

(d) subject to Section 2.2, be the licensee of other Software that is to be used in the performance of the Services, or the operation and support and maintenance of the Systems, in accordance with this Agreement, if so doing would not adversely affect the cost to the Commonwealth of receiving the Services or operating its business, or the potential cost (other than applicable transfer fees) that the Commonwealth would incur in Disentanglement.

Such responsibilities as described above in this Section 3.6 shall be effective on, and shall be performed by Vendor with respect to all periods during the Term on or after, the Service Commencement Date. Vendor shall have responsibility for upgrading, modifying, or replacing hardware and Software as may be necessary for the performance of the Services in accordance with the Service Levels and the other requirements of this Agreement, or as may otherwise be Vendor's responsibility in connection with the technology refreshments obligations described in Section 3.11. Projects and required Software, hardware and services (other than Current Projects, as described in Section 3.7) initiated by the Commonwealth after the Effective Date, without the prior written consent of Vendor (which consent may not be unreasonably withheld), and that require upgrading, modifying, or replacing of hardware or software, will remain the responsibility of the Commonwealth. Assets that are no longer being used in connection with the Services hereunder shall be disposed of by Vendor in accordance with procedures set forth in the Procedures Manual and the other requirements of this Agreement, and in accordance with Commonwealth policies and procedures for the removal of data from, and recycling of, such assets, including the disposal of the assets themselves. In fulfilling its obligation to procure resources (including technology refreshments) hereunder, Vendor shall provide the Commonwealth with new assets, and Vendor shall not be entitled to fulfill such obligation through the use of repaired, refurbished, or reconditioned assets; provided that the Commonwealth acknowledges that Machines may be maintained, or upgraded as part of technology refreshments, using some refurbished parts warranted as new. If assets are made

excess through a reduction in ordered Services, Vendor shall be entitled to re-utilize such assets for the remainder of the unutilized useful life of such assets (based upon the technology refresh schedules) as if such assets were new. Except as expressly provided otherwise in Section 3.5, Section 3.6 or Section 3.11, Vendor shall procure such resources and technology refreshments at no additional cost to the Commonwealth. Vendor shall schedule such procurements and technology refreshments in advance and in such a way as to prevent any material interruption or disruption of Services to the Commonwealth or any of the End-Users. Vendor shall be required to obtain the prior written consent of the Commonwealth before acquiring, maintaining, upgrading, or refreshing any asset that is used or to be used by the Commonwealth, Vendor, or third parties in connection with the provision of the Services, if such acquisition, maintenance, upgrade, or refreshment could reasonably be expected to result in any additional cost to the Commonwealth, whether in the Commonwealth's daily operations or upon or during Disentanglement, or any diminution in the nature or level of performance of any portion of the Services.

3.7 Current Projects

On the Service Commencement Date, at no additional charge to the Commonwealth, Vendor shall assume responsibility for continuing the development and implementation of all Current Projects without material interruption and either (i) in accordance with then current written Commonwealth plans for such Current Projects, if such plans exist and have been furnished to Vendor, or (ii) if no such written plans have been furnished to Vendor, as such Current Projects are being performed as of the Service Commencement Date. Within ninety (90) days after the Service Commencement Date, Vendor shall provide the Commonwealth with a written evaluation and assessment of the status of all Current Projects known to Vendor.

3.8 Procedures Manual

Within ninety (90) days after the Service Commencement Date, Vendor shall develop to the satisfaction of the Commonwealth, a Procedures Manual applicable to all of the Commonwealth's IT environment and the Services, except that, to the extent any complete portions of the Procedures Manual are developed prior to the expiration of such ninety (90) day period, Vendor shall deliver such complete portions to the Commonwealth as soon as they are so developed. In addition, Vendor shall provide an outline or table of contents for the Procedures Manual on or before the Service Commencement Date. The Procedures Manual shall address each of the items described in Schedule 3.8 hereto. The Commonwealth reserves the right to identify (at any time, and from time to time, during the Term) and notify Vendor of such other items, in addition to those listed in Schedule 3.8, that the Commonwealth may reasonably deem appropriate for inclusion in the Procedures Manual. At least thirty (30) days prior to each anniversary of the Service Commencement Date, Vendor shall revise the Procedures Manual as appropriate to reflect any changes to the Commonwealth's IT environment, or related requirements, and submit such revised Procedures Manual to VITA for review, comment, and approval. The Procedures Manual shall be owned by the Commonwealth. Upon the Commonwealth's approval (which is not to be unreasonably withheld) and not extending portions containing Commonwealth Confidential Information, Vendor may re-use generic portions of the Procedures Manual for its business purposes.

3.9 Disaster Recovery Plan

Vendor shall strictly adhere to and conform with the Disaster Recovery Plan. An outline and guideline of requirements for such Disaster Recovery Plan is attached hereto as Schedule 3.9. Within ninety (90) days after the Service Commencement Date, Vendor shall develop to the satisfaction of the Commonwealth, the initial version of the Disaster Recovery Plan. The Disaster Recovery Plan shall address and protect the Commonwealth's critical IT environment. The "critical IT environment" is defined as the mission critical applications that are processed on the mainframes and servers currently identified within the Commonwealth SunGard contract as of September 15, 2005. The Commonwealth may (at any time, and from time to time, during the Term) identify and notify Vendor in writing of other items that the Commonwealth reasonably deems appropriate for inclusion in the Disaster Recovery Plan. Vendor shall promptly review and discuss with the Commonwealth all such additional items and, unless the Commonwealth agrees otherwise in writing, promptly revise the Disaster Recovery Plan to properly address such additional items. The Parties acknowledge that there may be an additional Fee for covering those items. In addition, prior to each anniversary of the Service Commencement Date, Vendor shall revise the Disaster Recovery Plan as appropriate to reflect any changes to the Commonwealth's IT environment, or related requirements, and submit such revised Disaster Recovery Plan to VITA for review, comment, and approval. Vendor shall also periodically (not less than once per Contract Year) test the procedures set forth in the Disaster Recovery Plan to ensure that Vendor is capable of promptly and successfully executing them. Vendor shall promptly provide the Commonwealth with a written report summarizing the results of each such test and promptly take appropriate action to cure all deficiencies, and resolve all problems, that are discovered as a result of each such test, performing re-testing as necessary to ensure that such cures and resolutions are effective. The occurrence of a Force Majeure Event shall not relieve Vendor of its obligations to provide disaster recovery Services pursuant to this Section 3.9 and in accordance with the Disaster Recovery Plan, except in the event and to the extent that such Force Majeure Event, or another Force Majeure Event, materially and adversely affects or prevents the performance of such disaster recovery Services. Except as provided in the immediately preceding sentence, and notwithstanding any other provisions related to the occurrence of a Force Majeure Event or anything else to the contrary in this Agreement, any material breach or material violation by Vendor of its obligations regarding execution of the Disaster Recovery Plan during a disaster shall be deemed an incurable and material breach of this Agreement by Vendor.

3.10 Security Management Services

Vendor shall provide appropriate and comprehensive security Services, as further described in Appendix 2 to Schedule 3.3, using industry best practices and methods, commercially available technology, to at all times ensure the security, integrity, and confidentiality of the Systems and Commonwealth Data, and to protect against unauthorized access to, use of, or intrusion into, the Systems and unauthorized disclosure of the Commonwealth Data. Without limiting anything set forth in the Statements of Work, such Services shall include, in accordance with Section 13, providing a centralized Vendor security organization or group that is responsible for all aspects of such security Services, routinely performing all necessary and appropriate security assessments and evaluations, developing and

implementing a security plan (subject to the reasonable written approval of the Commonwealth) that conforms in all respects to the requirements of all applicable federal, state and local laws, regulations, and ordinances relating to security, privacy, or confidentiality, ensuring compliance with Commonwealth and VITA security policies and procedures provided or made available to Vendor, performing all necessary and appropriate security-related audits and reports, and promptly providing VITA with a full and complete copy of each such report. Vendor shall also (A) provide physical security for the new Richmond Enterprise Solution Center and the Southwest Enterprise Solution Center and any other Vendor-owned and leased buildings and facilities, (B) manage physical security, in support of the delivery of the Services, of Locations that are managed by VITA as of the Services Commencement Date, (C) provide IT security-awareness training programs for all Vendor Personnel and, as requested by the Commonwealth, for the Commonwealth personnel, and (D) provide operational support of security processes for the Systems. Specific security-related issues that shall be appropriately addressed by Vendor in providing the Services include, in accordance with Section 13: (i) physical security of the new Richmond Enterprise Solution Center and the Southwest Enterprise Solution Center and any other Vendor-owned and leased buildings and facilities, including security guards, physical barriers to entry, and appropriate hardening of facilities; (ii) administering, auditing, and maintaining appropriate physical and logical access controls (with multiple, redundant layers) at all points of ingress or egress to the Locations and the Systems, including firewalls, intrusion monitors (including network-based detection), appropriate compartmentalization, encryption (128-bit or higher) of sensitive or confidential transmissions, and methods to ensure secure wireless and remote access; (iii) installation and implementation of tools to appropriately protect the Systems from viruses and other Disabling Devices (in accordance with Section 3.15), denial-of-service attacks, malicious email attachments, and other security threats; (iv) prohibiting and disabling the use of activities that involve a high security risk, including chatting and scripting; and (v) implementing and enforcing appropriate and thorough policies and procedures to ensure the ongoing security of the Locations and the Systems, including policies that address proper systems configuration management, appropriate use of filtering and monitoring tools (and proper analysis of the output of such tools), and maintaining appropriate backups and procedures for handling incidents that may arise or security breaches that may occur.

3.11 Technology Refresh Plan

The Technology Refresh Plan, attached as Schedule 3.11 hereto, describes in detail Vendor's commitments to periodically refresh, at no additional cost to the Commonwealth, the technology used to deliver the Services or otherwise in connection with the Commonwealth's IT environments. At least forty-five (45) days prior to each anniversary of the Service Commencement Date, Vendor shall revise the Technology Refresh Plan as appropriate to reflect any changes to such environment, and related requirements, and submit such revised Technology Refresh Plan in writing to VITA for review and comment. Within thirty (30) days after receipt of such revised Technology Refresh Plan, VITA shall notify Vendor in writing whether such revised plan shall have been accepted by the Commonwealth, in its reasonable discretion, or otherwise describe in reasonable detail the deficiencies of such revised plan, in which latter case Vendor shall have an additional period of fifteen (15) days to make further revisions and resubmit such revised plan to VITA for review, comment and, when such revised plan is

reasonably acceptable to the Commonwealth, approval. Such obligations of Vendor to refresh technology shall continue according to the schedule set forth in the Technology Refresh Plan until expiration or termination of the Term, including continuation throughout any renewals or extensions of the Term that may occur in accordance with Section 14.1. For example, in no event shall Vendor be excused from any scheduled technology refreshment obligations scheduled to be performed in the final months of the Term, as such Term may have been renewed or extended. Vendor shall be obligated to refresh technology pursuant to this Section 3.11 at no additional cost to the Commonwealth so long as the original Technology Refresh Plan is adhered to. Upon the implementation of each revised Technology Refresh Plan pursuant to this Section 3.11, there may be an appropriate adjustment in Fees to the extent that Vendor's obligations thereunder are changed from those under the original Technology Refresh Plan.

3.12 Service Levels

3.12.1. Service Level Commitment

Except as otherwise specified in this Agreement, from and after the respective dates set forth for the effectiveness of the Service Levels set forth in Schedule 3.12, Vendor shall perform each of the Services at levels that are equal to or better than the highest or best of (a) the Service Levels applicable to such Services, (b) the accepted industry norms applicable to the performance of such Services by top tier service providers, if such industry norms are documented and verifiable, or (c) the verifiable levels of accuracy, quality, completeness, timeliness, responsiveness and resource efficiency received by any Eligible Customer in the twelve (12) months prior to the Service Commencement Date; provided that to the extent the Parties have established a Service Level for a specific Service, the qualitative levels of effort described herein regarding Vendor's obligations in, such as those in subpart (b) and (c) above, shall not be construed so as to modify, expand or supersede the specific Service Level. Vendor shall be responsible for meeting or exceeding the applicable Service Levels even where doing so is dependent on the provision of Services by Subcontractors or other non-Vendor Personnel acting under the project-management direction of Vendor, including the Managed Employees. The Service Level methodology applicable to the Service Levels is set forth in Schedule 3.12. Any resources or Machines utilized by Vendor pursuant to the terms hereof shall incorporate methods permitting measurement of all performance-related Service Levels. Vendor shall measure and compare the actual or observed performance resulting from Vendor's performance of the Services with the Service Levels during each month. Vendor shall prepare and deliver or make available to VITA, by the tenth (10th) business day of the following month, a Service Level report of the form described, and with such other characteristics as are listed, in Schedule 17.1.

3.12.2. Monitoring and Measuring Tools and Processes

Vendor shall implement measurement and monitoring tools and produce the metrics and reports necessary to measure its performance against any of the Service Levels and shall deliver to VITA such reports in accordance with the frequency set forth in Schedule 3.12. Upon request in connection with an audit, and at no additional charge to the

Commonwealth, Vendor shall provide the Commonwealth or its designees with information and access to tools and procedures used to produce such metrics.

3.12.3. Changes to Service Levels

In addition to Vendor's continuous improvement obligations set forth in Schedule 3.12, the Parties shall review and discuss possible adjustments to the Service Levels from time to time, but not less frequently than at the end of each Contract Year. Within thirty (30) days after the end of each Contract Year, the Commonwealth may propose reasonable and appropriate adjustments or changes to the Service Levels to Vendor in writing, in accordance with Schedule 3.12. Vendor shall review each such proposal, and notify VITA in writing of any reasonable objections within ten (10) days. The Parties shall then use all commercially reasonable efforts to negotiate in good faith to resolve any differences regarding such proposed changes and implement a version of such proposed changes that is acceptable to each Party. Throughout the Term, Vendor shall also continuously evaluate Service Levels and Service Level performance, providing VITA with written suggestions for proposed changes at least once every six (6) months. Vendor shall also make any new and better ways to improve, or to measure and monitor, its performance that it discovers promptly available to the Commonwealth.

3.12.4. Earn Back Credits

Under certain circumstances as specified in Schedule 3.12, Vendor shall be entitled to receive Earn Back Credits for the provision of Services at levels that surpass the Service Levels.

3.13 Root Cause Analysis, Predictive Analysis and Resolution

3.13.1. Process

Upon Vendor's discovery of, or, if earlier, Vendor's receipt of a notice from the Commonwealth in respect of, (i) Vendor's failure to meet a Critical Milestone, or (ii) Vendor's failure to provide the Services, or to operate, support, and maintain the Systems, in accordance with the Service Levels and this Agreement, Vendor shall promptly (in any event, within ten (10) days) or, in the case of a failure described in clause (i) above, immediately, commence performing a Root Cause Analysis to identify the cause of such failure and (a) in the case of a failure described in clause (i) above, complete all work and activities associated with such Critical Milestone, (b) in the case of a failure described in clause (ii) above, correct such failure (regardless of whether caused by Vendor), and (c) provide VITA and the applicable Eligible Customer with a written report describing in detail the cause of, and procedure for correcting, such failure and providing the Commonwealth with reasonable evidence that such failure will not recur. The correction of any such failure shall be performed entirely at Vendor's expense unless it has been determined, by mutual agreement of the Parties or through the dispute-resolution process set forth in Section 24, that Vendor was not a material, contributing cause of such failure or that a breach or default by the Commonwealth (or any agent, subcontractor, or other third party under the direction and control of the Commonwealth), with regard to any of its duties and obligations under this Agreement, was the direct and predominant contributing cause of such failure, and that Vendor could not have reasonably avoided, worked

around, or promptly mitigated the effects of, such failure without expending a material amount of additional time or resources. In the event that all of the conditions of the immediately preceding sentence are met, then to the extent that such a breach or default by the Commonwealth (or any agent, subcontractor, or other third party under the direction and control of the Commonwealth) was the cause of such failure: (A) with regard to a failure by Vendor to provide the Services, or to operate, support, and maintain the Systems in accordance with the Service Levels, the Commonwealth shall reimburse Vendor for Vendor's expenses reasonably incurred in the correction of such failure; and (B) with regard to a failure by Vendor to meet a Critical Milestone, Vendor shall be entitled to temporary relief, and shall be excused, from its obligation to meet such Critical Milestone. For purposes hereof, the pre-existing condition and capabilities of the Commonwealth's properties and systems shall not be deemed to be a material cause of any failure.

3.13.2. Resolving Disputes

In the event of any dispute as to whether a particular defect, malfunction, or other difficulty was caused by products or Services furnished by Vendor or by products or services furnished by any third-party provider of the Commonwealth Resources, then Vendor shall promptly perform a Root Cause Analysis, as described in Section 3.13.1, soliciting input from VITA, the applicable Eligible Customer and the involved third parties, as appropriate. Vendor shall promptly share the report of such analysis with the Commonwealth and involved third parties in a good faith effort to resolve any such dispute. If the dispute is not so resolved, then such dispute shall be handled in accordance with the dispute-resolution principles set forth in Section 24 of this Agreement.

3.13.3. Pending Disputes

Unless otherwise directed by the Commonwealth, and notwithstanding the pendency of any dispute or Root Cause Analysis as to the cause of a defect, malfunction, or difficulty, Vendor shall take prompt and reasonable steps to correct such defect, malfunction, or difficulty. To the extent that it is determined, based on the results of the Root Cause Analysis, that Vendor or Vendor's Subcontractors, or any products or services furnished by Vendor, were responsible for such defect, malfunction, or other difficulty, such correction will be at Vendor's cost. To the extent that it is determined, based on the results of the Root Cause Analysis, that any party or parties other than Vendor or Vendor's Subcontractors were responsible for such defect, malfunction, or other difficulty, such correction will be at the Commonwealth's cost, and the Commonwealth and Vendor shall, within thirty (30) days, negotiate in good faith a fair amount to be paid to Vendor for Vendor's corrective activities.

3.13.4. Predictive Analysis

During the Term, Vendor shall proactively monitor the use and performance of the Services and the Systems, including the analysis of historical trends and usage data and information, so as to identify circumstances that pose a risk of Vendor's failure to meet a Critical Milestone, or to provide the Services, or to operate, support, and maintain the Systems, in accordance with the Service Levels and this Agreement. Vendor shall promptly (in any event, within fifteen (15) days) take appropriate action to eliminate any such identified risks.

Such actions shall be performed entirely at Vendor's expense except as otherwise provided in Schedule 10.1.

3.14 Systems Compatibility and Integration

3.14.1. Compatibility of Resources

Vendor shall ensure that the Systems, all Services, and all Software, hardware, equipment, and other resources and materials (collectively, the "Provided Resources") that are provided by Vendor to the Commonwealth, otherwise utilized by Vendor, or approved by Vendor for utilization by the Commonwealth, in connection with the use or operation of the Systems, or with the providing or receiving of the Services, shall be successfully and fully integrated and interfaced with, and shall be compatible with, all applicable Commonwealth Software and all other applicable Software, services, systems, items, and other resources (collectively, the "Commonwealth Resources") that are owned by or leased or licensed to the Commonwealth, or that are provided to the Commonwealth by third-party service-providers, and, except as otherwise provided in this Agreement, Vendor shall, with the Commonwealth's reasonable cooperation, use reasonable efforts to ensure that neither the Systems nor any of the Services, nor any other items provided to the Commonwealth by Vendor, shall be adversely affected by, or shall adversely affect, any the Commonwealth Resources, whether as to functionality, speed, interconnectivity, reliability, availability, performance, capacity, responsiveness, or otherwise. Vendor shall be the Commonwealth's representative for the purpose of, and Vendor will be responsible for, managing the Commonwealth Resources and coordinating necessary activities of the Commonwealth, and its third-party service-providers, to the extent necessary and appropriate to ensure that the Provided Resources are successfully integrated and interfaced with, and compatible with, the Commonwealth Resources.

3.14.2. Integration and Cooperation

To the extent that any interfaces need to be developed or modified in order for the Provided Resources to integrate fully and successfully, and be compatible, with the Commonwealth Resources, Vendor shall be responsible for the development or modification of such interfaces and for such integration, and all such activities shall be deemed to be Services within the scope of this Agreement. At all times during the Term and during the period in which Vendor is obligated to provide Disentanglement Services pursuant to Section 15, Vendor shall work as requested with other service-providers of the Commonwealth to coordinate the provision of Services and the use, operation, support, and maintenance of the Systems with the services and systems of such other service-providers. Such coordination shall include: (i) facilitating with such other relevant service-providers the timely resolution of all problems that may arise and impact the Systems or the Services or the respective use, operation, support, maintenance, or provision thereof, regardless of the actual or suspected root cause of such problems, and using all commercially reasonable efforts to obtain and maintain the active participation, cooperation, and involvement of such other service-providers as is required for such problem-resolution; (ii) providing information concerning any or all of the Provided Resources or the data, computing environment, and technology direction used in operating, supporting, and maintaining the Systems and providing the Services; (iii) working with the Commonwealth's other service-providers in the integration of the Systems and the Services with the Commonwealth

Resources in the Commonwealth's environment and, as reasonably requested, the integration and interfacing of the services of such other service-providers with the Systems and the Services; (iv) providing reasonable access to, and use of, the Provided Resources; and (v) performing tasks reasonably assigned to Vendor in connection with the Systems and the Services and all of the foregoing activities described in this sentence. If any of the foregoing require the disclosure of any proprietary information or confidential information of Vendor or any of its Subcontractors to any third party, such third party shall enter into a Confidentiality Agreement, with terms at least as restrictive as those in this Agreement with the Commonwealth, that names Vendor or the applicable Subcontractor as a third-party beneficiary.

3.15 Viruses; Disablement

Vendor shall use industry best practices regularly to identify, screen, and prevent any Disabling Device in resources utilized by Vendor or the Commonwealth (if managed by Vendor) in connection with the provision or receipt of the Services and shall not itself knowingly or intentionally install (and shall prevent its Subcontractors from knowingly and intentionally installing) any Disabling Device in resources utilized by Vendor, the Commonwealth, or any Subcontractor, in connection with the provision or receipt of the Services. A "Disabling Device" is a virus, timer, clock, counter, time lock, time bomb, or other limiting design, instruction, or routine that would purposely and inappropriately erase data or programming or cause any resource to become inoperable or otherwise incapable of being used in the full manner for which such resource was intended to be used. Vendor shall assist the Commonwealth in reducing and mitigating the effects of any Disabling Device discovered in any resource related to the provision or receipt of the Services, especially if such Disabling Device is causing a loss of operating efficiency or data. Timers, clocks, counters, and time locks included as part of any commercial Software by the manufacturer of that Software shall not be considered Disabling Devices for purposes of this Section 3.15.

3.16 ISO 9000 Standards

Vendor shall utilize procedures and processes that are consistent with ISO 9000 certification (or such certification class as shall succeed ISO 9000, as applicable) with respect to its provision of the Services and shall continually ensure that all of its procedures and processes comply with the requirements of such certifications or successor certifications. In addition, Vendor shall ensure that it, its employees, agents, and Subcontractors take no action that results in the Commonwealth losing any ISO 9000 or similar quality certification in existence as of the Effective Date, or which the Commonwealth obtains or seeks to obtain after such date.

3.17 End-User Satisfaction and Communications

VITA, or a third party engaged by VITA, shall conduct End-User satisfaction surveys semi-annually during the Term, or more frequently as the Commonwealth may reasonably request. Vendor shall provide reasonable assistance to VITA to: (i) identify the appropriate sample of End-Users who shall receive such surveys; (ii) distribute the surveys to such End-Users; and (iii) encourage participation by such End-Users in completing such surveys, in order to obtain meaningful results. VITA shall gather, analyze, and evaluate the results of the survey, and such results shall be reviewed with the Vendor Relationship Manager. VITA, with

Vendor's assistance, shall develop an IT improvement plan, which shall propose changes to the Commonwealth's and Vendor's IT policies and practices that incorporate the results of, and reflect information learned from, the End-User satisfaction surveys. Such IT improvement plans, and the results achieved through the use thereof, shall be reviewed by the Parties, and such plans modified appropriately, not less frequently than once each Contract Year.

3.18 Non-Exclusivity

Nothing herein shall prevent the Commonwealth from providing for itself or obtaining from any third party, at any time during the Term or thereafter, the Services, the Deliverables, or the Systems, or any type of products or services in any way analogous, similar, or comparable to the Services, the Deliverables, or the Systems, as applicable, or any other products or services. Nor shall anything in this Agreement be construed or interpreted as limiting the Commonwealth's right or ability during the Term to increase or decrease its demand for Services hereunder. In the event that the Commonwealth elects to provide for itself (or engage third parties to provide for it) any IT services not provided under this Agreement, Vendor shall provide to the Commonwealth, or its chosen service-provider, reasonable cooperation, assistance, and access, as necessary (to the employees of Vendor and Vendor's Subcontractors, and to the Locations and the IT infrastructure of the Systems), to facilitate the integration and interfacing of such other IT with the Systems, the Services, and the Deliverables. This Section 3.18 shall not be construed so as to reduce or negate the Minimum Revenue Commitment set forth in Schedule 10.1.

3.19 Future Work

Except as otherwise provided elsewhere in this Agreement, Vendor and Key Subcontractors shall be free to compete for additional or further business or contracts with the Commonwealth on an equal basis with other contractors. If Vendor or a Key Subcontractor, in performing the Services or otherwise in its performance under this Agreement, actively participates in the development of specifications or statements of work, all or a portion of which are incorporated into a request for proposal or other solicitation for bids, Vendor and such Key Subcontractor, whether as a prime contractor or a subcontractor, shall be ineligible to bid for or perform work under any subsequent contract entered into by the Commonwealth pursuant to, or as a direct result of, such request for proposal or solicitation.

3.20 Location of Performance

Except where Vendor obtains the Commonwealth's prior written approval, Vendor shall perform all of the Services only from or at Locations within the geographic boundaries of the Commonwealth. Any Commonwealth approval for the performance of Services outside of the geographic boundaries of the Commonwealth shall be limited to the specific instance and scope of such written approval, including the types of Services and Locations involved.

3.21 Economic Development

Vendor's economic development goals in connection with this Agreement are as set forth in Schedule 3.21. If Vendor fails to meet such economic development goals, Vendor shall pay or credit the corresponding amounts as set forth in Schedule 3.21.

3.22 Ordering Process

All Services to be furnished under this Agreement shall be ordered by the Commonwealth or Eligible Customers in accordance with the procedures established by the Parties in the Procedures Manual.

4. DATA CENTERS

4.1 General

Vendor shall ensure that the data centers that shall serve as Locations for the performance of Services hereunder shall comply with all of the requirements set forth in Schedule 4 hereto. Without limiting the foregoing, Vendor hereby agrees that the primary data center (the "Richmond Enterprise Solution Center") shall be located in metropolitan Richmond, Virginia, and that the secondary or backup data center (the "Southwest Enterprise Solution Center") shall be located within the Commonwealth at least one hundred (100) miles from the Richmond Enterprise Solution Center. Vendor shall obtain the Commonwealth's prior written approval of the location of each data center and any changes of such locations. Vendor shall take all necessary action to ensure that the Commonwealth (or its designee) may continue to use the data centers after the Term if the Commonwealth so elects as part of Disentanglement, including the option to purchase the Richmond Enterprise Solution Center or enter into a sublease with Vendor for the Richmond Enterprise Solution Center in accordance with Sections 15.4.6 and 15.4.7. Vendor also shall ensure that any sublease that the Commonwealth enters into with Vendor as part of Disentanglement shall comply with the lease prohibition requirements of Schedule 4A.

4.2 Office Building Use by Commonwealth

The Commonwealth shall be authorized, as licensee, to use that portion of the Richmond Enterprise Solution Center that the Parties have designated as VITA office space ("VITA Office Space") for a data center and general office use and for no other purpose. Such use shall be 24 hours a day, for all authorized Commonwealth personnel, to include access to, ingress to and egress from the Richmond Enterprise Solution Center, restroom facilities, stairways and elevators, and parking areas. Commonwealth shall also have reasonable access to break-rooms and shared conference rooms in other areas of the Richmond Enterprise Solution Center.

Vendor shall cause others to or shall itself (i) keep the plumbing, HVAC and other mechanical and electrical devices in good order and provide for replacement of light bulbs and interior janitorial and cleaning service, (ii) be responsible for the cost of all repairs to the VITA Office Space, except repairs necessitated by the negligence or willful act of the Commonwealth

or its employees, (iii) provide all expenses for utilities, including power, water, sanitation, CATV and telecommunications equipment, and (iv) be responsible for energy management, recycling, key & lock administration, safety management, emergency reaction plans and procedures, PA systems, and VITA employee IMACs, including telephone and PC moves/changes. Vendor shall further make available in the VITA Office Space such like-kind furnishings, including furniture and workstations, for all authorized Commonwealth personnel, as it similarly makes available to its employees and Managed Employees in the other areas of the Richmond Enterprise Solution Center.

After the Commonwealth has inspected the VITA space on or before occupancy, and accept “as is,” the Commonwealth (i) shall not make any repairs, improvements or alterations to the VITA Office Space without the written consent of Vendor, (ii) if requested in writing by Vendor, shall provide a list of VITA employees with access to the Richmond Enterprise Solution Center who are regularly assigned to the Richmond Enterprise Solution Center, (iii) shall not assign its rights without prior written consent of the Vendor; and (iv) shall maintain liability coverage for VITA, its officials and employees, as required by §§ 2.2-1386 and 2.2-1837 of the Code of Virginia and the Commonwealth of Virginia Risk Management Plan approved by the Governor .

Subject to Section 24.2, the Parties agree that if this Agreement is terminated by Vendor pursuant to Section 14.5.2, Vendor shall be permitted to retake possession of the VITA Office Space after the Termination Date and completion of any Disentanglement pursuant to Section 15. The Parties agree that upon the termination of this Agreement, all improvements and alterations made by the Commonwealth to the VITA Office Space shall be the property of the Vendor.

5. PROVISION OF RESOURCES BY COMMONWEALTH

5.1 Assigned Tasks

The Commonwealth agrees to perform all tasks specifically and expressly assigned to it in this Agreement, or in any Schedule or Exhibit attached hereto, and may, in its discretion, use other competent, qualified and experienced contractors or subcontractors to perform any such task.

5.2 Office Space and Furnishings

The Commonwealth shall make available to Vendor Personnel and Vendor’s Subcontractors such reasonably unencumbered access, and such office space, furnishings, and storage space at certain Locations as designated in Schedule 28.68, as are reasonably necessary and appropriate for them to perform the Services and perform Vendor’s obligations under this Agreement, at the Commonwealth’s facilities and premises (other than those leased by Vendor pursuant to this Agreement), in a manner similar to that in which the Commonwealth makes such access, space, furnishings, and storage space available to its own employees performing similar work. All such office space, furnishings, and storage space, and all assets and facilities installed

or operated on the Commonwealth's premises, are provided "AS IS, WHERE IS," without warranties of any kind, express or implied, and are to be used by Vendor exclusively as necessary and appropriate for the performance of Vendor's obligations under this Agreement. Vendor shall be responsible, and reimburse VITA, for any fees or charges imposed by the Eligible Customers for use of office space, furnishings and storage space at the Richmond Plaza Building. The Commonwealth reserves the right, upon six (6) months written notice to Vendor, to direct Vendor to cease using all or part of the office space, furnishings and storage space at any of the Locations designated in Schedule 28.68 and to thereafter use such space for its own purposes. In such case, Vendor shall be responsible for obtaining suitable replacement space as required to continue to perform the Services, but the Commonwealth shall reimburse Vendor for all pre-approved costs associated with such relocation and, if such new location increases the ongoing costs of providing the Services, the Parties shall negotiate an appropriate upward adjustment to the Fees for the affected Services.

5.3 Additional Resources

The Commonwealth will be responsible for reasonable local telephone access charges incurred by Vendor Personnel using the Commonwealth's telephones at the Commonwealth's facilities or premises (other than those leased by Vendor pursuant to this Agreement) in the performance of Vendor's obligations under this Agreement. Vendor shall be responsible for all other telephone, toll, and telecommunications charges (including all usage-based charges) incurred by Vendor Personnel. The Commonwealth shall provide Vendor with reasonable access to the Commonwealth's personnel as necessary and appropriate for Vendor to fulfill its obligations under this Agreement, and to facilitate such reasonable access such Commonwealth personnel shall have e-mail, voice-mail, and Internet access and shall be available upon reasonable advance notice for meetings and consultations with Vendor Personnel. Except as otherwise specified in this Agreement, and in accordance with the Statements of Work, Vendor shall be solely responsible for providing for itself, at no cost or expense to the Commonwealth, such office space, network access, utilities (e.g., HVAC, electrical power, water, and ordinary, daily janitorial services), data processing equipment, telecommunications lines and equipment, telephones, telephone and computer connections, parking, furniture, furnishings, and storage space as Vendor may require in order to perform the Services. The procurement of any special furnishings, equipment, and supplies required or otherwise needed for the use of Vendor Personnel is the exclusive responsibility of Vendor.

6. RELATIONSHIP MANAGEMENT

6.1 Status Reports

Periodically during the Term of this Agreement, but not less frequently than once each month, Vendor shall deliver to the Commonwealth's Relationship Manager a written report summarizing the progress of the Services and the operation of the Systems during the preceding month, including problems that have occurred and could delay Vendor's performance of anticipated activities and expected problems during the upcoming month (each such report, a "Status Report"). At a minimum, each Status Report shall include: (i) the current status and progress of the performance of the Services and the ongoing operation, support, and maintenance of the Systems, and an assessment of how such status and progress compares to the Critical

Milestones, the Transition Plan, and any other schedules or deadlines set forth in the Statements of Work; (ii) any actual delays; (iii) any reasonably anticipated delays; (iv) any failures, or correction of any failures, with regard to which Vendor is performing, or has performed, a Root Cause Analysis, as described in Section 3.13; and (v) such other information as the Commonwealth may reasonably request from time to time. The Commonwealth shall have the right to assume that Vendor does not know of any delays, problems, difficulties, or issues that may have an adverse impact (whether from a timing, cost, implementation, or performance standpoint) upon the Services or the Systems unless Vendor specifically identifies such delays, problems, difficulties, or issues in such Status Reports or, in emergencies, notifies the Commonwealth's Relationship Manager of such delays, problems, difficulties, or issues. Notwithstanding the foregoing, Vendor shall promptly (but in no event more than five (5) business days after Vendor first knew of such obstruction or delay) notify the Commonwealth's Relationship Manager, in writing, in the event that Vendor is materially obstructed or delayed in its performance of the Services, or the operation, support, or maintenance of the Systems, by any act, omission, or delay caused by the Commonwealth or its agents or employees, including any delay or failure by the Commonwealth to perform any of its obligations under this Agreement. Promptly after any such notification, the Parties shall confer and mutually agree upon any appropriate extension of the time period, and any corresponding increase in costs, if applicable, in which Vendor must complete the affected Services, in accordance with the governance procedures described in Schedule 6.3.

6.2 Status Meetings

During the Term, representatives of the Parties shall meet periodically as set forth in Schedule 6.3 or as requested by the Commonwealth to discuss matters arising under this Agreement. Each Party shall bear its own costs in connection with the attendance and participation of such Party's representatives in such meetings. The place and time, and whether to meet via teleconference or in person, shall be as determined as mutually agreed upon by the Parties.

6.3 Governance Model

The Parties will manage their relationship under this Agreement using the governance model in Schedule 6.3.

6.4 In-Scope Work Requests

6.4.1. General

If the Commonwealth requires the performance of Services that are within the scope of Services described in this Agreement and the Statements of Work, but that are not then being performed by Vendor, the Commonwealth's Relationship Manager shall deliver to the Vendor's Relationship Manager a written In-Scope Work Request that describes the Services that the Commonwealth desires to be performed, with sufficient detail to enable Vendor to readily understand and comprehend such request. Upon receipt of such an In-Scope Work Request, Vendor shall promptly take all necessary and appropriate action to perform the requested Services in accordance with such In-Scope Work Request (or, if no timetable for

performance is specified therein, as soon as commercially reasonable), keeping the Commonwealth reasonably apprised of the status of such performance and notifying the Commonwealth of when such In-Scope Work Request has been fulfilled or if any problems are encountered. If Vendor receives an In-Scope Work Request with regard to which there is some question or problem that prevents Vendor from complying with the procedure described above in this Section 6.4.1, then Vendor shall promptly contact, and discuss the matter appropriately with, the Commonwealth's Relationship Manager. The Parties understand and agree that all work requested in an In-Scope Work Requests shall be within the scope of the Services and the Fees set forth in Schedule 10.1 hereto. The Parties shall also maintain a mutually agreed-upon change management procedure, which shall be included in the Procedures Manual.

6.4.2. Deemed In-Scope Work Requests

Notwithstanding anything to the contrary provided in Section 24 or elsewhere in this Agreement, if (i) the Commonwealth at any time during the Term requests services, products, or resources from Vendor which the Commonwealth reasonably believes to be within the scope of the Services and the Fees set forth in Schedule 10.1, and the Parties cannot agree as to whether such services, products, or resources are within the scope of the Services, and (ii) the financial impact on Vendor of satisfying such request is less than Twenty-Five Thousand Dollars (\$25,000.00), then to the extent that the cumulative and aggregate amount of all such services, products, or resources so provided does not result in a financial impact on Vendor in excess of One Hundred Twenty-Five Thousand Dollars (\$125,000.00) during any Contract Year: (a) such failure to agree shall not be deemed a Disagreement; (b) such request shall be deemed an In-Scope Work Request; and (c) all such services, products, or resources shall be provided to the Commonwealth by Vendor in accordance with such In-Scope Work Request and the terms of this Agreement.

6.5 Out-of-Scope Work Requests

Subject to the Commonwealth's procurement policies, rules and regulations ("Procurement Rules"), if the Commonwealth requires the performance of services that are not within the scope of Services described in this Agreement, and the Commonwealth does not deem it appropriate to designate such services as an Initiative, in accordance with this Agreement, the Commonwealth's Relationship Manager shall deliver to the Vendor's Relationship Manager an Out-of-Scope Work Request for a proposal to implement such change, specifying the proposed change with sufficient detail to enable Vendor to evaluate it. The Procurement Rules shall guide the Parties' actions with respect to Out-of-Scope Work Requests that are subject to such rules. In the event that an Out-of-Scope Work request is not subject to the Commonwealth's Procurement Rules, within five (5) business days (or, if the requested change cannot reasonably be evaluated within such time period, then such longer period of time as mutually agreed by the Parties) after the date of such request, Vendor shall provide the Commonwealth with a written evaluation of such Out-of-Scope Work Request and a written proposal containing, at a minimum, the following: (i) reasonably detailed specifications, implementation plans (with implementation to commence not later than thirty (30) days after the Commonwealth's approval (if any) of such Out-of-Scope Work Request, unless otherwise mutually agreed by the Parties), work schedules, timeframes for performance, and acceptance criteria; and (ii) a firm price quote of the fees that

Vendor would charge to implement such Out-of-Scope Work Request, whether on a time-and-materials basis, at the hourly rates set forth in Schedule 10.1 for the applicable job classifications of the Vendor Personnel that would be performing the Services necessary for such implementation (the “Hourly Rates”). The proposal shall constitute Vendor’s firm offer, irrevocable for ten (10) business days (or such longer period as required by such proposal, the “Response Period”), to perform such services as described in such proposal upon the terms and conditions set forth therein. Prior to the expiration of the Response Period, the Commonwealth’s Relationship Manager, shall notify Vendor in writing if the Commonwealth elects to accept Vendor’s proposal and proceed with implementation of the Out-of-Scope Work Request upon the terms and conditions set forth therein (any such notice, a “Notice to Proceed”). If, within the Response Period, the Commonwealth gives notice to Vendor not to proceed, or fails to give any notice to Vendor, then Vendor’s proposal shall be deemed rejected and the Out-of-Scope Work Request shall be deemed withdrawn, and Vendor shall take no further action with respect to either. Upon the Commonwealth’s issuance of a Notice to Proceed during the Response Period, as described above, Vendor’s proposal shall be deemed accepted by the Commonwealth and the terms and conditions thereof (as modified by written mutual agreement of the Parties in negotiations prior to issuance of such Notice to Proceed) shall be deemed to constitute such Out-of-Scope Work Request. Notwithstanding the foregoing, no Out-of-Scope Work Request, proposal, or Notice to Proceed shall become binding upon either the Commonwealth or Vendor, and the Commonwealth shall not be obligated to pay Vendor for any Services described in, or performed pursuant to, any such documents, unless and until the applicable Out-of-Scope Work Request related to a Notice to Proceed issued in accordance with the provisions of this Section 6.5 is signed by a duly authorized representative of each Party. All Out-of-Scope Work Requests shall be governed by the terms and conditions of this Agreement except as expressly specified otherwise by the terms of such Out-of-Scope Work Request. Out-of-Scope Work Requests must be executed by authorized representatives of the Parties to be valid.

6.6 Critical Milestones

6.6.1. General

The Parties recognize and agree that time is of the essence with regard to the accomplishment of those tasks and activities designated as Critical Milestones. Therefore, if Vendor fails, or if the Commonwealth reasonably determines that Vendor is likely to fail, to meet a Critical Milestone by the date corresponding to such Critical Milestone, as specified in Schedule 6.6, then, in addition to any other rights and remedies that may be available to the Commonwealth in accordance with this Agreement, Vendor shall, at the Commonwealth’s option and at no additional cost to the Commonwealth, provide such additional personnel as may be required or necessary to accomplish all activities, tasks, and Services that were associated with such Critical Milestone either: (i) as soon as commercially practicable through Vendor’s exercise of commercially reasonable efforts, if Vendor has already failed to meet such Critical Milestone; or (ii) by the date corresponding thereto, as specified in Schedule 6.6, if such date has not yet passed. In addition, Vendor shall pay a Performance Credit in an amount equal to five percent (5%) of the Fees applicable to or associated with the Services directly related to the successful accomplishment of such Critical Milestone for each full week after the date corresponding to such Critical Milestone, as specified in Schedule 6.6, until such time as such

Services have been completed (i.e. until such time as the deficiencies have been corrected), up to a maximum of twenty percent (20%) of the Fees associated with the achievement of the applicable Critical Milestone. The Commonwealth shall provide Vendor with notice of the occurrence of a failure to meet the Critical Milestone within ninety (90) days after the Commonwealth becomes aware of such failure.

6.6.2. Withholding of Fees

In addition to the remedies described in Section 6.6.1, in the event that Vendor fails to meet a Critical Milestone, the Commonwealth shall be entitled to withhold any Fees corresponding to such Critical Milestones, until such time as Vendor, through the diligent exercise of all commercially reasonable effects, has successfully achieved such Critical Milestone (except with regard to the date originally associated with such Critical Milestone).

6.6.3. Earn Back of Critical Milestone Performance Credits

In the event that Vendor satisfies any Critical Milestone prior to the date corresponding to such Critical Milestone, as specified in Schedule 6.6, Vendor shall accrue in an earn-back pool an amount equal to five percent (5%) of the Fees applicable to or associated with the Services directly related to the successful accomplishment of such Critical Milestone for each full week prior to the date corresponding to such Critical Milestone, up to a maximum of twenty percent (20%) of Fees associated with the achievement of the applicable Critical Milestone, which amount may be used by Vendor only to off-set Performance Credits owed to the Commonwealth pursuant to Section 6.6.1.

6.7 Extraordinary Events or Circumstances

The Commonwealth may, at any time, and from time to time during the Term, and as a result of an extraordinary event or circumstance, including a Force Majeure Event, provide Vendor with written notice reasonably describing such event or circumstance and directing Vendor to temporarily perform Services in an extraordinary or unusual manner (e.g., perform services at levels above or below the Service Levels set forth in Schedule 3.12) for a specified period of limited duration. The Commonwealth may also, in such an event or circumstance, in its discretion, perform itself or obtain a third party to perform certain Services for the duration of such extraordinary event or circumstance, promptly informing Vendor thereof in writing. To the extent that any such action by the Commonwealth causes or results in an increase or decrease in the costs or expenses reasonably and directly incurred by Vendor in the performance of the affected Services, Vendor shall promptly provide the Commonwealth with written documentation substantiating such increase or decrease in the Fees, requesting the Commonwealth's attention to the matter, and the Commonwealth shall either promptly pay Vendor an amount equal to any such increase or promptly receive from Vendor a credit equal to the amount of any such decrease. Any such request by Vendor for such an adjustment of Fees must be asserted in writing within thirty (30) days after the date of Vendor's receipt of the Commonwealth's notice regarding such extraordinary circumstance or event, or, if such event or circumstance should continue unabated for more than thirty (30) days, within such additional period of time as the Parties may agree upon in writing. Pending the determination and resolution of any such adjustment, Vendor shall diligently proceed with performance of the

requested, extraordinary Services. All adjustments made pursuant to this Section 6.7 shall be subject to the record-keeping requirements and audit rights set forth in Section 18.

6.8 Notice of Adverse Impact

Vendor shall promptly inform the Commonwealth in writing of any failures by Vendor to comply with its obligations under this Agreement, or any other situation, that Vendor is aware of that have resulted, or is aware of that could reasonably result, in a material adverse impact on the (i) Services or the Commonwealth's IT operations, (ii) integrity of the Commonwealth's financial and other internal controls, or (iii) quality or accuracy of the Commonwealth's financial, accounting and human resources records. The Commonwealth may assume that no such circumstances exist unless Vendor so notifies the Commonwealth.

6.9 Relationship Performance Assessment

If the Commonwealth so elects during the Term, the Parties shall engage a mutually acceptable third party to undertake a relationship performance assessment or equivalent evaluation of the Parties' relationship under this Agreement (a "Relationship Performance Assessment"). The cost of a Relationship Performance Assessment shall be borne solely by Vendor, up to two-hundred fifty thousand dollars (\$250,000). Such Relationship Performance Assessment shall examine the following areas of the Parties' relationship: (i) alignment and vision, (ii) contract and relationship, and (iii) customer satisfaction. The Relationship Performance Assessment may include: (a) definition of the relative importance of the three areas with respect to the Parties' relationship; (b) contract and relationship review to determine whether the management of the Agreement and the relationship meets the needs of the Parties; (c) customer satisfaction survey of business management; (c) management interviews and an examination of management processes and control documents; and (d) recommendations for improvement. The Parties shall each use commercially reasonable efforts to cooperate with the third party performing the Relationship Performance Assessment. The Parties shall mutually discuss in good faith any recommendations resulting from the Relationship Performance Assessment and the manner in which the Parties shall implement such recommendations.

7. ACCEPTANCE TESTING

All Deliverables shall be provided to the Commonwealth by Vendor in conformity with all requirements, Specifications, Acceptance Criteria, and time schedules set forth or referenced in this Agreement. Vendor shall at all times utilize complete and thorough Acceptance Testing Procedures, and appropriate Acceptance Criteria, all of which shall be subject to review and approval by the Commonwealth, and no such activities shall be deemed completed until all Acceptance Criteria, whether set forth in this Agreement or set forth in any Schedule hereto or otherwise mutually agreed upon by the Parties in writing, have been successfully met. The Commonwealth shall accept, in accordance with the provision of this Section 7, any Deliverable or System that is demonstrated to meet all Acceptance Criteria as defined and mutually agreed to. Vendor shall provide the Commonwealth with written notification when each Deliverable or System is ready for such review and testing. Payment for

any such Deliverable shall be made in arrears after the Commonwealth issues its Post-live Acceptance, if any, of such Deliverable, in accordance with the provisions of this Section 7 and Schedule 10.1. The procedures to be used by the Commonwealth in reviewing, and determining whether to accept or reject, any such Deliverable or System are set forth in this Section 7. Within thirty (30) days after the Effective Date, Vendor shall develop and present to the Commonwealth in writing, subject to the Commonwealth's reasonable approval, a process whereby the procedures set forth in this Section 7 shall be incorporated and sufficiently integrated with Vendor's performance of the Services.

7.1 Pre-Live Software Acceptance

Upon the Commonwealth's receipt of written notification that Vendor has completed the installation of a separable portion of a Deliverable, or of a System, that constitutes Software (each such portion of a Deliverable or of a System, a "Software Component") and that such Software Component is ready for testing, the Commonwealth and Vendor shall work together to test such Software Component in a non-live environment using the Acceptance Test Procedures, to determine whether such Software Component performs in accordance with the Acceptance Criteria. After such testing for such Software Component is completed and the Commonwealth has operated such Software Component for sixty (60) consecutive calendar days (the "Pre-live Testing Period") in accordance with the Acceptance Criteria, the Commonwealth shall notify Vendor in writing that the Commonwealth has issued its "Pre-live Acceptance" of such Software Component. If the Commonwealth determines during such period that such Software Component does not perform in accordance with the Acceptance Criteria, the Commonwealth shall deliver to Vendor, within seven (7) calendar days after the end of the Pre-live Testing Period, a written report describing the deficiencies in reasonable detail. Vendor shall correct any such deficiencies within fifteen (15) calendar days after receiving any such report and shall notify the Commonwealth in writing when such corrections are completed. The Commonwealth and Vendor may then re-test the Software Component for an additional and mutually agreed to Pre-live Testing Period of up to thirty (30) consecutive calendar days, at the end of which the determination, notification, and correction process described above in this Section shall be repeated.

7.2 Post-Live Software Acceptance

Once the Commonwealth has issued its Pre-live Acceptance of all of the Software Components that constitute a particular Deliverable or System, the Commonwealth shall begin using such Deliverable or System in a live, operational environment (the date that such use commences, the "Go Live Date"). Once the Commonwealth has used the Deliverable or System in such live, operational environment for a sufficient time to test all functions of such Deliverable or System, and to ensure that such Deliverable or System is fully integrated with all other applicable Systems and with all applicable the Commonwealth Software and other relevant systems and Software of the Commonwealth, a period lasting no more than sixty (60) consecutive calendar days after the Go Live Date ("Live Testing"), and has determined that (i) there have been no material errors, (ii) the Deliverable or System performs in accordance with the applicable Acceptance Criteria, and (iii) all training Services required hereunder, and other Services required by this Agreement to have been completed by such time or occurrence, have

been completed, then the Commonwealth shall notify Vendor in writing that the Commonwealth has issued its “Post-live Acceptance” of the Deliverable or System. In no event shall any other action or inaction by the Commonwealth, including the Commonwealth’s use of such Deliverable or System, or any portion thereof, in such a live, operational environment, constitute issuance by the Commonwealth of its Post-live Acceptance of such Deliverable or System or any portion thereof. Notwithstanding anything to the contrary elsewhere in the Agreement, in no event shall the Commonwealth’s issuance of its Post-live Acceptance of any Deliverable or System be deemed a waiver of any right or remedy available to the Commonwealth under this Agreement, at law, or in equity as a result of any defect in any Software Component or Deliverable not discovered by the Commonwealth during Pre-Live Testing or Live Testing.

7.3 Non-Software Acceptance

The Commonwealth shall also have the right to review and test each material Deliverable (or any particular or separable product, output or result of the Services, including the Systems or any portion or component thereof) provided by Vendor to the Commonwealth hereunder that is not a Software Component, in accordance with the procedures set forth in this Section 7.3. Upon receiving written notification from Vendor that such a non-Software Deliverable is ready for review and testing, the Commonwealth and Vendor shall work together to review and test such Deliverable (unless otherwise provided, for a period of time not to exceed twenty-one (21) consecutive calendar days) using the Acceptance Test Procedures to determine whether such Deliverable conforms to the applicable Acceptance Criteria. If the Commonwealth determines that such Deliverable does not conform to such Acceptance Criteria, the Commonwealth shall deliver to Vendor a written report describing the deficiencies in reasonable detail. Vendor shall correct any such deficiencies within fifteen (15) calendar days after receiving any such report and shall notify the Commonwealth in writing when such corrections are completed. The Commonwealth and Vendor may then re-test the Deliverable for up to fifteen (15) additional consecutive calendar days, at the end of which the determination, notification, and correction process described above in this Section 7.3 shall be repeated.

7.4 Failure to Achieve Acceptance

In the event that Pre-live Acceptance of a Software Component or a particular Deliverable or System as a whole, or Post-live Acceptance of such Deliverable or System as a whole, is not achieved within a reasonable period of time after commencement of Pre-live Testing or the Go Live Date, as applicable (such periods not to exceed one hundred eighty (180) and one hundred twenty (120) consecutive calendar days, respectively), or in the event that the process described in Section 7.3 with respect to any material Deliverable is not completed within one hundred twenty (120) consecutive calendar days after the Commonwealth and Vendor first commences review and testing of such Deliverable, the Commonwealth shall have the right to declare such failure a Default and to seek the rights and remedies available to it under Section 16 hereof.

7.5 Omitted Test Criteria

Unless otherwise specifically provided in the Acceptance Test Procedures, the test for each Software Component shall include testing to the Commonwealth’s reasonable

satisfaction in each of the following regards: (a) unit testing (i.e., individual testing of each field, screen, screen-related action, and module or program); (b) system testing (i.e., testing of the Deliverable or System as a whole and its integration with the Commonwealth Software and other Systems of the Commonwealth); and (c) volume/stress testing (i.e., testing of the Deliverable or System under peak conditions to measure response time and system reaction to load).

8. PERSONNEL

8.1 Hiring of Personnel

8.1.1. Affected Employees

Vendor shall offer employment to Affected Employees in accordance with the requirements set forth in Schedule 8.1.

8.1.2. Managed Employees

During the Term, Vendor shall engage the Managed Employees for performance of the Services. The Managed Employees shall work under Vendor's direction and supervision during the Term. In no event shall any failure of the Managed Employees to perform in accordance with the Vendor's obligations under this Agreement relieve Vendor of its responsibility to provide the Services or meet the Service Levels in accordance with this Agreement. The Commonwealth shall require the Managed Employees to abide by all reasonable directions that Vendor may provide, including those incorporated by the Commonwealth in the Commonwealth's Managed Employees performance plans. In day-to-day operational management of the Managed Employees, Vendor shall comply with all laws, rules, regulations and policies applicable to Commonwealth employees. The Commonwealth shall be responsible for all aspects of labor relations with the Managed Employees, including their hiring, classification, evaluation, discipline, firing, wages, benefits, and overtime, and all other terms and conditions of their employment, and Vendor shall have no responsibility for any of the foregoing. Subject to this Section 8.1.2, Vendor shall be responsible for training, at its own cost, the Managed Employees in the same manner and to the same extent that Vendor trains the Vendor Personnel for the performance of the Services. Vendor shall reimburse the Commonwealth on a monthly basis for the cost to the Commonwealth of employing the Managed Employees during the Term and providing their services to Vendor during the Term, including salaries, incentive compensation and fully-loaded benefits, as further set forth in Schedule 10.1. All Affected Employees that do not accept Vendor's offer of employment as of the Service Commencement Date shall be considered Managed Employees for the purposes of this Agreement, unless they subsequently accept Vendor's offer of employment, at which point they will become New Vendor Employees (as defined in Schedule 8.1). The Parties agree that the Procedures Manual shall set forth a process between the Vendor and the Commonwealth for addressing the performance of the Managed Employees with respect to the Services.

8.1.3. Retained Personnel

Vendor agrees to offer employment, at the Commonwealth's request, to up to twenty (20) of the Retained Personnel whom the Commonwealth desires to transition to

Vendor and who are designated by the Commonwealth within the thirty-six (36) month period beginning on the Service Commencement Date. Such offers of employment to such Retained Personnel shall be consistent with the requirements set forth in Schedule 8.1 for Affected Employees, except that the types and levels of employee benefits offered by Vendor to such Retained Personnel need only be consistent with the benefits then currently provided to Vendor's similarly situated employees.

8.2 Vendor Personnel

8.2.1. Vendor's Relationship Manager

Vendor represents that the individual designated as Vendor's Relationship Manager in Schedule 8.2 attached hereto is, and promises that any replacement holder of such position shall be, an experienced manager who is knowledgeable as to the Commonwealth, its respective businesses, business practices, functions, and related activities, and its respective IT systems, requirements, and needs. The Commonwealth shall have the right to interview, as the Commonwealth deems necessary, and participate (by providing input and recommendations) in the final selection of, Vendor's Relationship Manager. Without the prior written consent of the Commonwealth, which consent shall not be unreasonably withheld, Vendor shall not: (i) designate a replacement for Vendor's Relationship Manager; or (ii) voluntarily replace or reassign the individual serving as Vendor's Relationship Manager during the first eighteen (18) months after the date that such individual commences performing the duties of Vendor's Relationship Manager hereunder. The Commonwealth shall provide Vendor with a written explanation of its reasons for any refusal to consent to any of the foregoing actions proposed by Vendor. Vendor's Relationship Manager shall at all times: (a) act as the primary liaison between Vendor and the Commonwealth's Relationship Manager; (b) have overall responsibility for directing all of Vendor's activities hereunder, directing the performance of all Services from inception through completion; (c) be vested with the necessary authority to fulfill all of the responsibilities of Vendor's Relationship Manager described in this paragraph, including the authority to agree to and execute amendments to this Agreement on behalf of Vendor, unless such authority has been previously and specifically limited by Vendor and Vendor has provided the Commonwealth with a writing evidencing such specific limitation; (d) coordinate the preparation of proposals and other responses to the Commonwealth's requests hereunder, business plans, proposed statements of work, Specifications, Acceptance Criteria, Acceptance Testing Procedures, operating budgets, and financial terms and conditions related to any additional work to be performed by Vendor under this Agreement; and (e) coordinate and conduct periodic program review sessions with the Commonwealth to discuss costs, schedules, and any relevant technical aspects of Vendor's performance under this Agreement.

8.2.2. Key Personnel

Vendor represents that the individuals and roles designated as Key Personnel in Schedule 8.2 attached hereto are, and shall ensure that any subsequent Key Personnel shall be, experienced professionals, possessing the appropriate knowledge, skills, and expertise to perform properly their assigned duties. With regard to each of the Key Personnel, Vendor shall not, without obtaining the Commonwealth's prior written consent at least thirty (30) days in advance, at any time during the first twelve (12) months after the date that such

individual commences performing Services as one of the Key Personnel hereunder: (i) voluntarily replace or reassign such individual, if doing so would require the alteration or reduction of such individual's contribution to, or involvement with, the Services; or (ii) terminate the employment of such individual, except with regard to termination for "good cause" (which term, as used in this Agreement, means cause for termination as determined in accordance with Vendor's employment policies, consistently applied). The Commonwealth shall not unreasonably withhold, condition, or delay its consent to the foregoing, and shall provide to Vendor a written explanation of any refusal to grant such consent. Vendor shall not be required to obtain the Commonwealth's consent to any such replacement or reassignment if the function being performed by the individual being replaced or reassigned is eliminated from the Services. If any of the Key Personnel is reassigned, becomes incapacitated, or ceases to be employed by Vendor, and therefore becomes unable to perform the functions or responsibilities assigned to such person, Vendor shall promptly replace such person with another person at least as well qualified to perform such functions and responsibilities as the person being replaced, and the Commonwealth shall have the right to interview and approve each such replacement, such approval not to be unreasonably withheld. The Parties acknowledge that qualifications include a mix of experience and education and that equally-qualified individuals may have different mixes thereof.

8.2.3. Additional Personnel Requirements

Vendor shall, at all times, make available appropriate and sufficient numbers and types of Vendor Personnel, in addition to Vendor's Relationship Manager and the Key Personnel, to timely perform Vendor's obligations hereunder, in accordance with this Agreement and all Schedules hereto.

8.2.4. Vendor Management Commitment

From time to time during the Term, but not less than once each Contract Quarter, Vendor shall present and discuss with the Commonwealth its current financial plans and operational plans related to this Agreement, and Vendor shall make its senior management personnel available to answer questions from the Commonwealth's senior management personnel regarding such plans. In addition, at the Commonwealth's request (not more frequently than twice per year and in any case at a mutually agreed time and place), the Business Unit President and/or executive officers of Vendor and the Commonwealth shall meet to discuss the status and general progress of the performance by Vendor pursuant to this Agreement and all aspects of the Parties' relationship.

8.2.5. Qualified Personnel

In the event that Vendor breaches any of its obligations with respect to the minimum required proficiency of any Vendor Person, as set forth in Section 21.1.2, Vendor shall promptly, as directed by the Commonwealth, either: (i) take such action with respect to such Vendor Person, including promptly providing appropriate training, education, or orientation, as necessary for such Vendor Person to meet the applicable requirements set forth in this paragraph; or (ii) in the event that the Commonwealth has notified Vendor that such Vendor Person does not

meet the applicable requirements set forth in Section 21.1.2, remove and replace such Vendor Person with an appropriately qualified individual, in accordance with this Agreement.

8.2.6. Employee Qualification and Verification

Subject to and in accordance with applicable law, Vendor, prior to assigning an individual as a Vendor Person and at Vendor's sole expense, shall have appropriately verified the qualifications of such individual, and including verifying employment history, conducting reference checks, verifying non-employer technical certifications or education completed or degrees awarded, performing drug testing, conducting fingerprinting and a security background check that includes investigation and identification of all state or federal misdemeanor or felony convictions of such individual, and criminal charges pending against such individual, during the immediately preceding seven (7) years, and performing such other types of verification as reasonably requested by the Commonwealth. The security background check described in the preceding sentence shall include an investigation of whether the individual has a history of workplace violence, such as threatening others or causing disturbances. At the request of the Commonwealth, Vendor shall promptly deliver a written certification to the Commonwealth that it has performed, and the subject individual has passed, such verification procedures as are set forth in this Section 8.2.6. Subject to applicable law, the Commonwealth retains the right to audit the verification methods and processes, and results obtained, by Vendor in performance of its obligations under this Section 8.2.6 in those situations that the Commonwealth deems appropriate. Subject to compliance with applicable laws and regulations, the Commonwealth may reject the assignment of any Vendor Person based upon the results of the verification procedures set forth in this Section 8.2.6, and Vendor shall promptly fill such position with an appropriately qualified person in accordance with this Agreement.

8.2.7. Specialized Personnel

If it is necessary, in connection with the performance of the Services, that Vendor Personnel or Subcontractors be assigned responsibilities in a Commonwealth Location (not including any Locations leased or subleased by Vendor from the Commonwealth) that requires special health, security, or safety training, then such training will be provided by the Commonwealth to such individuals and Vendor shall make such individuals reasonably available for such training, with each Party being responsible for its own costs associated with such training (i.e., among other things, Vendor shall not charge the Commonwealth any Fees for any amount of time spent by any of the Vendor Personnel or any Subcontractor attending or receiving such training).

8.2.8. Training

Vendor shall provide, and cause its Subcontractors to provide, all such technical and interpersonal training to the Vendor Personnel, and to any employees of Vendor's Subcontractors that are assigned to provide Services hereunder, as may be necessary and appropriate for them to collectively perform, on behalf of Vendor, all of Vendor's duties under this Agreement. In any event, the levels and extent of training provided by Vendor to the Vendor Personnel shall be at least equal to the average levels of training given to other Vendor

employees holding comparable positions, under similar circumstances, and performing work of a similar nature and level of complexity.

8.2.9. Replacement of Personnel

Notwithstanding anything to the contrary contained elsewhere in this Agreement, if the Commonwealth believes that the performance or conduct of any Vendor Person or Subcontractor is unsatisfactory for any reason, or is not in compliance with the provisions of this Agreement, the Commonwealth may so notify Vendor, and shall provide an explanation of the unsatisfactory or noncompliant performance or conduct. Vendor shall promptly (within no more than two (2) business days) begin an investigation into the performance or conduct of such person, which investigation shall be completed within ten (10) business days. At the Commonwealth's reasonable request and following completion of a full investigation that substantiates the basis of the request, Vendor shall promptly remove such person. In such event, Vendor shall promptly replace that person with another person acceptable to the Commonwealth and meeting all of the applicable requirements described in this Section 8.1.

8.2.10. Hiring of Vendor Personnel

Subject to Vendor's written consent, the Commonwealth may, at any time and from time to time, during the Term and after termination thereof, offer employment to a select and limited number of Vendor's employees and employees of Vendor's Subcontractors (other than employees who are critical to Vendor's ability to perform the Services), to the extent the Commonwealth reasonably deems such employment necessary to ensure the successful management and coordination of the Commonwealth's receipt of the Services, or its use and operation of the Systems, and the proper execution of the Commonwealth's retained authority hereunder. Vendor shall not, and shall require its Subcontractors not to, interfere with, or otherwise take any action against either the Commonwealth or any such employees preventing, or discouraging the acceptance of, any such offers of employment.

8.3 The Commonwealth's Relationship Manager

The Commonwealth represents that the individual designated as the Commonwealth's Relationship Manager in Schedule 8.2 attached hereto is, and shall ensure that any replacement holder of such position shall be, an experienced manager who is knowledgeable as to the Commonwealth, its respective businesses, business practices, functions, and related activities, and its respective IT systems, requirements, and needs. The Commonwealth's Relationship Manager shall at all times: (a) act as the primary liaison between the Commonwealth and the Vendor's Relationship Manager; and (b) have overall responsibility for directing and coordinating all of the Commonwealth's activities hereunder; and (c) be vested with the necessary authority to fulfill all of the responsibilities of the Commonwealth's Relationship Manager described in this paragraph.

8.4 Conflict of Interest

The Commonwealth's policies expressly prohibit it and its employees from engaging in activities involving a conflict of interest. Except for Managed Employees, Vendor shall not at any time during the Term of this Agreement knowingly employ or otherwise engage any Commonwealth employee for any purpose in any way related to Vendor's performance of its obligations hereunder. Vendor shall at all times exercise reasonable care and diligence to prevent any actions, circumstances, or conditions that could result in a conflict between Vendor (or any of its employees, agents, or Subcontractors) and the best interests of the Commonwealth. Such efforts by Vendor shall include establishing reasonable precautions to prevent its employees, agents, and Subcontractors from making, receiving, providing, or offering to any employees of the Commonwealth any gifts, entertainment, payments, loans, or other considerations that could appear to or be deemed to, or create the impression of an attempt to, influence individuals to act in a manner contrary to the best interests of the Commonwealth.

8.5 Non-Solicitation of Employees

Except as otherwise expressly provided in Section 8.2.10 and other specific provisions of this Agreement, during the Term and for the first twelve (12) months thereafter, neither Party shall, without the prior written consent of the other Party, directly or indirectly solicit, entice, encourage, or otherwise recruit any employee of such other Party whose duties and responsibilities include performing services directly or indirectly connected with performance under this Agreement to leave such other Party's employ in order to accept employment or other engagement with the soliciting Party, its Affiliates, actual or prospective contractors, or any other Person. Notwithstanding the foregoing, the Parties acknowledge and agree that this Agreement shall not prohibit solicitations by either Party through general advertising or other publications of general circulation. In no way is this Section 8.5 intended, nor shall it be deemed, to restrict or limit any individual's right to seek employment, but rather this Section 8.5 is intended to, and shall, prevent each Party from actively recruiting the employees of the other Party (except as provided in this Agreement), thereby depriving such other Party of vital resources, in the securing, development, training, and deployment of whom it has expended considerable time and resources.

9. AUTHORITY RETAINED BY COMMONWEALTH

The Commonwealth shall have and at all times retain the exclusive right and authority to: (i) define, determine, and control the Commonwealth's IT-related policies, strategies, objectives, and goals; (ii) define, determine, and alter any or all of the Commonwealth's business processes; (iii) define and prescribe design standards and architecture with regard to the IT platform and infrastructure for the Commonwealth, and the Locations; and (iv) assess Vendor's quality and performance. Vendor shall, at all times during the Term and during Disentanglement, perform and provide the Services in accordance with the strategies, processes, standards, and policies described in the immediately preceding sentence, subject to the terms of Section 13 of this Agreement. The Commonwealth may consider, but shall have the right to approve or reject, in its discretion, any and all Vendor-proposed decisions with respect to any major or significant infrastructure-design, technical platform, architecture, or standards applicable to the Services or the Systems, or that could reasonably be expected to materially

increase the Fees payable by the Commonwealth for the Services or to materially increase the costs incurred by the Commonwealth at any time in operating its business. The Commonwealth shall have the right to propose, subject to reasonable change control procedures to be established by the Parties: (i) to order move, add, and change activity with respect to resources used in connection with Vendor's provision of the Services; and (ii) to designate the Commonwealth's requirements for applications development or enhancement activities with regard to the Systems or Commonwealth Software. Moreover, Vendor shall be required to obtain the prior, written authorization of VITA before: (i) undertaking any activity that is within the exclusive authority of the Commonwealth to order, request, or designate pursuant to the terms hereof; (ii) using in the performance of the Services, or otherwise incorporating or introducing into the Commonwealth's IT environment, any proprietary software or other technology that materially increases, or might reasonably be expected to increase, the cost to the Commonwealth in using, operating, supporting, or maintaining the Systems in comparison to the cost that the Commonwealth would otherwise incur in such activities (including any incremental costs associated with procuring applicable licenses to any Vendor-proprietary software or technology that is transferred to the Commonwealth during or as a result of a Disentanglement in comparison to the costs that the Commonwealth would have incurred by obtaining other functionally comparable or equivalent, commercially available software or technology).

10. FINANCIAL TERMS

As full remuneration, and the sole and entire financial consideration, for Vendor's performance of all of the Services, provision of the Deliverables, operation, support, and maintenance of the Systems, furnishing of the Vendor Personnel and required materials, addressing and resolving any Disagreements or difficulties that may arise or are encountered, and performance of all of the other tasks, activities, services, duties, and obligations of Vendor under this Agreement, and for assuming all related risks, the Commonwealth shall pay to Vendor the Fees, in accordance with this Section 10.

10.1 Fees

10.1.1. General

The Commonwealth shall pay Vendor the Fees for the Services actually performed by Vendor in accordance with the terms and conditions of this Agreement and Schedule 10.1 attached hereto. Except as otherwise expressly provided in Section 15.1, Vendor shall not be entitled under this Agreement to any additional or separate compensation or reimbursement, other than the Fees expressly set forth in the Schedule 10.1, for the performance of Services, for any costs or expenses incurred in connection with performance hereunder, for any transition fees or exit fees, or for any other type or form of fees or reimbursement. Unless otherwise agreed, System changes, changes in the Services (including changes in the Commonwealth's technologies, architectures and standards) and changes in the rights or obligations of the Parties under this Agreement (collectively, "Contract Changes") shall result in changes in the applicable Fees only if and to the extent (i) the Agreement expressly provides in Schedule 10.1 for a change in the Fees in such circumstances or the pricing methodology expressly provides for a price change in such circumstances (for example, a Baseline Volume for the Resource Unit in question with ARCs and RRCs for increased or decreased usage); or (ii) the

Contract Change meets the definition of an Initiative for purposes of Section 11 or the requirements of Section 6.5, respectively, and additional Fees are applicable in accordance therewith.

10.1.2. Eligible Customer Services

From time to time during the Term, the Commonwealth may request that Vendor provide Services to Eligible Customers not previously receiving such Services. Except as provided under the definition of an Initiative for purposes of Section 11 or the requirements of Section 6.5, respectively, such Services shall be performed in accordance with the terms, conditions and prices (excluding any incremental, non-recurring transition or start-up activities specific to such Eligible Customers) then applicable to the provisions of the same Services to existing Eligible Customers.

10.2 Most-Favored Customer

10.2.1. Best Prices

Vendor's charges to the Commonwealth for the Services, in the aggregate, shall be competitive with, or more favorable to the Commonwealth than, Vendor's charges for substantially similar services to Vendor's most favored customers (i.e., those customers to whom Vendor charges its lowest prices), purchasing substantially similar volumes of such services under substantially similar circumstances and terms and conditions. For purposes of the immediately preceding sentence: (i) the circumstances to be considered in determining what constitutes "substantially similar services" are the service levels, warranties, and other obligations required by those customers of Vendor, the rights of Vendor under agreements with those customers, the technology base used by the customer, the specific combination of services required by the customer, the time period during which services are provided, and the overall revenue stream generated by the customer, taking into account the term of the underlying agreement; and (ii) no distinction shall be made between Vendor's customers that are private entities and those that are in the public sector. If Vendor offers to any such U.S.-based customer substantially similar services at similar (or lesser) volumes and at a price materially lower or a discount materially greater than the applicable Fees charged to the Commonwealth hereunder, then such Fees shall simultaneously be lowered by Vendor to the extent necessary to match such lower price or greater discount (or, to the extent such Fees have already been paid, Vendor shall promptly refund to the Commonwealth the difference between the Fees already paid and the lower price for the time period during which such lower price has been in effect). Vendor shall notify VITA of the occurrence of such a lower price or greater discount as described in this Section 10.2 within thirty (30) days after Vendor's offering or providing such lower price or greater discount to another such customer. From time to time, but in any event no more than once annually, Vendor's Chief Financial Officer shall, upon written request from the Commonwealth, promptly certify in writing that Vendor is in compliance with this Section 10.2. Nothing herein shall require that Vendor disclose to the Commonwealth, or to the Commonwealth's Auditors, accountants, or attorneys, any information that Vendor is legally prohibited, by contract, statute, or otherwise, from disclosing to the Commonwealth, regardless of the existence of any dispute pertaining to this Section 10.2.

10.2.2. Periodic Price Review

Vendor and Key Subcontractors shall have their respective auditors conduct annual audits of their business units providing the Services, assessing the methods used to determine the best prices as described in Section 10.2.1 and the adequacy of control over invoices submitted to the Commonwealth. In addition, at the Commonwealth's option and cost, the Commonwealth may, subject to Vendor's confidentiality obligations under Vendor's other customer contracts, have the Commonwealth's Auditors conduct an independent, confidential third party audit to review the process Vendor uses to determine its best prices, as described in Section 10.2.1, so as to report to the Commonwealth only whether Vendor is in compliance with Section 10.2.1 above and, if not in compliance, the basis of such non-compliance.

10.3 Invoices

10.3.1. Vendor Invoices

Vendor shall invoice the Commonwealth for the Fees in accordance with the provisions of Schedule 10.1, but in no event more frequently than once per month. Credits and adjustments (e.g., Performance Credits, ARCs, and RRCs) for any given month will be applied against the next monthly invoice after the invoice for such month. For example, Vendor's December, 2006, invoice will include Fees for Services performed during November, 2006, and any credits or adjustments applicable to Services performed in October, 2006. Each such invoice shall be in the format shown in the final Exhibit 10.3 hereto (or such other reasonable format as specified from time to time by the Commonwealth) and, with respect to the Fees, credits, adjustments or the timeframe to which such invoice is applicable, shall set forth in reasonable detail: (a) an itemized accounting of the Fees and any applicable credits and adjustments; (b) the Services performed (e.g., each particular activity or task); (c) with respect to any Services billed on an hourly or time-and-materials basis, the number of Vendor Person hours, identity of the Vendor Personnel performing such Services, and corresponding Fees attributable to each such Vendor Person's performance of such Services; (d) to permit the Commonwealth to chargeback internally to the Eligible Customers, the same organization level and same level of detail in use by VITA as of the Effective Date; (e) any other information or data necessary to support such Fees, credits, and adjustment; and (f) an accounting of the credits provided by Vendor to the Commonwealth with respect to the Managed Employees under Section 8.1.2. Any improperly formatted invoices may be returned by the Commonwealth for correction and resubmission, provided that such return occurs timely and that the Commonwealth identifies in reasonable detail what is not correct. The Exhibit 10.3 attached hereto as of the Effective Date is a sample format of the invoice. During the Interim Phase, the Parties shall mutually agree upon and finalize the format of the invoice, which shall supersede the Exhibit 10.3 attached hereto as of the Effective Date.

Vendor may separately invoice the Commonwealth for Fees incurred in each phase of the Agreement (i.e., operation of Services during Transition, Transition, and operation of Services after Transition).

10.3.2. Eligible Customer Invoices

If requested by VITA and agreed to by Vendor, Vendor shall also prepare separate invoices for each Eligible Customer then receiving Services, allocated among such Eligible Customers based on the chargeback data and information generated by Vendor and/or the allocation formula provided by VITA. Each such separate invoice shall otherwise comply with the requirements of Section 10.3.1. Further, Vendor shall perform all Services related to the operation and implementation of the Chargeback System and the Commonwealth's process for chargeback (related to chargeback for the Services and otherwise) to the Eligible Customers as further described in the Statements of Work.

10.3.3. Payment by Commonwealth

The Commonwealth (or the applicable Eligible Customer(s)) shall pay Vendor all undisputed amounts set forth in invoices properly issued in accordance with this Section 10, within thirty (30) days after receipt thereof, or thirty (30) days after receipt of the applicable goods or Services, whichever is later. The Commonwealth may, however, withhold payment of any invoiced amounts that the Commonwealth disputes in good faith in accordance with Section 10.5, pending resolution of the matter. Vendor may submit a preliminary draft invoice to the Commonwealth in order to attempt to minimize any issues that could lead to a disputed invoice. The Commonwealth shall have no more than thirty (30) days to make payment to Vendor following the date the payment dispute is resolved with Vendor. All payments by the Commonwealth shall be made by Electronic Data Interchange, unless the Parties mutually agree in writing to an alternative form or method of payment. The Commonwealth shall pay Interest on any undisputed invoiced amounts that remain unpaid for seven days following the required payment due date. Vendor must invoice the Commonwealth separately for the assessed Interest charge.

10.3.4. Payment of Subcontractor Invoices

Within seven (7) days (or such longer payment period agreed upon by Vendor and Subcontractor in the applicable subcontract) following Vendor's receipt of payment from the Commonwealth, Vendor shall pay all Subcontractor(s) performing Services under this Agreement for the share as agreed by Vendor and Subcontractor of the payment received for Services performed by the Subcontractor(s) hereunder. Vendor shall notify VITA and the applicable Subcontractor(s), in writing, of any intention to withhold payment to such Subcontractor(s) and the basis for such withholding. Any obligation of Vendor to pay interest to a Subcontractor on any amounts owed to such Subcontractor shall not be construed to be an obligation of the Commonwealth.

10.4 Set-Off

The Commonwealth may set off against any and all amounts otherwise payable to Vendor pursuant to any of the provisions of this Agreement: (i) any and all amounts claimed by the Commonwealth in good faith to be owed by Vendor to the Commonwealth pursuant to any of the provisions of this Agreement; and (ii) any and all amounts claimed by the Commonwealth in good faith to be owed by Vendor pursuant to any other written agreement between the Parties.

Within twenty (20) days after any such set-off by the Commonwealth, the Commonwealth shall provide Vendor with a written accounting of such set-off and a written statement of the reasons therefor. This section is subject to the provisions of the Virginia Debt Collection Act, Code of Virginia §2.2-4800 et seq.

10.5 Disputed Amounts

The Commonwealth may withhold payment of Fees or any other charges otherwise due to Vendor under this Agreement to the extent that the Commonwealth disputes such charges in good faith. In such case, the Commonwealth shall provide to Vendor a reasonably detailed written explanation of the basis for the dispute and shall continue to make payments of undisputed amounts as otherwise provided in this Agreement. If any disputed amounts are later determined to have been improperly withheld (i.e., properly charged by Vendor), then the Commonwealth shall be obligated to pay the withheld amount in accordance with this Agreement, until paid in full. If any paid amounts are later disputed by the Commonwealth and determined to have been improperly paid (i.e., improperly charged by Vendor), then Vendor shall promptly pay the Commonwealth, in cash, the improperly paid amount. The failure of the Commonwealth to withhold payment shall not waive any other rights the Commonwealth may have with respect to disputed amounts or overpayments. Except as otherwise provided herein, any dispute relating to amounts owed by a Party hereunder shall be considered a Disagreement. The Parties agree that the following expedited timeframes shall apply to the dispute resolution process set forth in Section 24 with respect to payment disputes: (i) fifteen (15) days (instead of thirty (30) days) in Section 24.1.1 with respect to resolution efforts by the Relationship Managers; and (ii) fifteen (15) days (instead of thirty (30) days) in Section 24.1.1 with respect to resolution efforts by the Strategy Committee.

10.6 Taxes

The Fees shall be inclusive of all taxes imposed with respect to the provision of the Services hereunder, including any sales, use, excise, value-added, services, consumption, or other tax; provided, however, that the Commonwealth shall not be responsible for, and the Fees shall not include, any taxes imposed on or arising from the following: (i) charges for goods and services provided by the Commonwealth to Vendor in connection with this Agreement; (ii) Vendor's income, revenue or property; or (iii) any franchise or privilege taxes. During the Current Operations Phase (as defined in the Transition Plan) of the Agreement, any taxes imposed on or arising out of Vendor's consumption of goods or services in connection with providing the Services or Deliverables under this Agreement shall be passed through to the Commonwealth without markup and separately identified on an invoice. After the Current Operations Phase, Vendor shall not separately invoice the Commonwealth for any taxes imposed on or arising from the following: (i) Vendor's consumption of goods and services in connection with the provision of Services or Deliverables under this Agreement; or (ii) employment related taxes applicable to Vendor's employees and Subcontractors, the Parties acknowledging that any such taxes shall be included in Vendor's Fees for Services. Upon the imposition of any new taxes affecting either Party during the Term, the Parties agree to meet to discuss any necessary adjustments to Fees. The Parties agree to cooperate with each other to more accurately determine its own tax liability and to minimize such liability to the extent legally permissible.

10.7 Time Limitation

The Commonwealth shall have no obligation to pay any amount for which Vendor fails to provide the Commonwealth with an invoice within ninety (90) days after the month in which the relevant Services were rendered or the expense incurred. Vendor waives any right it may have to invoice or collect such amounts.

10.8 Benchmarking

With the Commonwealth's direction and cooperation, and as part of the Services, Vendor shall conduct a continuing benchmarking program of the Services, taking into consideration adjustments for reasonably comparable elements of the Services, that shall enable the Commonwealth to compare the Fees and Service Levels set forth in this Agreement with, and ensure that said Fees and Service Levels are similar in price and quality to, similarly bundled service offerings (accounting in the aggregate for the scope, service levels, duration, and volume of business) of other IT service-providers. Beginning no sooner than twelve (12) months after completion of the implementation of the Transition Plan, the Commonwealth may request a benchmarking for any one or more Services not more than once during any period of twenty-four (24) consecutive months during the Term. The Commonwealth shall engage the benchmarking firm (each such firm, the "Benchmarking Firm") that is to complete any such benchmarking, provided that the firm selected by the Commonwealth shall be one of those Persons set forth on Schedule 10.8, or as agreed upon by both Parties, and such Person shall execute a non-disclosure agreement reasonably satisfactory to Vendor. The Benchmarking Firm shall not exclude from the benchmarking any data related on the basis that the entity receiving the particular service offering is a private entity and not in the public sector. The Commonwealth shall treat the results of all benchmarking conducted in connection with this Agreement as set forth in Section 19. Vendor shall cooperate with any Benchmarking Firm and shall reimburse the Commonwealth for one-half of all fees and charges paid to the Benchmarking Firm relating to the benchmark. The Benchmarking Firm shall provide detailed written reports on the benchmarking including the basis for such findings to both Vendor and the Commonwealth. Following receipt of this report, Vendor will have up to forty-five (45) days to dispute the report's findings and any disputes shall be resolved in accordance with Section 24.1. If, as a result of any such benchmarking, the Benchmarking Firm determines that Vendor's Fees, taken in the aggregate with respect to all of the Services included in such benchmarking (based upon appropriate weighting of the respective Services for dollar volumes of Fees paid by the Commonwealth for each Service), are not at least as customer-favorable as the average of the best twenty-five percent (25%) of the prices associated with similarly bundled service offerings (accounting for the scope, service levels, duration, and volume of business) of other IT service-providers (the "Benchmark Standard"). Provided such report is not in dispute, or as applicable after such dispute has been resolved, Vendor shall promptly adjust the Fees to eliminate any customer-unfavorable variance from the Benchmark Standard. Each Party shall have the right to advise any Benchmarking Firm of any information or factors it deems relevant to the conduct of the benchmark, so long as such information is disclosed to the other Party. If, as a result of a benchmarking, the Benchmarking Firm determines that the Service Levels are less favorable to the Commonwealth than the Service Levels that comparable entities are then obtaining, then Vendor, at the Commonwealth's option, shall adjust the relevant Service Levels so as to match said more favorable Service Levels

within 12 months of the Commonwealth's election of such option (or such longer period agreed to by the Commonwealth); provided that there shall be no change to the Fees as a result of such adjustment if the Benchmarking Firm determined that such Service Levels were being received by comparable entities at comparable prices and comparable terms and conditions. Any such adjustment to the Fees shall take effect as of the next billing cycle subsequent to the issuance of the benchmark report unless disputed by Vendor. Notwithstanding the foregoing, if Vendor disputes the results of the benchmarking report and such dispute is resolved in the Commonwealth's favor, the adjustment to the Fees shall be applied retroactively to take effect as of the first billing cycle subsequent to the issuance of the benchmark report. Vendor shall include with any invoice in which such an adjustment is made a detailed description of such adjustment and an accounting of its application to Fees invoiced. Notwithstanding the foregoing, in no event shall the benchmarking process described in this Agreement result in an increase in Fees above the rate or a decrease in Service Levels in effect upon the Effective Date.

10.9 Availability of Funds

Each payment obligation of the Commonwealth is contingent upon the appropriation, allocation and availability of sufficient government funds for the payment of such an obligation. If funds are not appropriated, allocated or available to any or all of the Eligible Customers for the continuance of the function performed by this Agreement or any of the Deliverables, products, or Services of Vendor, or any portion thereof (e.g., a Tower or subcomponent), then this Agreement or such Deliverables, products, and Services, to the extent directly or indirectly involved in the performance of such function, may be terminated by the Commonwealth, pursuant to Section 14.7. The Commonwealth shall notify Vendor of any such Deliverables, products, or Services that will or may be affected by such a shortage of funds as soon as commercially reasonable after first learning thereof. No penalty shall accrue to the Commonwealth in the event the Commonwealth exercises its rights provided by this Section 10.9, and in no event shall the Commonwealth be obligated or liable for any future payments of any kind (including any Fees) with respect to such terminated Deliverables, products, or Services, or for any damages or costs incurred by Vendor as a result of such a termination. In addition, if funds are not so appropriated, allocated or available to an Eligible Customer, the Parties shall mutually agree to undertake alternative actions, such as (i) establishing lower Fees for the Services to such Eligible Customer; (ii) continuing performance of the Services but in a manner not subject to the Service Levels or subject to different Service Levels, or (iii) re-prioritizing or rescheduling projects and schedules.

10.10 Payment upon Termination

Vendor shall submit a final completion cost or credit invoice upon (but in no event later than sixty (60) days after any final audit performed by Vendor's Auditors, subject to review and audit by the Commonwealth, regarding performance and outstanding payment obligations under this Agreement) any termination of the Term by the Commonwealth for convenience, pursuant to Section 14.2, for change in control of Vendor, pursuant to Section 14.3, or for a lack of funds, pursuant to Section 14.7 hereof. Upon approval of such final invoice, and subject to Vendor's compliance with all material terms and conditions of this Agreement, the Commonwealth shall promptly make payment of any remaining amounts due and payable to

Vendor for Services rendered. Such payment shall be in addition to any Exit Fee payable by the Commonwealth to Vendor under the terms of this Agreement.

10.11 Customer Service Number

Vendor shall provide for use by VITA, and conspicuously print on each of Vendor's monthly invoices to the Commonwealth, a toll-free telephone number for billing-related questions, inquiries, or requests, for adjustments. The VITA personnel asking such questions or making such inquiries or requests, and the Vendor Personnel assigned to answer and respond to such questions, inquiries, or requests, shall be fully familiar and conversant with the Services, the Fees structure, and the terms and conditions of this Agreement.

10.12 Resource Charges and Credits

For each month during the Term, Vendor shall calculate the quantity of Resource Units utilized by the Commonwealth during that month and report such quantity to the Commonwealth in accordance with the format described in Section 17.1, together with the supporting information and documentation required under such Section. Each month, Vendor shall calculate any ARCs and RRCs, and the Commonwealth shall pay any such ARCs and Vendor shall pay or credit (or refund, if the Term has ended) any such RRCs, each in accordance with the terms and conditions of this Agreement and as set forth in Schedule 10.1.

10.13 Performance Credits

Schedule 3.12 sets forth specified Performance Credits that shall be granted to the Commonwealth if and when Vendor's actual performance of Services fails to meet certain levels, as measured against the Service Levels. It is understood that Performance Credits are intended to reflect, to some extent, the diminished value of Vendor's Services in the applicable events, but are not intended to constitute penalties or liquidated damages. In no event shall Performance Credits be the Commonwealth's sole and exclusive remedy with respect to any failure of Vendor to comply with applicable Service Levels or performance requirements.

10.14 Shared Savings

Without adversely affecting the Service Levels or causing any other material and adverse result, and without any increase in overall cost to the Commonwealth, Vendor shall continuously use commercially reasonable efforts to optimize efficiency and cost-effectiveness of the performance of the Services and the use, operation, support, and maintenance of the Systems, thereby increasing the cost savings and return accruing to the Commonwealth as a result of this Agreement (collectively, the "Savings"). Vendor shall reasonably quantify, measure, track, and document all such Savings and report and present them to the Commonwealth in reasonable detail, accompanied by supporting documentation, in accordance with Schedule 17.1 and the provisions of this Agreement, upon request by VITA. At such time as Vendor presents the Savings realized for the requested period to the Commonwealth, Vendor shall also present a detailed plan showing any reasonable actions or changes that are planned through at least the end of the next Contract Year in order to generate or realize even further Savings and, subject to the Commonwealth's reasonable approval, Vendor shall proceed to

timely implement such plan. All activities pursuant to this Section shall be coordinated with the activities of the Cooperative Value and Innovation Team (which is further described in Schedule 6.3 hereto).

During the Post Transition Phase (such phase defined in Schedule 10.1) of this Agreement, in the event that Vendor provides particular Services in such a manner as to increase the Savings with respect to such Services beyond the amount of any Savings already present given the level of Fees for such Services, Vendor and the Commonwealth shall each be entitled to a mutually agreed upon percentage of such increase in Savings with respect to such Services during an initial mutually agreed upon time period, after which the Commonwealth shall retain one hundred percent (100%) of such increase thereafter.

10.15 Paradigm Technological Shift

If a revolutionary, material shift and improvement occurs in the technology available to provide any type of IT-related services that constitute a substantial portion of the Services, and if such technology is generally available (and available to Vendor), is outside the normal evolution of technology experienced by the IT industries, and was not generally available as of the later of the Effective Date or the latest amendment to this Agreement (if any) pursuant to this Section 10.15, such improvement shall be deemed a “Paradigm Technological Shift.” If a Paradigm Technological Shift occurs, and if the Commonwealth requests an amendment pursuant to this Section 10.15, this Agreement shall be reasonably, appropriately, and equitably amended (including the Fees, Statements of Work, and all other relevant provisions) to take such Paradigm Technological Shift into account.

11. INITIATIVES

11.1 Request and Proposal Process

Subject to the Commonwealth’s procurement policies, rules and regulations (“Procurement Rules”), the Commonwealth may at any time, and from time to time, request that Vendor perform an Initiative for the Commonwealth with reasonable advance written notice that includes a reasonably detailed specification of the nature, extent, and desired timeframe for the work to be performed. The Procurement Rules shall guide the Parties’ actions with respect to Initiatives that are subject to such rules. In the event that an Initiative is not subject to the Commonwealth’s Procurement Rules, within a reasonable period (not to exceed twenty (20) days unless otherwise agreed) after receiving such a request from the Commonwealth, Vendor shall prepare and submit to the Commonwealth a written proposal that: (i) assesses the expected impact of such request on any Services or Deliverables then being provided hereunder; (ii) defines and describes how Vendor would fulfill or satisfy such request, and describes any additional Services and Deliverables to be provided by Vendor pursuant thereto; (iii) sets forth cost estimates, specifications, implementation plans, and time schedules (with appropriate milestone and completion dates) anticipated by Vendor in connection with fulfilling such request; (iv) contains proposed completion and acceptance criteria; (v) sets forth any proposed Service Levels for new Services that would result from the Initiative; and (vi) sets forth any other information reasonably requested by the Commonwealth or that Vendor otherwise considers appropriate for inclusion. If the Commonwealth deems such proposal acceptable, and so notifies

Vendor by a written purchase order executed by a duly authorized officer of the Commonwealth, then Vendor shall perform such work at the time-and-materials rates specified for Initiatives in Schedule 10.1 (unless another rate structure is also offered in the proposal and is accepted by the Commonwealth). Each Initiative shall be deemed in all respects to be “Services” under this Agreement, and shall be subject to and governed by the terms and conditions of this Agreement, except to the extent that such terms are inconsistent with terms expressly agreed to by the Parties in writing with regard to such Initiative pursuant to this Section 11.1.

11.2 Cooperation and Coordination

With respect to each Initiative as to which Vendor is not selected to be the sole or principal provider, or that otherwise involves or requires the participation of third-party service-providers, Vendor shall at all times fully cooperate and coordinate with all such service-providers to facilitate the successful accomplishment of the Initiative, including all aspects thereof or related thereto that are the responsibility of such third-party service-providers, provided that such third-party providers comply in all material respects with Vendor’s reasonable technical and confidentiality requirements and to the extent that the Vendor Personnel that are assigned to perform the Services can reasonably accomplish such cooperation and coordination without materially and adversely affecting the Service Levels or other material aspects of the performance of the Services (including the quality and continuity thereof). Such cooperation and coordination shall include: (i) providing information concerning the Systems, data, computing environment, and the technology direction used by Vendor in providing the Services; (ii) cooperating with such third parties in the implementation and integration of the Initiative in the Commonwealth’s environment; (iii) providing access to and use of Vendor resources; and (iv) performing tasks assigned to Vendor in connection with the Initiative. If Vendor is required to provide material assistance by Vendor Personnel outside the scope of Services, the Commonwealth shall pay Vendor, in the absence of mutual written agreement to the contrary, for such assistance based upon the applicable rates for Initiatives set forth in Schedule 10.1, provided that Vendor notifies the Commonwealth in writing of such required assistance and receives the Commonwealth’s written authorization therefor prior to rendering such assistance. Vendor shall not be required to provide, and the Commonwealth shall not be required to pay for, such material assistance absent such authorization. Vendor acknowledges that, in accordance with the Commonwealth’s Procurement Rules, the Commonwealth has the right to solicit or accept bids on the same work as proposed for any Initiative from any other provider and the Commonwealth may award all or any portion of the work that was proposed for any Initiative to any such bidder for any reason. Notwithstanding the foregoing, Vendor’s performance under this Agreement shall be excused to the extent that any such third-party service-provider selected by the Commonwealth commits any act or omission that materially and adversely affects Vendor’s ability to provide the Services or to meet the Service Levels, provided Vendor could not have reasonably prevented, or reasonably avoided such failure, or promptly mitigated the effects of such failure, without expending a material amount of additional time, resources, or cost. Vendor shall immediately notify the Commonwealth of such circumstances and its inability to perform under such circumstances. Vendor shall allow the Commonwealth a reasonable opportunity to have such circumstances corrected and thereby avoid such Vendor non-performance. Vendor shall use commercially reasonable efforts to perform notwithstanding the circumstances.

12. PROPRIETARY RIGHTS

12.1 Commonwealth Works

12.1.1. Ownership by the Commonwealth

All Commonwealth Works, and all modifications or derivatives of such Commonwealth Works, including all Intellectual Property Rights in or pertaining to the same, shall be owned solely and exclusively by the Commonwealth.

12.1.2. License Grant to Vendor

As of the Services Commencement Date, the Commonwealth hereby grants, and Vendor hereby accepts, a limited, non-exclusive, non-transferable, royalty-free right and license to use the Commonwealth Works during the Term, to the extent necessary and appropriate for the sole purpose of Vendor's performing the Services, providing the Deliverables, and operating and supporting and maintaining the Systems, subject to, and as provided for by, the terms and conditions of this Agreement. Vendor acknowledges that the Commonwealth Works represent the valuable, intellectual property of the Commonwealth. To the extent necessary for Vendor to provide the Services, such license grant extends to Subcontractors designated by Vendor that sign a written agreement to be bound by all of the terms contained herein applicable to the Commonwealth Works. Vendor and its Subcontractors shall not (i) use any of the Commonwealth Works for the benefit of any Person other than the Commonwealth, or (ii) reverse assemble, reverse engineer, translate, disassemble, decompile any of the Commonwealth Works without the prior written approval of the Commonwealth, which may be withheld in the Commonwealth's sole discretion.

12.2 Vendor Works

12.2.1. Ownership by Vendor

All Vendor Works, and all modifications or derivatives of such Vendor Works, including all Intellectual Property Rights in or pertaining to the same, shall be owned solely and exclusively by Vendor.

12.2.2. License Grant to the Commonwealth

As of the Effective Date, Vendor hereby grants, and the Commonwealth hereby accepts, for the benefit of the Commonwealth and any third-party providers of services to the Commonwealth, a perpetual, non-exclusive, fully paid, non-transferable, royalty-free license to access, use, modify, copy, adapt, display, perform and create derivative works of, the Vendor Works to the extent necessary for the Commonwealth to receive the full benefit of the Services during the Term and any period of Disentanglement, and thereafter solely for internal business purposes of the Commonwealth, and not for commercial exploitation or resale.

12.3 New Works

12.3.1. Ownership by the Commonwealth

All Work Product, including all Intellectual Property Rights in or pertaining to the same, shall be owned solely and exclusively by the Commonwealth. Vendor (1) agrees that all copyrightable aspects of such Work Product shall be considered “work made for hire” within the meaning of the Copyright Act of 1976, as amended, (2) hereby assigns to the Commonwealth exclusively all right, title, and interest in and to all Intellectual Property Rights in and to such Work Product that it may have or obtain, without further consideration, free from any claim, lien for balance due, or rights of retention thereto on the part of Vendor, and (3) acknowledges that the Parties do not intend Vendor to be a joint author of such Work Product within the meaning of the Copyright Act of 1976, as amended, and that in no event shall Vendor be deemed a joint author of such Work Product.

12.3.2. Embedded Vendor Works

To the extent that any Vendor Works are incorporated into, embedded in or made part of the Work Product, notwithstanding Section 12.3.1 to the contrary, Vendor shall not be deemed to have assigned its Intellectual Property Rights in such Vendor Works to the Commonwealth, but Vendor hereby grants to the Commonwealth, for the benefit of the Commonwealth and any third-party providers of services to the Commonwealth, a perpetual, non-exclusive, worldwide, fully paid, royalty-free license to access, use, modify, copy, adapt, display, perform and create derivative works of, such Vendor Works to the extent necessary for the Commonwealth to receive the full benefit of its ownership of the Work Product.

12.3.3. License Grant to Vendor

Subject to the Commonwealth’s Intellectual Property Rights in the Work Product and the Deliverables, the Commonwealth hereby grants, and Vendor hereby accepts, a limited, non-exclusive, non-transferable, royalty-free right and license to use the Deliverables during the Term, to the extent necessary and appropriate for the sole purpose of Vendor’s performing the Services, providing other Deliverables, and operating and supporting and maintaining the Systems, subject to, and as provided for by, the terms and conditions of this Agreement. To the extent necessary for Vendor to provide the Services, such license grant extends to Subcontractors designated by Vendor that sign a written agreement to be bound by all of the terms contained herein applicable to the Deliverables. Vendor and its Subcontractors shall not (i) use any of the Work Product for the benefit of any Person other than the Commonwealth, or (ii) except to the extent necessary to perform the Services, reverse assemble, reverse engineer, translate, disassemble, decompile any of the Work Product without the prior approval of the Commonwealth, which may be withheld in the Commonwealth’s sole discretion.

12.3.4. Intellectual Property Protection

Vendor shall promptly and fully disclose and deliver all Work Product to the Commonwealth, in writing (and, with respect to any Software Component, excluding Third-Party Works, in both source code and object code form), together with appropriate user

manuals and all other Documentation necessary and sufficient to initially satisfy all of Vendor's related obligations under this Agreement (including the warranties set forth in Section 21.1.3) with respect to such Work Product. Vendor shall, at the Commonwealth's expense, execute and deliver any and all patent, copyright, and other applications, assignments, and other documents or instruments that the Commonwealth reasonably requests for securing and protecting the Work Product and all Intellectual Property Rights therein or pertaining thereto. The Commonwealth shall have the sole and exclusive power to file and prosecute such applications and other documents and to take all other similar action concerning the Work Product or their protection. As requested by the Commonwealth, Vendor shall promptly and fully cooperate in a lawful manner with the Commonwealth (or any third parties designated by the Commonwealth), at the expense of the Commonwealth, in the preparation and prosecution of all such applications and other documents and in any legal actions and proceedings concerning the Work Product.

12.4 Third Party Works

12.4.1. License Grant to Vendor

Subject to Vendor having obtained any Required Consents, and solely to the extent of the Commonwealth's underlying rights, the Commonwealth hereby grants, and Vendor hereby accepts, a limited, non-exclusive, non-transferable, royalty-free right and license to use the Third Party Works during the Term, to the extent necessary and appropriate for the sole purpose of Vendor's performing the Services, providing the Deliverables, and operating and supporting and maintaining the Systems, subject to, and as provided for by, the terms and conditions of this Agreement. To the extent necessary for Vendor to provide the Services, such license grant extends to Subcontractors designated by Vendor that sign a written agreement to be bound by all of the terms contained herein applicable to the Third Party Works. Vendor and its Subcontractors shall not (i) use any of the Third Party Works for the benefit of any Person other than the Commonwealth, or (ii) reverse assemble, reverse engineer, translate, disassemble, decompile any of the Third Party Works without the prior written approval of the Commonwealth, which may be withheld in the Commonwealth's sole discretion.

12.4.2. License Grant to the Commonwealth

(a) Use in Work Product. Vendor shall not embed any Third-Party Works in any Work Product, or create a derivative work of any Third-Party Work as Work Product, without the express, prior written consent of the Commonwealth. The Commonwealth acknowledges that its ownership of such Work Product pursuant to Section 12.3 above may be subject to or limited by the terms of the underlying agreement with the owner of the Third-Party Works. At the Commonwealth's direction, in the request for such consent by Vendor, Vendor will attempt to negotiate such rights and other concessions regarding such works or modifications for the benefit of the Commonwealth, as the Commonwealth may request. Vendor shall use commercially reasonable efforts to cause the owners of any such Third-Party Works to grant to the Commonwealth a right to use, and to sublicense third-party service-providers to use, any such Third-Party Works solely and exclusively for the Commonwealth's internal business purposes or, in the case of such third-party service-providers, for providing services to the Commonwealth;

(b) Use in Services. With respect to any Third-Party Works Vendor desires to implement or utilize in the provision of any Services, Vendor shall use commercially reasonable efforts to secure for the Commonwealth a perpetual, non-exclusive, royalty-free, fully paid-up, license to use or receive the benefit of any Third-Party Works as necessary and appropriate for the proper conduct of the Commonwealth's business. If Vendor is unable to obtain any such rights and licenses, Vendor shall notify the Commonwealth in advance and shall not use such Third-Party Works without the Commonwealth's express, prior written consent (and absent such consent, Vendor's use of any such Third-Party Works shall obligate Vendor to obtain or arrange, for such rights and licenses for the Commonwealth upon Disentanglement). Upon receipt of such notice, the Relationship Managers for each Party shall confer (and in any event, no less than monthly, as necessary) to discuss any Third-Party Works for which Vendor is unable to obtain such rights and licenses and the Parties shall cooperate with each other in achieving a reasonable alternative arrangement with respect to such Third-Party Works so as to not adversely impact the provision of Services. The Parties agree that, if Vendor is unable to obtain the rights and licenses described above in this Section 12.4.2(b), and the Commonwealth does not agree to the alternative license restrictions proposed by the applicable third-party vendors after the reasonable alternative arrangements are pursued, Vendor's ability to meet the Service Levels or other performance obligations under this Agreement may be impaired. Vendor shall identify any Third-Party Work which could so affect Vendor's ability to provide Services and Deliverables, as well as the specific Services and Deliverables that would be so affected. The Parties agree that if the Commonwealth directs Vendor not to accept the restrictions, Vendor shall be excused from its obligations under this Agreement with regard to the performance of such Services and Deliverables to the extent such performance is actually affected thereby. Notwithstanding the foregoing, Vendor shall not be so excused if the Commonwealth withholds its consent to any such Third-Party Work because, upon Disentanglement, (i) the assignment of such Third-Party Work to the Commonwealth or its designee would be subject to subsequent third party approval, or (ii) the Commonwealth would be obligated to reimburse Vendor for any termination or cancellation fees, non-cancelable charges or other amounts with respect to such Third-Party Work, including transfer fees (provided that Vendor will be so excused to the extent the Commonwealth is required to pay reasonable, under the circumstances, transfer fees or other amounts to the provider of the Third-Party Work). As of the Effective Date, the Commonwealth acknowledges and consents to Vendor's use of the Third-Party Software identified on Schedule 28.118 in connection with the provision of the Services.

12.5 Residuals

Notwithstanding anything to the contrary provided in this Agreement, neither Party shall be precluded from using its Residuals. Without limiting the foregoing, with respect to Vendor, Vendor's right hereunder to use any of its Residuals that are components of Work Product shall not affect, alter, limit, or interfere with any provisions of this Section 12 that provide for ownership of the Work Product itself, or the Intellectual Property Rights in or pertaining thereto, by the Commonwealth.

12.6 No Limitation of Governmental Rights

Certain federal or state agencies or other governmental entities that provide funds to the Commonwealth or in connection with the Commonwealth's activities and undertakings may have certain rights in the Work Product that arise under federal or state law or pursuant to agreements with federal or state governmental entities. Therefore, Vendor hereby grants each such governmental agency or entity such rights in and to the Work Product as such agency or entity is entitled to by applicable law. To the extent that VITA is aware that such rights apply to Work Product, VITA shall notify Vendor of the existence of such circumstances. Each Party expressly acknowledges and agrees that all rights granted, retained, or otherwise allocated pursuant to this Section 12 are expressly subject and subordinate to such rights as may be reserved or granted to such federal or state agencies or other governmental entities by law and that nothing in this Agreement shall or shall be construed to in any way limit such governmental rights, which rights shall take precedence over this Agreement in the event of any conflict.

12.7 Commonwealth Data

Subject to applicable law, the Commonwealth shall permit Vendor and its Subcontractors to have access to, and make appropriate use of, Commonwealth Data solely to the extent Vendor requires such access and use in order to properly and appropriately perform the Services as contemplated by this Agreement. Vendor may only access and use Commonwealth Data in connection with performance of its duties under this Agreement or as specifically directed by the Commonwealth in writing and may not otherwise use, disclose, modify, merge with other data, commercially exploit, or make any other use of Commonwealth Data or take, or refrain from taking, any other action that might, in any manner or form, adversely affect or jeopardize the integrity, security, or confidentiality of Commonwealth Data, except as expressly permitted herein or as expressly directed by the Commonwealth in writing. Vendor acknowledges and agrees that, as between the Parties, the Commonwealth owns all right, title, and interest in, and all Intellectual Property Rights in and to, all Commonwealth Data. Vendor agrees that all copyrightable aspects of Commonwealth Data shall be considered "work made for hire" within the meaning of the Copyright Act of 1976, as amended. Vendor hereby assigns to the Commonwealth exclusively, without further consideration, all right, title, and interest in and to Commonwealth Data, and all Intellectual Property Rights therein or pertaining thereto, that it may have or obtain, free from any claim, lien for balance due, or rights of retention thereto on the part of Vendor. Vendor also acknowledges that the Parties do not intend Vendor to be, nor in any event shall Vendor be deemed, a joint author of Commonwealth Data within the meaning of the Copyright Act of 1976, as amended. Except as expressly provided herein, Vendor shall in no event, nor in any form or manner, commercially exploit, or make any unauthorized use or disclosure of, any Commonwealth Data. Vendor shall at all times maintain appropriate safeguards and security measures to ensure the confidentiality and security of Commonwealth Data in accordance with the terms of this Agreement and shall at all times treat Commonwealth Data with at least the same level of security then maintained by the Commonwealth with respect to Commonwealth Data and the same level of security as Vendor then maintains for its own data of a similar nature. In no event shall Vendor withhold Commonwealth Data from, or deny access thereto by, the Commonwealth in connection with any Disagreement.

12.8 Cooperation

If at any time either Party brings, or investigates the possibility of bringing, any claim against any third party for infringement of any Intellectual Property Right of such Party, including misappropriation of trade secrets and improper use or disclosure of confidential information, then the other Party, upon the request and at the expense of the requesting Party, shall cooperate with and assist such requesting Party in the investigation or pursuit of such claim and provide such requesting Party with any information in its possession that may be of use to such requesting Party in the investigation or pursuit of such claim. Notwithstanding the foregoing, if an Affiliate, client, customer, or other business associate of a Party becomes the subject of such an investigation by the requesting Party, such Party will provide reasonable cooperation to the requesting Party, to the extent not inconsistent with such Party's legal and contractual obligations to such Affiliate, client, customer, or business associate.

13. COMPLIANCE WITH COMMONWEALTH POLICIES AND PROCEDURES

13.1 Policies and Procedures

Vendor, its Subcontractors, the Vendor Personnel, and all other agents and representatives of Vendor, will at all times comply with and abide by all policies and procedures of the Commonwealth and VITA that are provided or made available to Vendor that reasonably pertain to Vendor (and of which Vendor has been provided with advance notice) in connection with Vendor's performance of the Services, provision of the Deliverables, and operation, maintenance, and support of the Systems, including the policies and procedures set forth in Schedule 13 attached hereto (but excluding any personnel or human resources policies). Vendor shall cooperate with the Commonwealth in ensuring Vendor's compliance with the policies and procedures described in this Section 13, and any material violations or disregard of such policies or procedures shall, in addition to all other available rights and remedies of the Commonwealth, be cause for denial of access or use by Vendor Personnel to the Commonwealth's information systems, networks, equipment, property, and facilities. Without limiting the foregoing, Vendor agrees to the following:

13.1.1. Security and Policies

At all times during the Term, Vendor shall provide all Services, use all resources related thereto, and use, operate, support, and maintain the Systems, in a secure manner and in accordance with the Commonwealth's and VITA's security requirements, policies, and procedures as set forth in Schedule 13 attached hereto and as modified, supplemented, or replaced by the Commonwealth or VITA from time to time, in its sole discretion, by providing Vendor with a written copy of such revised requirements, policies, or procedures reasonably in advance of the date that they are to be implemented and effective (collectively, the "Security Policies"). In the event that any revision, modification, supplement or replacement of any of the Security Policies causes Vendor to incur additional expense or deploy additional resources or otherwise increase the effort required by it to fulfill its obligations under this Agreement, and Vendor so notifies VITA of such fact in advance and receives VITA's approval to proceed, Vendor shall be entitled to receive additional Fees sufficient to compensate Vendor for such additional expense, additional resources or increased effort. Vendor shall at all

times use industry best practices and methods with regard to the prevention, detection, and elimination, by all appropriate means, of fraud, abuse, and other inappropriate or unauthorized access to and use of Systems and the networks involved with the provision or receipt of Services, including the implementation and deployment network management and maintenance applications and tools, the use of appropriate encryption technologies, and the other security-related Services described in Section 3.10. In addition, all Vendor Personnel (including personnel of any Subcontractors) shall be subject to, and shall at all times conform to, all of the Commonwealth's policies, procedures, rules, and requirements regarding the protection of premises, materials, equipment, and personnel, also as set forth in Schedule 13 attached hereto (and contained within the Security Policies). Vendor shall, and shall cause the Vendor Personnel and Subcontractors to, fully comply with and abide by all such Security Policies at all times during the Term. Any violation or disregard of such Security Policies by an individual Vendor Person or Subcontractor shall be cause for denial of access of such Person to the Commonwealth's Systems or property. Vendor shall exercise due care and diligence to prevent any injury to person or damage to property while on the Commonwealth's premises.

13.1.2. Information Access

Prior to performing any Services, Vendor personnel who will access the Systems, or the Commonwealth's computer data and Software, including Commonwealth Data and Commonwealth Software, shall execute a confidentiality and non-disclosure agreement concerning access protection and data security in the form provided by VITA. At all times during the Term, Vendor shall, and shall cause the Vendor Personnel and Subcontractors, and the employees or agents of any of the foregoing, to, fully comply with all of the Commonwealth's policies and procedures regarding data access and security, including those prohibiting or restricting remote access to the Systems and Commonwealth Data, as set forth in the Security Policies. Vendor shall, and shall cause the Vendor Personnel and Subcontractors to, fully comply with and abide by all such Security Policies at all times during the Term. The Commonwealth shall authorize, and Vendor shall issue, any necessary information-access mechanisms, including access IDs and passwords, and in no event shall Vendor permit any such mechanisms to be shared or used by other than the individual Vendor Person to whom issued. Vendor shall provide each Vendor Person with only such level of access as is required for such individual to perform his or her assigned tasks and functions. From time to time throughout the Term, upon request from the Commonwealth but at least once each Contract Quarter, Vendor shall provide the Commonwealth with an accurate, up-to-date list of those Vendor Personnel having access to the Commonwealth's Systems, Software, or data, and the respective security level or clearance assigned to each such Vendor Person. All Systems, and all data and software contained therein, including Commonwealth Data and Commonwealth Software, used or accessed by Vendor Personnel: (i) shall be used and accessed by such Vendor Personnel solely and exclusively in the performance of their assigned duties in connection with, and in furtherance of, the performance of Vendor's obligations hereunder; and (ii) shall not be used or accessed except as expressly permitted hereunder, or commercially exploited in any manner whatsoever, by Vendor, the Vendor Personnel or any Subcontractor, at any time. Vendor acknowledges and agrees that any failure to comply with the provisions of this Section 13.1.2 shall entitle the Commonwealth to deny or restrict the rights of such non-complying Vendor Personnel to access and use the Systems, Commonwealth Data, and Commonwealth Software, as

the Commonwealth in its sole discretion shall deem appropriate. Vendor shall at all times use appropriate safeguard and security measures so as to ensure the confidentiality and security of all Commonwealth Data.

13.1.3. Enhanced Security Procedures

The Commonwealth may, in its discretion, designate certain areas, facilities, or Systems as ones that require a higher level of security and access control. The Commonwealth shall notify Vendor in writing reasonably in advance of any such designation becoming effective. Any such notice shall set forth in reasonable detail the enhanced security or access-control procedures, measures, or requirements that Vendor shall be required to implement and enforce, as well as the date on which such procedures and measures shall take effect. Vendor shall, and shall cause the Vendor Personnel and Subcontractors to, fully comply with and abide by all such enhanced security and access measures and procedures as of such date.

13.1.4. General Security Standards

At all times during the Term, Vendor shall maintain a level of security with regard to the Systems, Commonwealth Data, Commonwealth Software, and those Locations for which Vendor has agreed in Section 3.10 to provide or manage physical security, that in all events is at least as secure as each of the following levels of security: (i) that maintained by the Commonwealth with regard to such Systems, Commonwealth Data, Commonwealth Software, and the Commonwealth's facilities prior to the Service Commencement Date; (ii) that maintained by Vendor with regard to its own systems, data, and facilities of a similar nature and import; and (iii) that are common and prevalent in the IT industry and in accordance with best industry practices.

13.1.5. Breach of Security

Any material breach or violation by Vendor or its Subcontractors, or the employees or agents of any of the foregoing, of any of the provisions of Sections 3.10, 13.1.1, 13.1.2, 13.1.3, 13.1.4, Section or of the Security Policies shall be deemed a material breach of a material obligation of Vendor under this Agreement, and any chronic or critical breach by Vendor or its Subcontractors, or the employees or agents of any of the foregoing, of any of the provisions of Sections 3.10, 13.1.1, 13.1.2, 13.1.3, 13.1.4, or of the Security Policies shall be deemed an incurable and material breach of a material obligation of Vendor under this Agreement. The Parties agree that for the purposes of this Section 13.1.5 a breach shall only be deemed material if: (i) Vendor has failed to act in material accordance with the Security SOW, the Security Policies or the security provisions of the Procedures Manual; or (ii) Vendor has failed to use industry best practices and methods in performing its obligations with respect to security services.

13.1.6. Conduct on Other Party's Premises

Each Party shall, at all times, comply with and abide by all reasonable policies and procedures of the other Party (or that may be established thereby, from time to time) that pertain to conduct on the Party's premises, possession or distribution of contraband, or the

access to, and security of, the Party's real property or facilities, to the extent that the other Party has been provided with a copy of each such policy or procedure. Each Party shall exercise due care and diligence to prevent any injury to persons or damage to property while on the other Party's premises. The operation of vehicles by either Party's personnel on the other Party's property shall conform to posted and other applicable regulations and safe-driving practices. Vehicular accidents occurring on a Party's property and involving either Party's personnel shall be reported promptly to the appropriate Party's personnel. Each Party covenants that at all times during the Term, it, and its employees, agents, and Subcontractors shall comply with, and take no action that results in the other Party being in violation of, any applicable federal, state, and local laws, ordinances, regulations, and rules. Each Party's personnel shall clearly identify themselves as the appropriate Party's personnel and not as employees of the other Party. When on the other Party's premises, each Party's personnel shall wear and clearly display identification badges or tags, as approved by the other Party.

13.1.7. Security Audits

Each Contract Year, Vendor shall have a third party provider develop an IT infrastructure review plan, for the Commonwealth's approval, based on relative risk delineating the locations, planned testing and frequency of security reviews of all the Locations for which Vendor has agreed in Section 3.10 to provide or manage physical security. The third party vendor selected must be one approved by the Commonwealth. The Commonwealth shall work with the third party provider to ensure planned testing includes all pertinent Commonwealth security standards as well as any customer agency requirements, such as Federal tax tape handling requirements or HIPPA. Once approved by the Commonwealth, the third party provider shall execute the plan providing the Commonwealth and Vendor with written reports describing all results for each review conducted within two weeks of completion of the review.

14. TERM AND TERMINATION

14.1 Term

14.1.1. Initial Term

The period during which Vendor shall be obligated to provide the Services under this Agreement (the "Term") shall commence on the Effective Date and end on the date (the "Expiration Date") that is: (i) the ten year anniversary of the Service Commencement Date (or, in the event of any renewal of the Term, pursuant to Section 14.1.2, the last day of the last of such renewals or extensions); or (ii) the applicable Termination Date, in the event of a termination pursuant to Sections 14.2 through 14.8.

14.1.2. Term Renewals

The Commonwealth may, in its sole discretion, renew the Term for an additional successive period of not more than three (3) years (as designated by the Commonwealth, in its sole discretion), in accordance with the pricing terms and conditions set forth in Schedule 10.1, by providing written notice delivered to Vendor at least ninety (90) days

before the end of then-current Term (as such Term may have been renewed or extended, in accordance herewith).

14.1.3. Notifications

Unless the Commonwealth shall have already notified Vendor in writing that the Commonwealth is renewing the Term, pursuant to Section 14.1.2, for an additional period, or the Parties shall have already reached written mutual agreement on the terms and conditions to otherwise govern a renewal of the Term, Vendor shall notify VITA in writing within five (5) days before or after the date that is one hundred eighty (180) days prior to the date on which then-current Term shall expire of the approaching expiration of the Term.

14.2 Termination by the Commonwealth for Convenience

In accordance with this Section 14.2, the Commonwealth shall have the right to terminate for its convenience, at any time and for any reason or no reason: (i) the Term of this Agreement with regard to the Services, or (ii) any portion of the Services (e.g., a Tower or subcomponent), then being provided by Vendor. Any such termination shall be effected by the Commonwealth sending to Vendor a written notice of termination specifying the extent of the Services being terminated and the intended date (the "Termination Date") upon which, at 11:59 p.m., such termination shall be effective (any such notice, a "Termination Notice"). The Termination Date specified in any such Termination Notice sent by the Commonwealth pursuant to this Section 14.2 shall be at least ninety (90) days after the date of such Termination Notice. In the event that the Commonwealth terminates or ends the Term of this Agreement or any portion of the Services pursuant to this Section 14.2, the Commonwealth shall pay Vendor the applicable Exit Fee and shall assume the applicable Resolution Fees.

14.3 Termination by the Commonwealth for Change in Control

In the event of a change of control of Vendor (as described below) resulting from a single transaction or a series of related transactions, the Commonwealth shall have the right to terminate: (i) the Term of this Agreement with regard to the Services, or (ii) any portion the Services (e.g., a Tower or subcomponent), then being provided by Vendor by sending to Vendor a Termination Notice at least thirty (30) days before the Termination Date specified therein. Solely for purposes of this Section 14.3: (i) "control" means the legal, beneficial, or equitable ownership, direct or indirect, of more than fifty percent (50%) of the aggregate of all voting or equity interests in Vendor; and (ii) a "change in control" shall be deemed to have occurred whenever, as a result of a single transaction or a series of related transactions, a Person (or a group of Persons acting in concert) that had not previously had control of Vendor obtains control of Vendor, in accordance with clause (i) of this Section 14.3, no Exit Fee shall be payable by the Commonwealth to Vendor, provided, however, that the Commonwealth shall assume the applicable Resolution Fees.

14.4 Termination by the Commonwealth for Failure to Implement Improvements

The Parties shall conduct an annual meeting at least two hundred seventy (270) days prior to the end of the fifth (5th), and each subsequent, Contract Year. During each of these

annual meetings, and as may be further necessary during the first ninety (90) days of such two hundred seventy (270) day period, if either Party reasonably determines that Vendor is not already utilizing best current practices and best available technology for IT environments in the industry in which the Commonwealth primarily operates, then the Parties shall use all commercially reasonable efforts to negotiate, in good faith, reasonable terms for the implementation of such best practices and technology by the end of the current Contract Year (or such longer period of time beyond the end of the current Contract Year as the Parties may agree to in writing), including appropriate prospective adjustments to the Statements of Work, Service Levels, and Fees to reflect such terms. Such adjustments shall be documented in a written modification to the Agreement, signed by both Parties. If the Parties have not, through the process described above and after exerting all commercially reasonable efforts to negotiate in good faith, reached agreement on appropriate terms and adjustments for a particular Contract Year at least one hundred eighty (180) days before the end of such Contract Year, then the Commonwealth may terminate: (i) the Term of this Agreement with regard to the Services, or (ii) any portion the Services (e.g., a Tower or subcomponent), then being provided by Vendor, as of a Termination Date that is the last day of such Contract Year, by sending to Vendor a Termination Notice at least ninety (90) days before such Termination Date. In the event the Commonwealth terminates the Term or any portion of the Services pursuant to this Section 14.4, the Commonwealth shall pay Vendor the applicable Exit Fee and shall assume the applicable Resolution Fees.

14.5 Termination for Default

14.5.1. By the Commonwealth

Notwithstanding anything to the contrary in Section 24, the Commonwealth shall have the right to terminate: (i) the Term of this Agreement with regard to the Services, or (ii) any portion the Services (e.g., a Tower or subcomponent), then being provided by Vendor by delivery of a Termination Notice to Vendor, if Vendor commits a Default under this Agreement. In the event of any such termination by the Commonwealth for Default, Vendor shall nevertheless perform its Disentanglement obligations under Section 15 of this Agreement until they are fulfilled and any Initiative reasonably requested by the Commonwealth for up to one (1) year after the effective date of such termination. Any such termination shall not constitute the Commonwealth's exclusive remedy for such Default, nor shall such a termination cause the Commonwealth be deemed to have waived any of its rights accruing hereunder prior to such Default. If the Commonwealth terminates the Term or any portion of the Services as a result of a claimed Default by Vendor pursuant to the terms of this Section 14.5, and Vendor does not agree that a Default was committed, then Vendor shall have the right to avail itself of all remedies available to it at law or in equity. In the event that it is subsequently and finally determined by a court of competent jurisdiction, or otherwise mutually agreed by the Parties in writing, that the circumstances claimed by the Commonwealth to constitute a Default by Vendor, and that formed the basis of a termination of the Term of this Agreement or any portion of the Services by the Commonwealth pursuant to this Section 14.5, did not in fact constitute a Default, then the Term of this Agreement, or applicable portion of the Services, shall be deemed to have been terminated by the Commonwealth for its convenience, pursuant to Section 14.2, as of the Termination Date specified by the Commonwealth in the Termination Notice originally

delivered with respect to such termination, and the provisions of Section 14.2 shall thereafter in all respects govern such termination, except that any additional Fees and Interest, if any, payable to Vendor as a result thereof (including the applicable Exit Fees and Resolution Fees) shall be deemed due and payable by the Commonwealth no earlier than the date of such final determination or mutual written agreement, rather than as otherwise provided pursuant to Section 14.2. In the event the Commonwealth exercises its rights as set forth in this Section 14.5.1, no Exit Fee shall be payable by the Commonwealth to Vendor and the Commonwealth shall not be required to assume the Resolution Fees.

14.5.2. By Vendor

Vendor may terminate this Agreement solely if: (i) the Commonwealth (or the Eligible Customers) has failed to make payments due under Section 10, (ii) the aggregate total of such payments exceeds one hundred million Dollars (\$100,000,000), (iii) such payment is not subject to a good faith dispute, (iv) no earlier than (30) calendar days after the payment's due date Vendor gives written notice of its intent to terminate; and (v) no less than thirty (30) additional calendar days pass with such payment not having been made. The Parties agree that Vendor does not waive any claim Vendor may have with respect to Exit Fees and Resolution Fees by the exercise of its rights under this Section 14.5.2.

14.6 Termination by the Commonwealth for Force Majeure Event

In the event that Vendor experiences a Force Majeure Event that causes a delay or interruption in its performance of a significant or substantial portion of the Services that exceeds fifteen (15) consecutive calendar days in duration, the Commonwealth may terminate the delayed or interrupted Services or (in the event said Services represent a material portion of all of the Services) the Commonwealth may terminate the Term of this Agreement, by sending, in either case, a Termination Notice to Vendor, specifying whether such termination is a partial or a total termination. In the event the Commonwealth terminates the Term or any portion of the Services pursuant to this Section 14.6, the Commonwealth shall pay Vendor the applicable Exit Fee and shall assume the applicable Resolution Fees.

14.7 Termination by the Commonwealth for Lack of Funds

The Commonwealth may, by sending a Termination Notice at least forty-five (45) days before the Termination Date specified therein to Vendor, terminate this Agreement or any of the Deliverables, products or Services that Vendor is providing or performing pursuant to this Agreement (or any portion of any of the foregoing, such as a Tower or subcomponent), to the extent that such Deliverables, products or Services are directly or indirectly involved in the performance a function with regard to which funds are not appropriated, allocated or available to the Eligible Customers for the continued performance of such Deliverables, products or Services, in accordance with Section 10.9 of this Agreement. In the event the Commonwealth terminates any such Deliverables, products or Services pursuant to this Section 14.7, no Exit Fee shall be payable by the Commonwealth to Vendor and the Commonwealth shall not be required to assume the Resolution Fees.

14.8 Termination for Incurred Liability

Notwithstanding anything to the contrary in Section 24, the Commonwealth shall have the right to terminate: (i) the Term of this Agreement with regard to the Services, or (ii) any portion the Services (e.g., a Tower or subcomponent), then being provided by Vendor by delivery of a Termination Notice to Vendor at least ninety (90) days before the Termination Date specified therein, if Vendor has incurred liability under the Agreement in an aggregate amount equal to or greater than seventy-five percent (75%) of then applicable limit on liability specified in Section 16.1.1. If, during the Term, Vendor's total aggregate liability for all claims asserted against it by the Commonwealth under this Agreement equals or exceeds seventy-five (75%) of the amount specified in Section 16.1.2, then the Commonwealth may provide to Vendor a written notice requesting that Vendor either waive the limitations set forth in Section 16.1.2 or increase the amount specified in Section 16.1.2 by no less than Vendor's total aggregate liability for all claims asserted against it by the Commonwealth under this Agreement as of the date of such written notice. If Vendor refuses to take such actions in writing within thirty (30) days of Vendor's receipt of the Commonwealth's written request therefor, the Commonwealth may terminate this Agreement pursuant to subpart (b) above. In the event the Commonwealth exercises its rights as set forth in this Section 14.8, no Exit Fee shall be payable by the Commonwealth to Vendor and the Commonwealth shall not be required to assume the Resolution Fees.

14.9 Suspension of Work

The Commonwealth may, at any time, on a reasonable and good faith basis, immediately suspend, delay, interrupt, or stop the performance of any or all of the Services being or to be provided by Vendor pursuant to this Agreement, for a cumulative period of not to exceed more than forty-five (45) days within any contiguous six (6) month period, upon sending written notice to Vendor specifying the affected Services (each such suspension, delay, interruption, or stoppage, a "Suspension"). Any such Suspension shall remain in effect until the Commonwealth either: (i) sends Vendor a Termination Notice indicating that any or all of the suspended Services shall be terminated pursuant to the terms of Section 14 hereof, with the provision of any suspended Services not thereby terminated being immediately resumed by Vendor; or (ii) sends Vendor written notice canceling such Suspension and indicating when and how Vendor shall resume performance of the suspended Services. In the event of any such Suspension as described in this Section 14.9: (i) the Commonwealth shall reimburse Vendor for any additional costs that are reasonably and actually incurred by Vendor as a direct result of such Suspension; and (ii) the Parties shall mutually agree upon reasonable and appropriate adjustments to the Transition Plan, any affected Critical Milestones or other milestone dates, and any other schedule, deadline, or timeframe specified in this Agreement, to the extent affected by such Suspension.

14.10 Effect of Ending of Term

The expiration or termination of the Term shall not constitute a termination of this Agreement, and all terms and conditions of this Agreement shall continue in force and effect until all other duties and obligations of the Parties (including Vendor's Disentanglement obligations under Section 15 and the Commonwealth's obligations under this Agreement to pay

the applicable Fees for Services rendered, subject to the provisions of Section 10.5) have been fully performed, discharged, or excused. In the event the Commonwealth elects to terminate all or any particular portion of the Services pursuant to the terms of this Section 14: (i) Vendor shall perform its Disentanglement obligations under Section 15, to the extent applicable to the portion of the Services being terminated; (ii) Vendor shall be entitled to the unpaid Fees for Services actually rendered up to and including the applicable Termination Date, in accordance with Schedule 10.1; and (iii) to the extent applicable to the portion of the Services being terminated, the Commonwealth shall promptly pay any portions of previously earned Fees held back by the Commonwealth in accordance with Schedule 10.1 and in connection with previously delivered partial or completed Deliverables or milestones. For avoidance of doubt, subpart (iii) shall not be construed to include disputed Fees unless the resolution, in accordance with Section 24 of this Agreement, of the dispute regarding such Fees results in a determination that such Fees are in fact owed to Vendor.

14.11 Leases on Termination and Expiration; Assumption of Resolution Fees

Except as otherwise set forth in this Section 14, upon early termination of this Agreement by the Commonwealth, and in addition to the payment of unpaid transition costs specified in Attachment 10.1.11 (Resolution Fees) to Schedule 10.1, Vendor and the Commonwealth shall enter into a sublease and a lease (together, the “Leases”), in form and substance acceptable to the parties, pursuant to which (i) Vendor shall sublet to the Commonwealth, and the Commonwealth shall sublet from Vendor, that portion of Vendor’s real estate lease applicable to the portion of the Richmond Enterprise Solution Center occupied by the Commonwealth and/or used to perform the Services at such time for a period equal to the remainder of the Term, (ii) the Commonwealth shall assume responsibilities for all utilities and operating expenses for such portion of the Richmond Enterprise Solution Center during such period, and (iii) Vendor shall lease to the Commonwealth, and the Commonwealth shall lease from Vendor, the assets utilized by Vendor in or for the provision of Services or the operation, support, or maintenance of the Systems at such time for the period set forth in Attachment 10.1.11 to Schedule 10.1 (the payment obligations therefor collectively referred to herein as the “Resolution Fees,” which amounts shall be no more than the sum of the Infrastructure Lease Costs plus Facility Occupancy Costs as specified in Attachment 10.1.11 in Schedule 10.1). Vendor acknowledges and agrees that any Resolution Fees incurred by the Commonwealth pursuant to this Section 14.11 shall be subject to appropriation by the Virginia General Assembly and that any Leases shall contain provisions permitting the Commonwealth to terminate such leases and loans in the event that the necessary funds are not appropriated, allocated or available for the continuation of such leases or loans, without requiring the Commonwealth to pay any exit fees or other penalties in connection with such termination. In lieu of executing the Lease referred to in clause (ii) above, the Commonwealth may, at its sole option, pay the Infrastructure Lease Early Buyout Costs as specified in Attachment 10.1.11 to Schedule 10.1. For avoidance of doubt, upon the natural expiration of this Agreement, clause (iii) above shall still apply, but the Commonwealth may at its sole option elect to enter into the Lease described in clause (i) above for a period set forth in Attachment 10.1.11 in Schedule 10.1.

15. DISENTANGLEMENT

15.1 General Obligations

In connection with any expiration or termination of the Agreement, or with termination of Vendor's performance of the Services, or any portion thereof (e.g., a Tower or subcomponent), then being provided hereunder, Vendor shall take all necessary and appropriate actions to accomplish a complete, timely, and seamless transition from Vendor to the Commonwealth, or to any third-party service-providers designated by the Commonwealth, of the Services being terminated or expiring, without material interruption or material adverse impact on the Services, the Service Levels, or any other services provided to the Commonwealth by third parties (all such actions, collectively, a "Disentanglement"). Vendor shall promptly cooperate with the Commonwealth and any designated service-providers, and take all steps necessary and appropriate, or reasonably requested, to assist the Commonwealth in effecting a complete and timely Disentanglement, including the provision to the Commonwealth and any designated service-providers of all information necessary to effect the transition, and assume and continue the provision, of any terminated Service sufficient for reasonably skilled personnel to understand and operate those Services, subject to any such service-providers agreeing to protect the confidentiality of Vendor's confidential information. For up to twenty-four (24) months, Vendor shall provide for the prompt and orderly conclusion of all work related to the Services being terminated, as the Commonwealth may direct, including completion or partial completion and documentation of all work in progress, and other appropriate measures to assure and effect an orderly transition to the Commonwealth or its designated service-providers. All actions performed and services provided by Vendor related to Disentanglement shall be deemed Services and all such Disentanglement Services performed by Vendor shall be at no additional cost to the Commonwealth beyond what the Commonwealth would have paid for the Services absent Vendor's performance of Disentanglement Services. Subject to Section 15.4.1, Vendor's obligation to provide such Disentanglement Services shall terminate on the earlier of (i) completion of Disentanglement satisfactory to the Commonwealth, including performance by Vendor of all of its obligations pursuant to this Section 15, and (ii) twenty-four (24) months after receipt of the notice of termination of this Agreement or a portion of the Services, described in Section 15.2.

15.2 Disentanglement Process

In the event that the Term of this Agreement or any portion of the Services is terminated by either Party, the Disentanglement process shall begin on the date that any Termination Notice is delivered, or, if no Termination Notice has yet been delivered, the Disentanglement process shall begin on the date that is nine (9) months prior to the expiration of the Term (as applicable, the "Disentanglement Commencement Date") and, unless the Parties subsequently agree in writing to renew the Term, Vendor shall continue to provide Disentanglement Services, in accordance with this Section 15 or as the Commonwealth reasonably requests, until the earlier of a Disentanglement satisfactory to the Commonwealth has been completed, or a period that may last up to twenty-four (24) months after receipt of the notice of termination of this Agreement or a portion of the Services. As soon as reasonably practicable after the Disentanglement Commencement Date, Vendor and the Commonwealth,

and any third-party service-providers, shall confer and negotiate in good faith to reach mutual agreement on and document within thirty (30) days after such Termination Date, a written plan (a “Disentanglement Transition Plan”) that: (i) allocates responsibilities for Disentanglement and transition of the Services among the Parties and, to the extent applicable, such third-party service-providers; and (ii) sets forth in reasonable detail the respective services to be provided by each of the Parties and such third-party service-providers, including all Disentanglement Services to be performed by Vendor. Unless otherwise agreed by the Parties in writing, such plan shall not in any respect lessen or eliminate Vendor’s obligations under this Agreement to provide all Disentanglement Services reasonably requested by the Commonwealth. Vendor shall update such Disentanglement Transition Plan from time to time, as appropriate and subject to the Commonwealth’s reasonable approval, in order to address any impact of any unexpected changes in the Services or the observed Service Level performance, or the in hardware, Software, or other resources used to provide the Services, as such Disentanglement progresses. Vendor shall be required to perform its Disentanglement services on an expedited basis, as determined by the Commonwealth, if the Commonwealth terminates the Term or any portion of the Services pursuant to Sections 14.5 or 14.6 hereof. For avoidance of doubt, in the event of a termination pursuant to Section 14.7, no Disentanglement Services shall be provided after the Termination Date unless approved by the Commonwealth in writing.

15.3 Preparation for Disentanglement

15.3.1. Up-to-Date Documentation

Periodically throughout the Term, and at any time upon the Commonwealth’s request, Vendor shall provide to the Commonwealth such Documentation and other information regarding the performance of Services, or the use, operation, support and maintenance of the Systems and all associated Software (including any applications developed as part of the Services), hardware, networks and equipment, as is collectively sufficient to enable reasonably skilled personnel of the Commonwealth, or reasonably skilled personnel of a third-party service-provider, to understand the provision of any terminated Services and the use, operation, support, and maintenance use of the Systems. Vendor shall also provide sufficient Documentation for all upgraded or replacement Software, hardware, and network components within a reasonable time following installation. To the extent that any such Documentation relates to Third-Party Works, Vendor shall provide Documentation that is of a type generally created in the industry for such Software, hardware, or network components and allows a reasonably skilled personnel of a third-party service-provider to reasonably comprehend the proper use, operation, support, and maintenance of such Software, hardware, or network components. To the extent any such Documentation relates to proprietary Vendor Software that is commercially available, Vendor shall provide the Commonwealth with such Documentation as accompanies such commercially available Software, except that if such Documentation is insufficient to allow persons who meet the qualifications of Vendor Personnel set forth in this Agreement to fully comprehend the use, operation, support, and maintenance of such proprietary Vendor Software, then Vendor shall create and provide the Commonwealth with sufficient additional Documentation in a timely manner, at no charge.

15.3.2. Maintenance of Assets

Throughout the Term, Vendor shall continuously maintain all hardware, Software, Systems, networks, and network components and other assets and technology used by Vendor and its Subcontractors in performing Services and operating, supporting, and maintaining the Systems (including leased assets and licensed assets) in good working order and condition, and in such locations and configurations as to be readily identifiable and capable of being transferred back to the Commonwealth or its designees in accordance with the provisions of this Agreement. In addition, Vendor shall maintain insurance on all such assets, in accordance with Section 23.

15.3.3. Advance Consents

Without limiting the obligations of Vendor pursuant to Section 2.3, and subject to the terms of Section 15.4.7, Vendor shall procure and deliver to the Commonwealth, as the end of the Term approaches or upon Disentanglement, and at the Commonwealth's expense, such third-party authorizations and consents as are necessary to permit the timely conveyance or assignment to the Commonwealth (or its designee), during Disentanglement, of all third-party licenses, contracts, and agreements between Vendor and any third-parties who provide goods or services used by Vendor in the provision of Services (collectively, "Essential Agreements"), provided that, in the event that such third-party authorizations or consents have not been obtained and cannot be obtained during Disentanglement, Vendor shall: (i) promptly notify the Commonwealth's Relationship Manager of which third-party authorizations or consents it is unable to obtain; (ii) use commercially reasonable efforts to identify reasonable, alternative sources of goods, services, or Software comparable to those being provided under each such Essential Agreement, at a comparable or lower price; and (iii) consult with the Commonwealth regarding such identified alternatives and, to the extent the Commonwealth approves of such alternatives in writing, proceed to procure and implement such alternatives on behalf of the Commonwealth, provided that the Commonwealth shall have the option at all times to enter into the applicable licenses or other contracts in its own name. Vendor shall also use commercially reasonable efforts to procure for the Commonwealth, upon Disentanglement, the right to obtain ongoing support and maintenance services (including all enhancements and upgrades) with respect to the assets (i.e., hardware, Software, and equipment) that are the subject of such Essential Agreements at the price at which, and for so long as, such support and maintenance services are made commercially available by such third parties whose consent is being procured hereunder, and, in the event that such support and maintenance services cannot be obtained, Vendor shall: (a) promptly identify in a written notice to the Commonwealth's Relationship Manager those Essential Agreements and other contracts with regard to which Vendor is unable to obtain ongoing support and maintenance services for the Commonwealth; (b) use commercially reasonable efforts to identify reasonable alternative sources of such unobtainable support and maintenance services; and (c) consult with the Commonwealth regarding such identified alternatives and, to the extent the Commonwealth approves of such alternatives in writing, proceed to procure and implement such alternatives on behalf of the Commonwealth, provided that the Commonwealth shall have the option at all times to enter into the applicable licenses or other contracts in its own name. Notwithstanding the foregoing, in no event shall Vendor be required or obligated to make any payments, or provide any other forms of

compensation, to any third party except as provided by Section 15.4.7 or as otherwise mutually agreed by the Parties in writing, even if the making of such payment could secure additional, otherwise unobtainable rights for the Commonwealth or its designee.

15.3.4. Preparation for Successor to this Agreement

At any time or times during the Term, at the written request of the Commonwealth, Vendor shall provide the Commonwealth with any information that the Commonwealth is entitled to receive under this Agreement that the Commonwealth desires to use in preparing a request for proposal to solicit responses, or responding to proposals, for the purpose of entering into an agreement that would constitute the successor to this Agreement. Such requested information may include, among other things, current and projected transactional or other relevant volumes, resource utilization and performance statistics and trends, forms utilization, and such other information, statistics, and materials related to the provision of the Services or the use, operation, support, and maintenance of the Systems as the Commonwealth shall reasonably deem necessary or appropriate.

15.3.5. All Necessary Cooperation and Actions

Vendor shall take such additional actions and perform such additional tasks as are necessary, appropriate, or reasonably requested by the Commonwealth, whether during the Term or during Disentanglement, to ensure a timely and seamless Disentanglement, in accordance with this Section 15, including completely fulfilling all of Vendor's obligations under this Section 15 to the reasonable satisfaction of the Commonwealth.

15.4 Specific Disentanglement Obligations

During Disentanglement, as part of the Disentanglement Services, the Parties shall perform their respective obligations specifically identified below in this Section 15.4, with respect to the Services or, in the event of a termination of less than all of the Services, the portion of Services being terminated.

15.4.1. Extension of Services

The Commonwealth may elect to delay the Expiration Date of any expiration or termination of all or a part of the Services by giving Vendor thirty (30) days' advance written notice to such effect, which notice shall specify the new expiration or termination date; provided that the Commonwealth may not delay such expiration or termination, in the aggregate, more than one hundred and eighty (180) days following the originally specified Expiration Date of such expiration or termination, unless otherwise agreed by Vendor.

15.4.2. Full Cooperation and Information

The Parties shall cooperate fully with one another during Disentanglement to facilitate a smooth transition of the applicable Services from Vendor to the Commonwealth or the Commonwealth's designated service-provider. Such cooperation shall include the provision (both before and after the cessation of Vendor's providing of all or any part of the terminated

Services under this Agreement) by Vendor to the Commonwealth of sufficient information (including all information then being utilized by Vendor) to enable qualified personnel of the Commonwealth or its designee to fully assume and continue the provision of such Services without material interruption or material adverse impact upon the Commonwealth.

15.4.3. License to Proprietary Technology

Except as otherwise provided herein, Vendor, upon Disentanglement and at no charge to the Commonwealth, shall provide the Commonwealth (or its designee) with a fully-paid, perpetual, royalty-free, worldwide license to use, copy, and modify all Vendor Works that are needed in order to allow the Commonwealth (or its designee) to continue to perform and receive the benefit of the Services and to use, operate, support, maintain, and receive the benefit of the Systems, as such Systems might exist, or such Services are being performed, at the time of the Expiration Date. Vendor shall provide the Commonwealth with a full and complete copy of each such Vendor Work that constitutes Software, in such forms and media as requested by the Commonwealth, together with all object code, source code, and then-available Documentation thereto. If such then-available Documentation is insufficient to allow individuals who meet the qualifications required of the Vendor Personnel set forth in this Agreement to fully understand, use, and operate such Vendor Works, then Vendor shall create additional Documentation that fully meets the requirements set forth in this Agreement in a timely manner and promptly provide such additional Documentation to the Commonwealth, all at no charge. Vendor shall also offer to the Commonwealth the right to receive maintenance (including all enhancements and upgrades) and support with respect to all Vendor Works for which Vendor commercially offers such maintenance and support, for so long as the Commonwealth requires it, at no charge for the first two (2) years following the applicable Expiration Date and, thereafter, at reasonable commercial rates and terms similar to those that Vendor is then offering to other major customers for services of a similar nature and scope, unless otherwise agreed to by the Parties in writing.

15.4.4. Data and Documentation

In addition to Vendor's obligations with regard to Documentation set forth in Section 15.4.3, Vendor shall deliver to the Commonwealth or the Commonwealth's designee, promptly upon the Commonwealth's request, all Documentation and data related to the Commonwealth or the performance of the Services, including all the Commonwealth Data, then held by Vendor, except for documents and data that are legally privileged in the hands of Vendor, and Vendor shall securely destroy, in accordance with the Commonwealth's data and documentation destruction policies, all copies thereof not turned over to the Commonwealth, all at no charge to the Commonwealth.

15.4.5. No Interruptions or Adverse Impact

Vendor shall cooperate with the Commonwealth and all of the Commonwealth's other service-providers to achieve a smooth transition throughout Disentanglement, with no material interruption of Services, no material adverse impact upon the provision of Services or upon the achievement of Service Levels, no material adverse impact upon the Commonwealth's governmental activities, Eligible Customers and End-Users, no

material interruption of any services provided to the Commonwealth by third parties, and no material adverse impact upon the provision of such third-party services or their quality.

15.4.6. Transfer of Assets

(a) End of Term. Effective as of the expiration of the Term, provided that the Commonwealth has satisfied its payment obligations hereunder, Vendor shall convey to the Commonwealth, at no additional charge, all ownership, title and interest in all tangible assets used by Vendor in or for the provision of Services or the operation, support, or maintenance of the Systems, that are no longer the subject of or encumbered by a lease or loan obligation of Vendor. The Commonwealth shall have the option to purchase the Richmond Enterprise Solution Center on the Expiration Date, whereby such date is defined in Section 14.1.1(i).

(b) Upon Termination. In the event the Commonwealth is not otherwise already obtaining such assets pursuant to Section 14.11, effective as of the Termination Date, Vendor shall convey to the Commonwealth (or its designee) such assets as the Commonwealth may, in its sole discretion, select from among those tangible assets then held and used by Vendor in or for the provision of Services or the operation, support, or maintenance of the Systems, excluding those assets expressly agreed upon by the Parties in writing from time to time as Shared Resources, at a price consisting of Vendor's direct and indirect cost (as defined in Schedule 10.1) of such asset at such time plus a markup pursuant to Schedule 10.1. After the Expiration Date, Vendor shall promptly remove from the Commonwealth's premises any Vendor-owned assets that the Commonwealth did not select for purchasing.

15.4.7. Transfer of Leases, Licenses, and Contracts

Effective as of the Expiration Date, Vendor, at the Commonwealth's expense, shall convey or assign to the Commonwealth (or its designee) such leases (in the event that the Commonwealth is not otherwise already assuming such leases pursuant to Section 14.11), licenses, and other contracts as the Commonwealth may, in its sole discretion, select from among those associated with the use of properties (excluding any property lease associated with the Southwest Enterprise Solution Center building), equipment, Software, or other goods or services by Vendor or any other Person to facilitate or enable the performance of the Services or the use, operation, support, or maintenance of the Systems. Notwithstanding anything to the contrary in this Section 15.4.7 or elsewhere in this Agreement, Vendor shall be responsible for the satisfaction and performance of all obligations (including all financial obligations) under any such leases, licenses, and other contracts that may be assigned or conveyed to the Commonwealth (or its designee) pursuant to this Section 15.4.7 with respect to periods prior to the date of any such conveyance or assignment. Upon (i) expiration of the Term, or (ii) termination of the Agreement (in the event that the Commonwealth is not otherwise already assuming such lease pursuant to Section 14.11), the Commonwealth may, in its sole discretion, sublease from Vendor that portion of the Richmond Enterprise Solution Center occupied by the Commonwealth and/or used to perform the Services at such time for the balance of Vendor's lease for such facility at an annual fee no greater than the Year 10 lease charge set forth in Schedule 10.1.

15.4.8. Hiring of Employees

During Disentanglement, regardless of whether all or any portion of the Services are being terminated, Vendor shall cooperate with and assist (and shall use all commercially reasonable efforts to cause its Subcontractors to timely cooperate with and assist) with the Commonwealth's (or its designee's) offering of employment to those Vendor and Subcontractor employees who are selected by the Commonwealth, in its sole discretion, and whose then-current job functions or positions are directly related to the Services being terminated, and in effecting the transition of any such employees who are hired by the Commonwealth or its designee). Such cooperation and assistance shall include allowing the Commonwealth (or its designee) to meet with such employees at Vendor's or its Subcontractor's facilities and providing the Commonwealth, subject to any necessary consent of the Vendor or Subcontractor employee, with all relevant and pertinent details regarding the salary and benefits then being received by each Vendor or Subcontractor employee then occupying any such positions or performing any such functions, so as to enable the Commonwealth to make a reasonable and comparable offer and Vendor shall not, and shall cause its Subcontractors to not, interfere or impair the Commonwealth's ability to make such offers of employment. Notwithstanding the immediately preceding sentence, Vendor shall not be required to take any actions that would constitute a breach of any agreement, in existence as of the Effective Date, with a Subcontractor regarding non-solicitation of such Subcontractor's employees. Such offers of employment by the Commonwealth (or its designee), if any, shall be made during the period starting on the Disentanglement Commencement Date and ending on the date that is ninety (90) days after the Expiration Date. Vendor shall be solely responsible for, and shall pay, all financial obligations owing or accruing with respect to the period prior to the date that the Commonwealth (or its designee) hires any such employees of Vendor, and Vendor shall use all commercially reasonable efforts to cause each Subcontractor to pay any such financial obligations owing or accruing with respect to the period prior to the date that the Commonwealth (or its designee) hires any such employees of such Subcontractor, in accordance with the provisions of this Agreement and all Schedules attached hereto. On the Expiration Date, Vendor shall execute and deliver to the Commonwealth a written agreement in which Vendor makes, as of the Termination Date, the same representations and warranties to the Commonwealth with regard to the employees of Vendor that are being hired by the Commonwealth in connection with such Disentanglement as any made herein by the Commonwealth to Vendor regarding the Affected Employees being hired by Vendor.

15.4.9. Vendor WARN Notice

If, in the opinion of Vendor, the Disentanglement Transition Plan results in a need for a WARN Notice, then Vendor shall take such action as Vendor deems necessary to provide such WARN Notice, and advise the Commonwealth of the actions Vendor has taken.

15.4.10. Proprietary Network

If Vendor uses any proprietary telecommunications network to provide Services to the Commonwealth, then Vendor shall continue to make available such network for the Commonwealth's use, subject to the terms and conditions and rates set forth in this Agreement, subject to Section 15.4.1, for the earlier of (i) completion of Disentanglement,

including performance by Vendor of all of its obligations pursuant to this Section 15, or (ii) twenty-four (24) months after receipt of the notice of termination of this Agreement or a portion of the Services, described in Section 15.2, or the Expiration Date.

16. DEFAULT

16.1 Limitation of Liability and Disclaimers

16.1.1. Limitation on Amount of the Commonwealth's Liability

SUBJECT TO ALL APPLICABLE LAW AND EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN SECTION 16.1, THE COMMONWEALTH'S AGGREGATE CUMULATIVE MONETARY LIABILITY FOR ALL CLAIMS ARISING UNDER THIS AGREEMENT, SHALL BE LIMITED TO THE AMOUNT OF MONEY OWED AND UNPAID TO VENDOR FOR SERVICES RENDERED, ANY AMOUNTS DUE UNDER SECTION 15 AND ANY EXIT FEES AND RESOLUTION FEES DUE UNDER SECTION 14.

16.1.2. Limitation on Amount of Vendor's Liability

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN SECTION 16.1, VENDOR'S AGGREGATE CUMULATIVE MONETARY LIABILITY FOR ALL CLAIMS ARISING UNDER THIS AGREEMENT, SHALL BE LIMITED TO THREE HUNDRED MILLION DOLLARS (\$300,000,000.00).

16.1.3. Limitation on Types of Damages

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN SECTION 16.1, NEITHER PARTY SHALL BE LIABLE UNDER THIS AGREEMENT FOR LOST PROFITS, LOST REVENUES, OR LOST DATA, OR EXEMPLARY, PUNITIVE, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL, DAMAGES EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

16.1.4. Acknowledged Direct Damages

THE PARTIES ACKNOWLEDGE AND AGREE THAT THE FOLLOWING TYPES OF DAMAGES SHALL ALL BE CONSTRUED AS DIRECT DAMAGES AND NOT AS INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES:

(i) REASONABLE ADDITIONAL COSTS THAT THE COMMONWEALTH IS REQUIRED TO EXPEND DURING THE NINETY DAY PERIOD IMMEDIATELY FOLLOWING A MATERIAL DEFAULT TO PROVIDE REASONABLY COMPARABLE SERVICES ITSELF OR PROCURE REASONABLY COMPARABLE SERVICES FROM AN ALTERNATIVE SOURCE AS A RESULT OF SUCH DEFAULT BY VENDOR HEREUNDER (TO THE EXTENT IN EXCESS OF THE FEES THAT COMMONWEALTH WOULD HAVE PAID TO VENDOR PURSUANT TO THIS AGREEMENT AND CAPPED AT TWENTY-FIVE PERCENT (25%) OF SUCH FEES);

(ii) ANY AMOUNT OF MONEY UNPAID BY COMMONWEALTH TO VENDOR FOR SERVICES RENDERED HEREUNDER, EXIT FEES AND RESOLUTION FEES; AND

(iii) COST AND EXPENSES OF RESTORING ANY ALTERED OR LOST DATA OF THE COMMONWEALTH.

16.1.5. Classification of Performance Credits

PERFORMANCE CREDITS ASSESSED AGAINST VENDOR PURSUANT TO THIS AGREEMENT SHALL NOT BE A TYPE OF DAMAGE EXCLUDED UNDER SECTION 16.1.3 OR BE COUNTED TOWARD THE LIMITATIONS OF LIABILITY SET FORTH IN SECTION 16.1.2; PROVIDED THAT TO THE EXTENT THE COMMONWEALTH RECEIVES PERFORMANCE CREDITS RELATED TO AN EVENT, ANY DAMAGES AWARDED TO THE COMMONWEALTH RELATED TO THAT EVENT SHALL BE REDUCED BY THE AMOUNT OF THE PERFORMANCE CREDITS.

16.1.6. Exceptions for Limitations on Vendor's Liability

THE LIMITATIONS CONTAINED IN THIS AGREEMENT UPON THE TYPES AND AMOUNTS OF VENDOR'S LIABILITY SHALL NOT APPLY TO: (i) CLAIMS SUBJECT TO (OR AMOUNTS PAYABLE BY VENDOR PURSUANT TO) INDEMNIFICATION BY VENDOR (SECTION 22.1); (ii) CLAIMS WITH RESPECT TO VENDOR'S OR ITS SUBCONTRACTOR'S BREACH OF CONFIDENTIALITY (SECTION 19); (iii) CLAIMS FOR LOSSES ARISING OUT OF THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF VENDOR OR ITS SUBCONTRACTORS; (iv) CLAIMS BASED UPON VENDOR'S BREACH OF SECTION 24.2 HEREOF; (v) CLAIMS BASED UPON VENDOR'S OR ITS SUBCONTRACTOR'S UNCURED, MATERIAL BREACH OF SECTION 15 HEREOF; (vi) CLAIMS BASED UPON VENDOR'S OR ITS SUBCONTRACTOR'S BREACH OF SECTION 3.9 (DISASTER RECOVERY) OR SECTION 3.10 (SECURITY) HEREOF; (vii) CLAIMS FOR DAMAGES FOR PHYSICAL BODILY INJURY (INCLUDING DEATH) AND DAMAGE TO REAL OR TANGIBLE PERSONAL PROPERTY PROXIMATELY CAUSED BY THE NEGLIGENT OR TORTIOUS CONDUCT OF VENDOR OR ITS SUBCONTRACTORS; AND (viii) CLAIMS BASED UPON ANY REPUDIATION OF THIS AGREEMENT BY VENDOR.

16.2 Force Majeure Events

If a Force Majeure Event is the material contributing cause of a Party's failure to perform any of its obligations hereunder, such obligations, after notification by such Party to the other Party, shall be deemed suspended to the extent such obligations are affected by such Force Majeure Event, until the Force Majeure Event has ended and a reasonable period of time for overcoming the effects thereof has passed, except that if a Force Majeure Event results in Vendor being unable to perform during any period of time some or all of the Services in accordance with the terms hereof, the Commonwealth: (i) shall not be required to pay for any such unperformed Services; (ii) shall be entitled, without the payment of the fees described in Section 14.2, to engage an alternate provider, on an interim basis, to perform the Services that Vendor is unable

to perform as a result of the Force Majeure Event, until such time as Vendor is able again to perform the Services in accordance with the terms hereof, and shall be entitled during such interim period to reimbursement from Vendor (with such reimbursement not to cover any period to the extent in excess of ninety (90) days) for the costs and expenses of such provision of Services to the extent that said costs and expenses exceed the amount that the Commonwealth would have paid Vendor hereunder for such Services; provided that such reimbursement shall be capped at twenty-five percent (25%) of the amount the Commonwealth would have paid Vendor hereunder for such Services; (iii) shall be entitled to a share of Vendor's resources devoted to returning Vendor to full performance of all Services hereunder, that is equal to or greater than the share of such resources that Vendor allocates to other of its customers with whom it has agreements that are similar to this Agreement; and (iv) shall have the right to terminate this Agreement in accordance with the terms of Section 14.6. Both Parties shall use commercially reasonable efforts to minimize delays and mitigate adverse circumstances that occur due to a Force Majeure Event. Notwithstanding the foregoing, a Force Majeure Event shall not relieve or excuse Vendor from its obligations hereunder: (a) in the event that such obligations are not directly affected by such Force Majeure Event; (b) in the event that Vendor's failure to perform its obligations could have been prevented by testing that could have reasonably foreseen such failure, reasonable work-around, other exercise of reasonable diligence or the use of technology common and prevalent in the industry; or (c) to the extent that the Force Majeure Event is caused by Vendor's or its Subcontractors' failure to perform their Disaster Recovery Plan obligations in accordance with this Agreement.

16.3 Step-In Rights

If Vendor commits a Default that has a significant impact on a material portion of the operations of the Commonwealth and Vendor does not commence curing such Default within twenty-four (24) hours or is unable to cure such Default within the longer of the applicable cure period provided hereunder and five (5) days, then the Commonwealth may, in addition to its other remedies at law and in equity, obtain from a third party or provide itself services that will allow the Commonwealth to conduct operations until Vendor has cured the Default or this Agreement is terminated in accordance with the terms of this Agreement. Vendor shall reimburse the Commonwealth for all costs and expenses of obtaining or providing such services for up to ninety (90) days and provided that the Commonwealth shall continue to pay amounts due and owing to Vendor under the terms of this Agreement subject to the pricing methodology set forth in this Agreement, which shall be calculated upon the Commonwealth's usage of such Services from the third party. If Vendor is not able to restore such Services within the longer of the applicable cure period provided hereunder and fifteen (15) days, the Commonwealth may terminate this Agreement pursuant to Section 14.5.1. This Section 16.3 shall not be construed as limiting the Commonwealth's rights under Section 14.5.1 or elsewhere in this Agreement.

16.4 Savings Clause

Vendor's failure to perform its responsibilities under this Agreement or to meet the Service Levels shall be excused if and to the extent such Vendor non-performance is caused by the failure of the Commonwealth to perform any of its specific and express obligations or responsibilities under this Agreement or the failure of the Commonwealth's agents, other service

providers (not controlled and managed by Vendor), or an Eligible Customer or Eligible Customer's third-party contractor, to perform any of their respective obligations or responsibilities under this Agreement, and Vendor could not have prevented, or avoided such failure, or promptly mitigated the effects of such failure, without expending a material amount of additional time, resources, or cost; but only if (i) Vendor shall notify VITA and the Eligible Customer of such failure to perform and its inability to perform under such circumstances, (ii) Vendor provides VITA and the Eligible Customer with reasonable opportunity to correct such failure to perform and thereby avoid such Vendor non-performance, (iii) Vendor shall pursue commercially reasonable means to avoid or mitigate the impact of such failure to perform, (iv) Vendor shall use commercially reasonable efforts to perform notwithstanding such failure to perform, and (v) Vendor conducts a Root Cause Analysis and thereby demonstrates that such failure to perform is the cause of Vendor's non-performance.

17. REPORTS

17.1 Reports

As part of the Services, Vendor shall furnish the Commonwealth with reports in the form, and with the frequency, and covering the information, described in Schedule 17.1, or as otherwise reasonably requested by the Commonwealth, in writing, from time to time. As provided in Schedule 17.1, such reports shall address such issues as Vendor's performance of the Services, cost-management, Subcontractor relationships, End-User satisfaction, and human resources. All such reporting shall include allocations or breakdowns as necessary for the Commonwealth's internal chargeback purposes, in accordance with such procedures and materials as may be furnished by the Commonwealth to Vendor in writing from time to time. In addition, in the event that Vendor, at any time during the Term, fails to perform the Services in accordance with the Service Levels, Vendor shall promptly provide the Commonwealth with such additional reports, in such form, and with such frequency, as the Commonwealth shall reasonably request. On an annual basis, the Parties shall discuss the requirements set forth in Schedule 17.1 and shall modify such requirements in such a manner as they deem appropriate and mutually agree to in writing. Except as otherwise provided in Schedule 17.1, Vendor shall furnish all reports to the Commonwealth in an electronic form. Vendor shall promptly inform the Commonwealth of any known and material deficiencies, omissions, or irregularities in the Commonwealth's requirements or in Vendor's performance of the Services that may come to Vendor's Relationship Manager's attention. Vendor shall furnish the Commonwealth with materials and applicable research and development information, such as published materials and industry studies conducted for or by Vendor, that come to the attention of Vendor's Relationship Manager and pertain to the Services, and that Vendor's Relationship Manager reasonably believes would assist the Commonwealth in setting its IT-related policies or requirements. Vendor's Relationship Manager shall also advise the Commonwealth of other relevant matters of a material nature, including those that have a cost associated with them but that reasonably might be helpful to the Commonwealth in setting or revising such policies or requirements.

17.2 Additional Commitments

In accordance with Section 17.1, Vendor shall promptly inform the Commonwealth of any material deficiencies, omissions, or irregularities in the Commonwealth's

requirements for the performance of Services, or in Vendor's actual performance of the Services, that may come to Vendor's Program Manager's attention. To the extent that it is permitted by the applicable third parties without incurring additional cost, Vendor shall furnish the Commonwealth with all existing and future research and development resources (e.g., published materials, and industry studies conducted for or by Vendor) that come to Vendor's attention, that pertain or are related to the Services, and that would reasonably be of assistance to the Commonwealth in setting its policies or requirements under this Agreement.

17.3 Vendor's Report of Sales and Industrial Funding Adjustment

Vendor shall submit the "Vendor Monthly Report of Sales" which is available online at a URL to be provided by VITA. The report shall be submitted in electronic form via electronic mail to the VITA Relationship Manager and the VITA Controller, at such email addresses as provided by VITA, by the 10th day of every month during the Term, reporting all invoices paid by VITA for the preceding month. The report shall also show a cumulative record of all sales which shall carry forward for the duration of the Term. The Vendor Monthly Report of Sales template (in MS Excel format) indicated at the link above is required to be used by Vendor and provided to VITA. The "Vendor Monthly Report of Sales" is a detailed record that is prepared from actual invoices submitted to and paid pursuant to this Agreement. Data submitted shall include: name of project, Vendor's tax identification number, invoice date, invoice number, order number, name of requesting entity, Eligible Customer name and telephone number, amount billed for Services performed for previous month, and IT Service category. Vendor shall submit Industrial Funding Adjustment payment at the same time as submitting the "Vendor Monthly Report of Sales" in the form of a check or electronic funds disbursement made payable to the Controller of VITA, based on one percent (1%) of total sales under this Agreement, as set forth on Vendor's net invoice. Vendor shall include this Agreement's number, "report amounts" and "report period" with all Industrial Funding Adjustment payments. Vendor shall remit Industrial Funding Adjustment payments made via check to: VITA, ATTN: Controller; 110 South 7th Street, 3rd Floor; Richmond, VA 23219-3931, or such other address as provided by VITA in writing.

18. RECORDKEEPING AND AUDIT RIGHTS

18.1 Recordkeeping

18.1.1. General Obligations

Vendor shall at all times maintain true, complete, and accurate records and books of account with respect to all aspects of Vendor's performance and invoices under this Agreement utilizing generally accepted accounting principles ("GAAP"), consistently applied, and complying in all material respects with all applicable federal, state, and local laws, regulations, and ordinances. Such records and books of account, and the accounting controls related thereto: (i) shall be considered Commonwealth Confidential Information; (ii) shall be prepared in such a manner as to permit the Commonwealth's financial statements to be certified as having been prepared in accordance with GAAP and to maintain accountability of assets, with such recorded accountability compared with existing assets on an annual basis and appropriate action promptly taken to address any discrepancies; and (iii) shall be maintained by Vendor at a

principal business location within the Commonwealth. The Commonwealth, upon prior written notice, may examine and make extracts of information and copy parts thereof to the extent reasonably necessary for the Commonwealth to verify the accuracy of Vendor's invoices or Vendor's performance under this Agreement, at any reasonable time during normal business hours. In the event that Vendor ceases to exist as a legal entity, such records and books pertaining to this Agreement shall be forwarded to the surviving entity in a merger or acquisition, or in the event of liquidation, to the Commonwealth. Vendor shall retain for a period of five (5) years after the date of final payment for Services rendered hereunder (including any Disentanglement Services), or such longer period as may be required by applicable law or regulation, all records and information required to verify amounts invoiced under this Agreement and Vendor's and its Subcontractors' compliance with applicable law and regulation in its performance under this Agreement. The obligations and requirements of this Section shall apply to all Vendor Subcontractors.

18.1.2. Access and Remedy

The Commonwealth, or the Commonwealth's Auditors (provided that any external third party Auditors have executed an appropriate nondisclosure agreement), shall be granted access to the aforesaid records for the purpose of verifying the accuracy of Vendor's invoicing and contractual compliance, during normal business hours, upon reasonable notice to Vendor and in such a manner so as not to interfere with Vendor's operations. All such verifications, notwithstanding anything to the contrary elsewhere in this Agreement, shall not include access to proprietary or confidential information except to the extent necessary to confirm the accuracy of Vendor's invoices or the extent of Vendor's legal and contractual compliance. Nevertheless, subject to such limitations, during such hours and with such advance notice, and subject to the limits set forth in Section 18.2 below regarding access to Vendor's cost data, Vendor shall grant the Commonwealth and its representatives full and complete access to the relevant portion of Vendor's books, records, documents, data, or information, and, with the prior consent of Vendor (which will not be unreasonably withheld or delayed), access to relevant Vendor Personnel, as they relate to amounts invoiced, invoices submitted, or the extent of Vendor's compliance with this Agreement, or as such access to personnel, books, records, documents, data, and information may be required in order for the Commonwealth to ascertain any facts relevant to determining the accuracy of Vendor's invoicing hereunder, including facts with regard to verification of Fees (and components and calculations thereof). In the event that any such verification reveals an overcharge (net of any undercharges) to the Commonwealth with respect to the Fees, then: (i) Vendor shall promptly refund such overcharge or issue to the Commonwealth a credit for such overcharge; (ii) if such overcharge represents, as to any invoice, more than five percent (5%) of the amounts that the Commonwealth should have been charged under such invoice, then Vendor shall promptly refund to the Commonwealth, or issue to the Commonwealth a credit for, the cost of such audit; and (iii) Vendor shall fully cooperate with appropriate Commonwealth personnel, or the Commonwealth's Auditors, in reviewing, evaluating, and, to the extent necessary, revising Vendor's internal controls, promptly implementing any recommended, material changes.

18.1.3. Controls, Policies, and Procedures

Vendor shall at all times maintain such controls, policies, and procedures, and cause its auditors to prepare and deliver to the Commonwealth's Auditors such annual and more frequent reports as to such controls, policies and procedures, as reasonably requested by the Commonwealth or the Commonwealth's Auditors. Vendor shall promptly address any audit-control issues or weaknesses identified during any Commonwealth audit, at no cost to the Commonwealth. If specific audit recommendations by the Commonwealth's Auditors are not implemented by Vendor, then Vendor should implement such alternative steps as are reasonably satisfactory to the Commonwealth for the purposes of minimizing or eliminating the risks identified in any such audit.

18.1.4. SAS 70 Type II

On a Commonwealth fiscal year basis (7/1 – 6/30) ("Fiscal Year"), Vendor and all Key Subcontractors shall require its Auditors to conduct an examination of the controls placed in operation and a test of operating effectiveness, as defined by Statement on Auditing Standards No. 70, Reports on the Processing of Transactions by Service Organizations ("SAS 70"), of the Services and issue a report thereon (a "Type II Report") for the applicable Fiscal Year. Vendor shall submit the proposed control objectives to VITA for approval prior to conducting the audit. Vendor and all Key Subcontractors shall deliver to VITA five (5) copies of the Type II Report within two (2) months after conducting the SAS 70 assessment for a Fiscal Year (but in no event later than November 1 following the Fiscal Year end for which the audit was conducted) and Vendor shall prepare and implement a corrective action plan to correct any deficiencies or resolve any problems identified in such report. A copy of the corrective action plan shall be provided to the Commonwealth within thirty (30) days following the delivery of the Type II Report. In the event that the Commonwealth subsequently and reasonably incurs charges in excess of Seven Thousand Five Hundred Dollars (\$7,500) from its Auditors in connection with an audit of the Commonwealth's consolidated financial statements, then, to the extent that such excess charges result from additional audit procedures that such Auditors had to perform because of inadequacies or findings identified in a previously delivered Type II Report that have not been adequately addressed by Vendor or any Key Subcontractors (including control objectives or controls that that Vendor has not identified or instituted and that the Commonwealth reasonably believes are necessary to ensure its desired level of Service), Vendor shall promptly reimburse the Commonwealth for such excess charges, up to a maximum of Twenty-Five Thousand Dollars (\$25,000) for each Fiscal Year. In no event shall this Section 18.1.4 in any way modify or reduce Vendor's Auditors' responsibilities under SAS 70.

18.2 Financial Audits

Each Contract Year, Vendor shall require its Auditors to conduct an examination of Vendor's payment and invoicing processes related to delivery of Services under this Agreement with scope and objectives to be approved by the Commonwealth in advance. Vendor also shall require its Key Subcontractors with payment and invoicing processes related to delivery of Services under this Agreement to participate in such audits. This audit shall be conducted for the previous fiscal Year ending June 30, 20xx. For the first Contract Year this may be only for a partial year. Vendor shall deliver to the Commonwealth five (5) copies of

such audit report within two (2) months after conducting the audit (but in no event later than November 1 following the fiscal year end for which the audit was conducted) and Vendor shall prepare and implement a corrective action plan to correct any deficiencies or resolve any problems identified in such report. A copy of the corrective action plan shall be provided to the Commonwealth within thirty (30) days following the delivery of the audit report. In addition, Vendor shall, at the Commonwealth's request, allow the Commonwealth's Auditors to audit Vendor's and its Subcontractors' records to the extent necessary to verify any amounts payable by the Commonwealth hereunder, including those records related to performance obtained with regard to measured Service Levels. Vendor shall provide the Commonwealth's external, third-party Auditors with reasonable access to such information relating to this Agreement and Vendor's business and its Subcontractors' businesses as may be necessary to confirm the accuracy of Vendor's invoices, documents, and other information supporting such invoices, and pricing-adjustment computations for any given year. The Commonwealth's external third party Auditors shall perform such audits only after executing nondisclosure agreements reasonably satisfactory to Vendor and shall not be Vendor Competitors. All such audits shall be conducted during business hours, with reasonable advance notice, in compliance with Vendor's security requirements. Any such audit shall be conducted in a manner so as not to interfere with Vendor's operations. Such audits shall include access to proprietary or confidential information of Vendor only to the extent necessary to comply with the provisions of Section 10 and shall not include unnecessary access to Vendor's internal cost data, except to the extent any Fees reflect any pass-through costs or are on a "cost-plus" or similar basis or as necessary to comply with applicable law. If any of the foregoing audits reveals that Vendor has overcharged the Commonwealth during the period to which the audit relates, then Vendor shall promptly either refund such overcharges to the Commonwealth or issue to the Commonwealth a credit for such overcharge, and, if the amount of the overcharge (offset by any undercharges revealed by such audit) is more than five percent (5%) of Vendor's charges to the Commonwealth for such period, the reasonable cost of such audit shall be borne by Vendor. If any such audit reveals that Vendor has undercharged the Commonwealth during the period to which the audit relates, then the Commonwealth shall promptly pay such undercharges to Vendor.

18.3 Operational Audits

Each Contract Year, Vendor shall require its Auditors to conduct an examination of Vendor's compliance with this Agreement with scope and objectives to be approved by the Commonwealth in advance. Vendor also shall require its Key Subcontractors to participate in such compliance audits. This audit shall be conducted for the previous fiscal Year ending June 30, 20xx. For the first Contract Year this may be only for a partial year. Vendor shall deliver to the Commonwealth five (5) copies of such audit report within two (2) months after conducting the audit (but in no event later than November 1 following the fiscal year end for which the audit was conducted) and Vendor shall prepare and implement a corrective action plan to correct any deficiencies or resolve any problems identified in such report. A copy of the corrective action plan shall be provided to the Commonwealth within thirty (30) days following the delivery of the audit report. In addition, at any time, and from time to time, during the Term, the Commonwealth may engage such Auditors as it shall deem appropriate (except that such Auditors shall not be Vendor Competitors) to conduct an audit of Vendor's and its Subcontractors' practices, the facilities used by Vendor or Vendor's Subcontractors to provide

the Services, and related operational matters (including audits of Vendor's legal compliance and Vendor's security policies and practices with regard to IT and data access and control) in order to verify compliance with the terms of this Agreement. Any such audit shall be conducted in a reasonable manner and after reasonable advance notice (except that no notice shall be required with respect to a security audit). For purposes of such audit, Vendor shall, and shall cause its Subcontractors to, grant the Commonwealth and its representatives full and complete access, during normal business hours and upon reasonable notice, to the relevant portion of Vendor's and its Subcontractors' books, records, documents, data, and information, as they relate to this Agreement, and with the prior consent of Vendor (which will not be unreasonably withheld or delayed), access to relevant Vendor Personnel's comptroller, access to relevant Vendor Personnel. Vendor shall, and shall cause its Subcontractors to, provide the Commonwealth, or its authorized representatives, with such information and assistance as are reasonably requested in order to perform such audits, provided that the Parties shall endeavor to arrange such assistance in such a way that it does not interfere with the performance of Vendor's duties and obligations hereunder. If any such audit reveals an inadequacy or insufficiency of Vendor's performance, including performance in connection with any security obligations of Vendor as set forth in this Agreement, Vendor shall promptly develop and provide to the Commonwealth a reasonable and detailed corrective action plan and promptly thereafter implement such plan in accordance with its terms. In addition, the cost of such audit shall be borne by Vendor in the event that: (i) the Commonwealth specifically identifies a particular deficiency with respect to Vendor's performance of any particular Service; (ii) Vendor either denies or fails to take prompt actions to investigate and cure such identified deficiency; (iii) an audit is initiated hereunder to investigate such deficiency; and (iv) the audit confirms the deficiency with respect to Vendor's performance of such Service. Any of the Commonwealth's external third-party Auditors performing such an audit shall do so only after executing nondisclosure agreements reasonably satisfactory to Vendor. Vendor shall use commercially reasonable efforts to incorporate the substance of the foregoing provisions of this Section 18.3 regarding audit rights (substituting the name of the Subcontractor for that of Vendor) into any written agreement between Vendor and each Subcontractor. Nothing in this Section 18.3 shall in any way limit the Commonwealth's rights under Section 18.2.

19. CONFIDENTIALITY

19.1 Protection of Confidential Information

Vendor shall:

(a) strictly maintain the confidentiality of the Commonwealth Confidential Information;

(b) take steps to prevent the use, disclosure, dissemination, or copying of the Commonwealth Confidential Information other than as necessary for Vendor to perform its obligations under this Agreement, including developing, implementing, maintaining, and enforcing appropriate policies and procedures to safeguard the Commonwealth Confidential Information;

(c) use the same care to prevent disclosure of the Commonwealth Confidential Information to third parties as it employs to avoid disclosure, publication, or dissemination of its own confidential information of a similar nature, but in no event less than a reasonable standard of care;

(d) use the Commonwealth Confidential Information solely as necessary and appropriate for the purpose of performing its obligations under this Agreement;

(e) not acquire any express or implied right or license to any Intellectual Property Right or other right, or assert any lien against, the Commonwealth Confidential Information;

(f) upon the request of the Commonwealth, promptly return, or provide a copy of, as the Commonwealth directs, Commonwealth Confidential Information (provided that Vendor may retain such Confidential Information as it requires in order to perform the Services for so long as it is required to perform such Services); and

(g) use commercially reasonable efforts to inform its employees, agents, and subcontractors who perform duties with respect to this Agreement about the restrictions with regard to Commonwealth Confidential Information set forth in this Section 19.

Notwithstanding anything to the contrary contained elsewhere in this Section 19, Vendor may disclose Commonwealth Confidential Information to its employees, agents, and subcontractors who have: (i) a bona fide need to know such Commonwealth Confidential Information in order to perform their assigned duties in fulfillment of obligations under this Agreement; and (ii) a legal duty to protect the Commonwealth Confidential Information that is substantially equivalent to the obligations of confidentiality imposed upon Vendor hereunder. Vendor assumes full responsibility for the acts or omissions of its subcontractors and employees with respect to Commonwealth Confidential Information.

19.2 Required Disclosure

Subject to the remainder of this Section 19.2, Vendor may disclose Commonwealth Confidential Information to the extent disclosure is required by law or by order of a court or governmental agency. Vendor shall use all commercially reasonable efforts to: (i) maintain the confidentiality of the Commonwealth Confidential Information by giving the Commonwealth prompt notice in order that it has every opportunity to intercede in such process to contest such disclosure; and (ii) cooperate with the Commonwealth to protect the confidentiality of such Commonwealth Confidential Information. The Commonwealth (or such other person to whom such Commonwealth Confidential Information otherwise pertains) shall have the right to obtain a protective order or otherwise protect the confidentiality of such Commonwealth Confidential Information. Each Party shall be responsible for its own costs with respect to the performance of its obligations under this Section 19.2. Notwithstanding anything to the contrary contained elsewhere in this Agreement, either Party may disclose the existence of this Agreement, or the terms of this Agreement, to the extent such disclosure is required to enforce the terms of this Agreement or the rights of such Party hereunder, and as required by the Va. Code. §2.2-3700 et. seq. or other applicable laws or regulations.

19.3 Notification

Vendor shall notify the Commonwealth as soon as possible in the event of any disclosure or loss of Commonwealth Confidential Information other than as permitted by this Agreement.

19.4 Injunctive Relief

Vendor acknowledges that any breach of any provision of this Section 19 by Vendor, or by its personnel, agents, or subcontractors, may cause immediate and irreparable injury to the Commonwealth that cannot be adequately compensated for in damages, and that, in the event of any such breach and in addition to all other remedies available at law or in equity, the Commonwealth shall be entitled to seek injunctive relief from any court of competent jurisdiction, without bond or other security.

19.5 Return of Confidential Information

Unless expressly authorized by this Agreement to retain the Commonwealth Confidential Information, and upon either termination or expiration of the Term of this Agreement or the request of the Commonwealth, Vendor shall promptly return or destroy, at the Commonwealth's option, the Commonwealth Confidential Information and all copies thereof, including, to the extent containing Commonwealth Confidential Information, materials prepared in whole or in part based on such Commonwealth Confidential Information, and all copies thereof. Following such return or destruction, an officer of Vendor shall certify to the Commonwealth that it no longer has in its possession or under its control any of such Commonwealth Confidential Information in any form whatsoever, or any copy thereof. Notwithstanding anything to the contrary in Section 19.7, to the extent and for so long as such return or destruction is infeasible (e.g., with regard to Commonwealth Confidential Information retained in the memories of Vendor's employees), the protections of this Section 19 shall continue to apply to such Commonwealth Confidential Information.

19.6 Confidentiality Agreements

Vendor shall require each of its agents and Subcontractors providing Services hereunder to execute an agreement, in form and substance acceptable to the Commonwealth (a "Confidentiality Agreement"), under which such agents or Subcontractors agree to appropriately protect the Commonwealth Confidential Information and to fulfill any other confidentiality obligations necessary to the performance of Vendor's obligations hereunder. Vendor covenants that each of its employees performing Services shall be subject to the terms of an employment agreement that requires him or her to protect Vendor's clients' confidential information, including the Commonwealth Confidential Information, and that offers no less degree of protection than that which is required hereunder.

19.7 Vendor Confidential Information

The Commonwealth agrees that it shall not knowingly divulge any data, material or information of Vendor that is protected from disclosure by the Virginia Freedom of

Information Act, § 2.2-3700 et seq., provided that Vendor invokes such protection pursuant to the provisions of Virginia Code § 2.2-4342.F. If Vendor believes that information submitted to the Commonwealth pursuant to this Agreement is excluded from the provisions of the Virginia Freedom of Information Act, Vendor shall submit a writing prior to or at the time of submission of such information that (i) invokes the protection of the applicable statutory exemption provided by the Code of Virginia, which may include § 2.2-3705.1(6) pertaining to Vendor proprietary information software, § 2.2-3705.1(7) pertaining to computer software developed for the Commonwealth, §2.2-3705.2(3) pertaining to documentation describing the design and operation of any security system controlling access to an automated data processing or telecommunications system, § 2.2-3705.2(6) pertaining to engineering and architectural drawings, procedural manuals and plans that would jeopardize the security of any governmental facility, and § 2.2-4342 pertaining to trade secrets or proprietary information submitted by a contractor in connection with a procurement transaction; (ii) identifies the specific data or other materials to be protected, and (iii) states the reasons why protection is necessary. Any proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information.

Vendor acknowledges that the Virginia Freedom of Information Act sets forth specific procedures by which the Commonwealth is required to respond to requests for public records. Vendor shall cooperate with and assist the Commonwealth in complying with such required procedures. Upon request of the Commonwealth, Vendor's cooperation and assistance shall include, without limitation, the identification and excision of exempt information in preparation of a timely response.

19.8 Duration

The obligations of the Parties with respect to Commonwealth Confidential Information and Vendor information under Section 19.7, as are set forth in this Section 19, shall remain in force and effect at all times during the Term and (i) with respect to such information that constitutes a trade secret under applicable law, for so long as such trade secret status is maintained; and (ii) with respect to such information that does not constitute a trade secret, for such period after the Term in accordance with the retention and destruction schedules approved in accordance with the Virginia Public Records Act.

20. LEGAL COMPLIANCE

20.1 General

Each Party shall at all times perform its obligations hereunder in compliance in all material respects with all applicable federal, state, and local laws and regulations of all applicable domestic jurisdictions, and in such a manner as not to cause the other Party to be in violation of any applicable laws or regulations including any applicable requirements of any federal, state, and local authority regulating health, safety, employment, civil rights, the environment, Hazardous Materials, privacy, confidentiality, security, exportation, or telecommunications.

20.2 Federal Funding

Without limiting the generality of the foregoing section, Vendor shall at all times comply with all applicable federal laws, rules, regulations, guidelines, and mandates relating to the allocation of federal funds provided or granted to the Commonwealth, including Office of Management and Budget OMB Circular A-87, revised 5/10/04, as amended or superseded; provided that the Commonwealth provides notice to Vendor of the applicable federal funding criteria or that Vendor is aware of the applicability of such federal funding criteria.

20.3 Permits and Licenses

Except for approvals, permissions, permits, or licenses required by state or federal statute, ordinance, regulation, or other law to be obtained by the Commonwealth (including those required, if any, to permit the Commonwealth to enter into this Agreement), or as provided otherwise elsewhere in this Agreement, Vendor shall obtain and maintain, at its own expense, all approvals, permissions, permits, licenses, and other forms of documentation required in order for the Parties to comply with all existing state or federal statutes, ordinances, regulations, and other laws that are applicable to Vendor's performance of Services hereunder. The Commonwealth reserves the right to reasonably request and review all such applications, permits, and licenses prior to the commencement of performance of any Services hereunder, and Vendor shall promptly comply and cooperate with any such request. Notwithstanding the foregoing, the Commonwealth shall be solely responsible for monitoring, and compliance with, the substantive laws, rules, and regulations applicable to its business.

20.4 Prevailing Wage Rates

All contractors working for the Commonwealth, including Vendor and its Subcontractors, must abide by the all applicable state and local laws, rules, regulations, and ordinances regarding employment, wage rates, and employment of in-state residents.

20.5 Debarment and Suspension

Vendor certifies that it and its Affiliates, including any officers or principals therefor:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any state or federal department or agency;

(b) Have not, within the three (3) year period preceding this Agreement, been convicted of or had a civil judgment rendered against any of them for: the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State, or local) transaction; violation of federal or State anti-trust statutes; or the commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted or otherwise criminally or civilly charged by a governmental entity (federal, State or local) with commission of any of the offenses described in paragraph (b); and

(d) Have not, within the three (3) year period preceding this Agreement, had one or more public transaction (federal, State or local) terminated for cause or default.

Vendor shall require each of its Subcontractors to certify to Vendor as to the matters set forth in paragraphs (a) through (d) above, with respect to such Subcontractor and its officers and principals.

During the Term of this Agreement, in the event Vendor, or any of its Subcontractors, including any officer or principal thereof, (i) is or becomes debarred, suspended, declared ineligible, or voluntarily excluded from covered transactions by any governmental entity (federal, State or local) or is indicted, charged or convicted, or has a civil judgment rendered against them for any offenses described in subsection (b), above, or (ii) is proposed for debarment, then: (y) with respect to both subparts (i) and (ii) of this paragraph, Vendor shall provide VITA with a reasonably detailed written notice of such fact promptly following Vendor's receipt of formal notice; and (z) with respect to subpart (i) of this paragraph, this Agreement may be terminated, at the Commonwealth's option, and such termination shall not be subject to an Exit Fee; provided that such termination right shall not apply where a Subcontractor becomes subject to any of the circumstances described in subpart (i) of this paragraph if Vendor proposes a replacement for such Subcontractor within a reasonable time of learning of such circumstances and the Commonwealth unreasonably withholds its approval of such replacement.

20.6 Nonvisual Access to Technology

All information technology which, pursuant to this Agreement, is purchased or upgraded by Vendor for the use of any Eligible Customer shall comply with Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended, and as required by Va. Code § 2.2-2012(A). If requested, Vendor shall provide a detailed explanation of how compliance with Section 508 of the Rehabilitation Act is achieved and a validation of concept demonstration. Without limiting the foregoing, all such information technology shall comply with the following nonvisual access standards from the date of purchase or upgrade until the expiration of this Agreement:

(a) Effective, interactive control and use of the technology shall be readily achievable by nonvisual means;

(b) The technology equipped for nonvisual access shall be compatible with information technology used by other individuals with whom any blind or visually impaired user of the technology interacts;

(c) Nonvisual access technology shall be integrated into any networks used to share communications among employees, program participants or the public; and

(d) The technology for nonvisual access shall have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

Compliance with the foregoing nonvisual access standards shall not be required if the Eligible Customer determines that (i) the applicable technology is not available with nonvisual access because the essential elements of such technology are visual and (ii) nonvisual equivalence is not available.

Installation of hardware, software, or peripheral devices used for nonvisual access is not required when the applicable technology is being used exclusively by individuals who are not blind or visually impaired, but applications programs and underlying operating systems (including the format of the data) used for the manipulation and presentation of information shall permit the installation and effective use of nonvisual access software and peripheral devices.

The requirements of this Section shall be construed to achieve full compliance with the Information Technology Access Act, §§2.2-3500 through 2.2-3504 of the Code of Virginia.

20.7 Non-Discrimination

During the Term, Vendor hereby agrees as follows:

(i) Vendor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of Vendor. Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause, including the names of all contracting agencies with which Vendor has contracts of over \$10,000.

(ii) Vendor will, in all solicitations or advertisements for employees placed by or on behalf of Vendor, state that such Vendor is an equal opportunity employer. However, notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of Va. Code § 2.2.-4201.

(iii) Vendor shall include the provisions of subdivisions (i) and (ii) in every subcontract or purchase order of over \$10,000, so that such provisions shall be binding upon each Subcontractor or third-party vendor.

21. REPRESENTATIONS, WARRANTIES, AND COVENANTS

21.1 By Vendor

21.1.1. Preparation

Vendor represents that: (i) it has had sufficient access to, and opportunity to inspect, all material components, workings, capabilities, procedures, and capacities of the Commonwealth's networks, equipment, hardware, and Software associated with the provision of the Services and Deliverables, and the operation, support, and maintenance of the Systems, and for full and complete analysis of the Commonwealth's requirements in connection therewith (as specified in this Agreement); (ii) it has performed sufficient due diligence investigations regarding the scope and substance of the Services, the Systems, and the Deliverables; (iii) it has received sufficient answers to all questions that it has presented to the Commonwealth regarding the scope and substance of the Services, the Systems, and the Deliverables; and (iv) it is capable in all respects of providing the Services and Deliverables, and of operating, supporting, and maintaining the Systems, in accordance with this Agreement. Vendor hereby waives and releases any and all claims that it now has or hereafter may have against the Commonwealth based upon any inaccuracy or incompleteness of the information it has received with regard to the scope and substance of the Services, the Systems, or the Deliverables. Further, Vendor covenants that it shall not seek any judicial rescission, cancellation, termination, reformation, or modification of this Agreement or any provision hereof, nor any adjustment in the Fees to be paid for the Services, based upon any such inaccuracy or incompleteness of information except where such information was willfully withheld or intentionally misrepresented by the Commonwealth.

21.1.2. Services

Vendor warrants that: (i) the Services shall be performed, and all Deliverables and other materials prepared and delivered, in a timely, professional, workperson-like, diligent, efficient manner and in accordance with the highest recognized professional standards and practices of quality and integrity in the industry and with the performance standards and Specifications provided or required by this Agreement; and (ii) Vendor Personnel (including Vendor's Relationship Manager and the Key Personnel), Vendor's Subcontractors, and any other Person or individual employed or engaged by Vendor in connection with this Agreement, shall be fully familiar with the technology and methodologies used to perform the Services and shall have the requisite ability, expertise, knowledge, and skill, as appropriate to the duties assigned, to perform the Services, provide the Deliverables, and develop, implement, support, and maintain the Systems, in such a manner and in accordance with such standards, practices, and Specifications.

21.1.3. Documentation

Vendor warrants that: (i) all Documentation and related materials concerning the Services, the Systems, or the Deliverables shall be complete and shall accurately describe such Services, Systems, or Deliverables so as to enable a reasonably capable IT professional to readily understand and utilize all aspects thereof for all purposes for which they

were intended and provided or produced and so as to allow the Commonwealth, or its designees, to fully assume and continue the provision of the Services or the Deliverables, or the operation of the Systems; (ii) except for Third-Party Software and hardware, the Services, the Systems, and the Deliverables shall not contain any undocumented material features of any kind whatsoever; and (iii) all Documentation associated with enhancements to or updates of the Services, the Systems, or the Deliverables shall be of quality, detail, and usefulness equal to, or greater than, that of the initial Documentation for such Services, Systems, and Deliverables.

21.1.4. Deliverables

Vendor represents and warrants that the Deliverables and any other goods provided under this Agreement are and shall be: (i) free of liens or encumbrances; and (ii) merchantable and, except for Third Party Works, suitable for the purposes specifically described in herein, as applicable. Vendor further warrants and covenants that the Deliverables containing a Software Component shall comply with the Documentation and the Specifications in all material respects and will provide the functions and features and operate in the manner described in this Agreement or otherwise agreed by the Parties. Vendor shall, as quickly as possible, correct any failure of the Deliverables to so comply. If Vendor fails or is unable to repair or replace such non-conforming Deliverables (excluding Third Party Works), the Commonwealth, in addition to and not in lieu of any other remedies available to it hereunder, may obtain from Vendor the Source Code for such Deliverable. Vendor further covenants that with respect to any Third Party Works, Vendor shall pass through to the Commonwealth all benefits offered by the manufacturers and/or suppliers of such Third Party Works (including all warranties, indemnities, training, technical support and other consideration offered by such manufacturers and suppliers) except to the extent otherwise agreed by the Commonwealth. If Vendor is unable to pass through any such benefit to the Commonwealth, it shall notify the Commonwealth in advance and shall exercise such benefits upon the Commonwealth's behalf as requested by the Commonwealth.

21.1.5. Proprietary Rights Infringement

To the extent permitted by the applicable third party agreement, Vendor warrants that it shall pass through to the Commonwealth all covenants, representations, or undertakings of any third party with regard to infringement or misappropriation of Intellectual Property Rights by Software or equipment that is provided by Vendor through such third party and that is used in connection with this Agreement.

21.1.6. Authority and Approvals

Vendor represents that: (i) it is a corporation duly formed and in good standing under the laws of the State of Delaware; (ii) it is qualified and registered to transact business in the Commonwealth of Virginia and all locations where the performance of its obligations hereunder would require such qualification; (iii) it has all necessary rights, powers, and authority to enter into and perform under this Agreement; (iv) the execution, delivery, and performance of this Agreement by Vendor have been duly authorized by all necessary corporate action; (v) the individual executing this Agreement on behalf of and for Vendor is an authorized agent of Vendor who has actual authority to bind Vendor to each and every Section and

obligation of this Agreement and that all requirements of Vendor have been fulfilled to bestow such actual authority upon such individual; (vi) the execution and performance of this Agreement by Vendor shall not violate any domestic law, statute, or regulation and shall not breach any agreement, covenant, court order, judgment, or decree to which Vendor is a party or by which it is bound; (vii) it has, and covenants that it shall maintain in effect, all governmental licenses and permits necessary for it to provide the Services and Deliverables, and develop and implement the Systems, as contemplated by this Agreement; and (viii) that Vendor owns or leases, and covenants that it shall own or lease, or have the right to use, free and clear of all liens and encumbrances, other than lessors' interests, or security interests of Vendor's lenders, appropriate right, title, or interest in and to the tangible property that Vendor intends to use or uses to provide the Services and Deliverables and to develop and implement the Systems in accordance herewith. Vendor covenants that it shall use all commercially reasonable efforts to obtain, and cooperate with and assist the Commonwealth in obtaining, any clearances and approvals of the Commonwealth's Eligible Customers that are necessary to permit the New Vendor Personnel, and any other former Commonwealth employees who are hired by Vendor, to continue working on such Eligible Customers' projects on and after the Service Commencement Date, except that the Commonwealth shall be responsible for any costs associated with obtaining such clearances and approvals.

21.1.7. Pending Litigation

Vendor represents that, as of the Effective Date: (i) there is no outstanding or anticipated civil or criminal litigation, arbitrated matter, or other dispute, in any forum, to which Vendor or any of its Affiliates is a party that, if decided unfavorably to Vendor or its Affiliates, would reasonably be expected to have a potential or actual material adverse effect on Vendor's ability to fulfill its obligations hereunder; and (ii) Vendor knows of no basis that might give rise to any such litigation, arbitration, or other dispute in the foreseeable future. Vendor warrants that it shall notify the Commonwealth, within fifteen (15) days after Vendor first learns of any litigation, arbitration, or other dispute that would reasonably be expected to have a material adverse effect on Vendor's ability to fulfill its obligations hereunder.

21.1.8. Compliance with Laws

Vendor warrants that, in performing the Services, preparing and providing the Deliverables, and developing, integrating, implementing, supporting, and maintaining the Systems, Vendor shall comply, and not prevent the Commonwealth from complying, with all applicable laws, regulations, and policies, including: (i) all applicable immigration and labor laws and regulations; (ii) all laws, regulations, and policies related to fair employment, employment of the handicapped and minorities and women, and the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin, or physical handicap; (iii) all applicable data protection, nondisclosure, and privacy laws of any relevant jurisdiction; and (iv) all applicable policies and procedures of the Commonwealth.

21.1.9. Existing Violations

Vendor represents that, as of the Effective Date, it is not in violation or material non-compliance with any laws, ordinances, statutes, rules, regulations, or orders of

governmental or regulatory authorities to which it is subject, and that it has not failed to obtain any licenses, permits, franchises, or other governmental authorizations necessary for the ownership of its properties or the conduct of its business, to the extent that any such violation, non-compliance or failure, either individually or in the aggregate, might adversely affect Vendor's business, properties, or financial condition, the consummation of the transactions contemplated by this Agreement, or the performance of Vendor's obligations hereunder.

21.1.10. Misrepresentations

Vendor represents and certifies that it has not made, in any written or oral communication with or provided to the Commonwealth (including the Proposals or the negotiation of this Agreement), any material misrepresentations (whether through any untrue statement of a material fact or an omission of any material fact necessary to make such communication not misleading) regarding or concerning Vendor or any of Vendor's Subcontractors, or, individually or collectively: (i) their capabilities as competent, qualified, experienced providers of IT services; (ii) their abilities to, or the manner in which they shall, perform the Services, provide the Deliverables, and develop, implement, operate, support, and maintain the Systems, in accordance with this Agreement; (iii) their businesses, operations, or financial condition or any financial statements, reports, and other similar materials or information furnished to the Commonwealth in connection with this transaction; or (iv) any of the specific Services to be performed or Deliverables to be provided hereunder. In addition, Vendor shall require all of its Subcontractors to represent and certify to the same to the Commonwealth.

21.1.11. Financial Condition

Vendor represents that it has, and warrants that it shall maintain, a financial condition commensurate with its obligations under this Agreement and sufficient to allow it to readily and successfully fulfill all such obligations, in accordance with this Agreement. Vendor further warrants that, in the event the financial condition of Vendor changes during the Term in such a manner as to materially and adversely affect Vendor or jeopardize its ability to satisfy the warranty set forth in the immediately preceding sentence, Vendor shall promptly notify the Commonwealth in writing, reasonably describing the nature and extent of such change.

21.1.12. Financial Statements

Vendor represents that it shall furnish, or cause to be furnished, to the Commonwealth annually, as soon as available but in any event within one hundred and eighty (180) days after the last day of each fiscal year, a consolidated balance sheet and a consolidated statement of cash flow for Vendor and its subsidiaries (and for such Key Subcontractors and their respective subsidiaries as may be mutually agreed), as at the last day of such fiscal year, prepared in accordance with GAAP and audited by a firm of independent certified public accountants of recognized national standing.

21.1.13. Conflict of Interest

Vendor represents, warrants, and covenants that:

21.1.13.1 No Financial Interest

Neither Vendor nor any of its Affiliates, nor any employee of any of the foregoing, has, shall have, or shall acquire, any direct contractual, financial, business, or other interest, that would conflict in any material manner or degree with Vendor's performance of its duties and obligations under this Agreement, or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement; and Vendor shall promptly inform the Commonwealth of any such interest that may be incompatible with the interests of the Commonwealth;

21.1.13.2 No Abuse of Authority for Financial Gain

Neither Vendor nor any of its Affiliates, nor any employee of any of the foregoing, has used or shall use the authority or position provided, or to be provided, under this Agreement to obtain financial gain for Vendor (except as set forth in this Agreement), or any such Affiliate or employee, or for a member of the immediate family of any such employee;

21.1.13.3 No Use of Information for Financial Gain

Except as set forth in this Agreement, neither Vendor nor any of its Affiliates, nor any employee of any of the foregoing, has used or shall use any Commonwealth Confidential Information acquired in the award or performance of the Agreement to obtain financial gain for Vendor, or any such Affiliate or employee, or for a member of the immediate family of any such employee;

21.1.13.4 Independent Judgment

Neither Vendor nor any of its Affiliates, nor any employee of any of the foregoing, has accepted or shall accept another Commonwealth contract that would impair the independent judgment of Vendor in the performance under this Agreement;

21.1.13.5 No Influence

Neither Vendor nor any of its Affiliates, nor any employee of any of the foregoing, has accepted or shall accept anything of value based on an understanding that the actions of Vendor, or those of any such Affiliate or employee, on behalf of the Commonwealth would thereby be influenced; and Vendor shall not attempt to influence any Commonwealth employee by the direct or indirect offer of anything of value;

21.1.13.6 No Payment Tied to Award

Neither Vendor nor any of its Affiliates or Subcontractors, nor any employee of any of the foregoing, has paid or agreed to pay any Person, other than bona

bona fide employees working solely for Vendor or any such Affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration, that is contingent upon or would result from the award or execution of this Agreement;

21.1.13.7 Independent Prices

The prices and other materials presented in the Proposal were arrived at independently, without (for the purpose of restricting competition) consultation, communication, agreement, or otherwise conspiring with any other Person who submitted a proposal; the prices quoted were not knowingly disclosed by Vendor to any other proposer; and no attempt was made by Vendor to induce any other Person to submit or not to submit a proposal for the purpose of restricting competition; and

21.1.13.8 Subcontractors

Vendor shall require each Subcontractor to certify to Vendor as to the matters in Subsections 21.1.13.1 through 21.1.13.6, with respect to itself, its employees and their immediate family members, as applicable.

21.1.14. Covenant Against Contingent Fees

Vendor warrants that no Person or selling agency has been employed, engaged, or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by Vendor for the purpose of securing business. Any breach or violation of the foregoing warranty shall constitute an incurable and material breach of this Agreement by Vendor. Further, in such event, the Commonwealth may, in the Commonwealth's sole discretion, deduct from any Fees or other amounts due or payable to Vendor hereunder, or otherwise recover from Vendor, the full amount of such commission, percentage, brokerage, or contingent fee that such Person received from Vendor.

21.1.15. Confidentiality Agreements

Vendor represents that, as of the Effective Date, Vendor has not materially breached the terms of any confidentiality agreement entered into with the Commonwealth prior to such time.

21.1.16. Maintenance

Vendor represents, warrants and covenants that it shall maintain all Machines and Software so that they operate in accordance their manufacturer specifications, including: (i) maintaining Machines and Software in good operating condition; (ii) undertaking repairs and preventative maintenance on Machines in accordance with the applicable manufacturer's recommendations; and (iii) performing Software maintenance and configuration in accordance with the applicable Software documentation and recommendations.

21.1.17. Efficiency

Vendor represents, warrants and covenants that it shall use commercially reasonable efforts to provide the Services in accordance with this Agreement and the Service Levels.

21.1.18. National Incident Management System

For so long as Vendor supplies Services to the Commonwealth, Vendor represents, warrants and covenants that it will comply with the applicable provisions of the National Incident Management System (NIMS), the National Strategy for Homeland Security (July 2002); Homeland Security Presidential Directive/HSPD-5: Management of Domestic Incidents, February 28, 2003; Homeland Security Presidential Directive/HSPD-7: Critical Infrastructure, Identification Prioritization, and Protection, December 17, 2003; Homeland Security Directive/HSPD-8: National Preparedness, December 17, 2003; and any present and future Presidential Directives or Federal, state, and local initiatives or programs relating to homeland security; insofar as the foregoing are laws applicable to Vendor's performance of the Services. If the Services required by this Section 21.1.18 are (i) required to be provided by portions of the Agreement other than this Section 21.1.18, or (ii) subject to Section 6.4.2, if the Services required by this Section 21.1.18 can be provided by Vendor without Vendor expending additional time, resources or materials, then the Services required by this Section 21.1.18 will be provided without any charge additional to those set forth in Schedule 10 or in Section 15, as applicable.

21.2 Commonwealth Warranty Disclaimer

Except as otherwise expressly stated in this Agreement, the Commonwealth does not make any representation or warranty, express or implied, with respect to: (i) the Services or any component or portion thereof; (ii) the skills, capabilities, or medical or other condition of any of the Affected Employees or the Managed Employees; or (iii) the hardware, Software, equipment, networks, and other IT-related assets or materials made available or conveyed by the Commonwealth to Vendor under this Agreement, all of which assets and materials are made available or conveyed to Vendor "AS IS, WHERE IS," without warranties of any kind with respect to the condition, capabilities, or other attributes thereof.

21.3 General Warranty Disclaimer

EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT: (i) THERE ARE NO EXPRESS WARRANTIES MADE BY EITHER PARTY; (ii) THERE ARE NO IMPLIED WARRANTIES OR CONDITIONS, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY IMPLIED WARRANTIES OTHERWISE ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE; AND (iv) ALL SUCH IMPLIED WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED AND EACH PARTY HEREBY WAIVES AND RELEASES ANY CLAIM TO ANY SUCH IMPLIED WARRANTIES.

22. INDEMNIFICATION

22.1 By Vendor

22.1.1. Infringement

Subject to the provisions of Section 22.4, Vendor shall indemnify, defend, and hold the Commonwealth Indemnitees harmless from and against any and all Losses related to claims or demands brought by any third party against any of them for any actual or alleged infringement or misappropriation of any Intellectual Property Right to the extent (i) based upon technology used by Vendor (and not owned or provided by the Commonwealth or its agents) in providing the Services or the Deliverables or developing and implementing the Systems, or (ii) arising from the Commonwealth's use of the Services, Deliverables and/or the Systems consistent with this Agreement (each such claim or demand, an "Infringement Claim"). In the event of an Infringement Claim, Vendor may, in its reasonable discretion, either procure a license to enable the Commonwealth to continue to use or receive the benefit of such technology, or develop or obtain a non-infringing substitute reasonably acceptable to the Commonwealth. However, if neither of the foregoing is commercially reasonable, Vendor may cease providing the affected Services or instruct the Commonwealth to cease using the affected Deliverable, and in the case of Services, the Fees paid by the Commonwealth shall be equitably reduced, and in the case of Deliverables, Vendor shall refund pro-rated amount (in cash or by means of a credit) of the Fees paid for the Deliverable. Notwithstanding anything to the contrary elsewhere in this Agreement, Vendor shall have no obligation to indemnify, defend, or hold the Commonwealth Indemnitees harmless regarding any claim or action to the extent that it is based upon: (i) a modification of a program or machine by any third party (excluding Vendors Subcontractors) that was not specifically approved by Vendor; (ii) the Commonwealth's combination, operation, or use of Vendor technology with apparatus, data, or programs neither furnished nor approved by Vendor; (iii) the use by the Commonwealth of any Software or other technology provided by Vendor or any third party (including the Vendor Software and the Third-Party Software) other than in accordance with the applicable licenses; (iv) Vendor's use, in accordance with this Agreement, of Commonwealth Software; or (v) the Commonwealth's specifications (to the extent such infringement claim does not arise from any method or manner chosen by Vendor to implement such specifications) and the Commonwealth's specified method or manner for implementing such specifications (to the extent that Vendor is not aware or should reasonably be aware of any alternative method or manner for implementing such specifications that would not result in such infringement claim).

22.1.2. Employment Claims

Subject to the provisions of Section 22.4, Vendor shall indemnify, defend, and hold the Commonwealth Indemnitees harmless from and against any and all Losses related to claims or demands by any of Vendor's or its Subcontractors' employees or former employees (including any of the Affected Employees or Retained Personnel that are hired by Vendor or its Subcontractors) to the extent based upon or resulting from any act or omission of Vendor or its Subcontractors on or after the date such individual accepts employment with and is employed by Vendor or its Subcontractors, or in connection with such individual's termination of employment by, or other separation from, Vendor or its Subcontractors, including any allegation that such

employee was wrongfully terminated by Vendor or its Subcontractors or was denied any Vendor- or Subcontractor-provided severance or termination payment upon leaving the employ of Vendor or its Subcontractors, or any allegation that Vendor or any of its Subcontractors violated any federal, state or local laws or regulations for the protection of an individual or of individual members of a protected class or category of persons.

22.1.3. Third Party Services

Without limiting Vendor's obligations with respect to insurance as provided in Section 23 hereof, and subject to the provisions of Section 22.4, Vendor shall indemnify, defend, and hold the Commonwealth Indemnitees harmless from and against any and all Losses related to claims or demands by any third party against any of them to the extent based upon or arising out of: (i) an alleged breach by Vendor of any agreement with such third party (including employment agreements or subcontracts and any other agreement for the provision of third-party services); (ii) any action brought by any Vendor Person or Subcontractor seeking to be treated as a Commonwealth employee or claiming entitlement to any the Commonwealth employee benefits other than with regard to periods during which they were actually employed by the Commonwealth; (iii) any action seeking to declare the Commonwealth as a joint employer with Vendor of any such Vendor Person or Subcontractor; (iv) any determination resulting from or pursuant to any arbitration proceeding, court proceeding by a court of competent jurisdiction, administrative proceeding, or other similar proceeding, that the Commonwealth was the employer of, or, together with Vendor, was the joint employer of, any such Vendor Person or Subcontractor, except with regard to periods during which such Persons actually were employed by the Commonwealth; or (v) theft, fraud, or misappropriation of tangible or intangible personal property by Vendor or any Subcontractor, or by the officers, directors, Affiliates, employees, agents, representatives, or subcontractors of any of the foregoing.

22.1.4. Misinformation

Subject to the provisions of Section 22.4, Vendor shall indemnify, defend, and hold the Commonwealth Indemnitees harmless from and against any and all Losses related to claims or demands by any third party against any of them to the extent arising out of, or resulting from, the grossly negligent or willful dissemination by Vendor or Vendor's Subcontractors (or by any personnel assigned by Vendor or Vendor's Subcontractors to perform any of Vendor's obligations under this Agreement) of false, incomplete, or incorrect information, information that the Commonwealth directed Vendor not to disseminate, or information that Vendor reasonably should have known not to disseminate, or resulting from Vendor's or Vendor's Subcontractor's grossly negligent or willful failure to disseminate information that Vendor is obligated to provide to the Commonwealth's Eligible Customers or End-Users pursuant to this Agreement, whether through any help-desk facility or any other Services in which Vendor has direct contact with any such third parties. By way of illustration, if Vendor's or its Subcontractor's worker, in providing help-desk Services, purposefully gave information to a customer of the Commonwealth which Vendor knew to be false or incorrect and that customer then made a claim against the Commonwealth for damages sustained because such customer acted in reliance upon such information received from Vendor's or its Subcontractor's worker,

Vendor would be obligated to indemnify the Commonwealth for that claim pursuant to this Section 22.1.4.

22.1.5. Injury or Property Damage

Without limiting Vendor's obligations with respect to insurance as provided in Section 23 hereof, and subject to the provisions of Section 22.4, Vendor shall indemnify, defend, and hold the Commonwealth Indemnitees harmless from and against any and all Losses related to claims or demands by any third party against any of them for or alleging bodily injury, including death, or damage to tangible personal or real property, to the extent that such injury or damage arises out of, or results from, the negligence, willful misconduct, or violations of law by Vendor, any of Vendor's employees or agents, or Vendor's Subcontractors and their employees and agents.

22.1.6. Hazardous Materials

Subject to the provisions of Section 22.4, Vendor shall indemnify, defend, and hold the Commonwealth Indemnitees harmless from and against any and all Losses related to claims or demands by any third party against any of them to the extent based upon or resulting from: (i) Vendor's or its Subcontractor's failure to comply with applicable Environmental Laws; or (ii) the presence of any Hazardous Material upon, above, or beneath Vendor's or its Subcontractor's facilities or locations from which Services are provided, except to the extent that such Hazardous Material was present at the time that Vendor or its Subcontractors took over the use, occupation, and operation of such location or facility from the Commonwealth, if applicable, or if such Hazardous Material was released into the environment by the Commonwealth.

22.1.7. Commonwealth Data or Proprietary Information

Subject to the provisions of Section 22.4, Vendor shall indemnify, defend, and hold the Commonwealth Indemnitees harmless from and against any and all Losses related to claims or demands brought by any third party against any of them arising from Vendor's breach of its obligations with respect to Commonwealth Data and Commonwealth Confidential Information.

22.1.8. Disposal of Refreshed Assets

Subject to the provisions of Section 22.4, Vendor shall indemnify, defend, and hold the Commonwealth Indemnitees harmless from and against any and all Losses related to claims or demands by any third party that Vendor disposed of any of the refreshed equipment in violation of the terms of this Agreement or of any applicable federal, state, or local environmental law, regulation, or ordinance.

22.1.9. Representations, Warranties and Covenants

Subject to the provisions of Section 22.4, Vendor shall indemnify, defend, and hold the Commonwealth Indemnitees harmless from and against any and all Losses related

to claims or demands brought by any third party against any of them arising from Vendor's breach of any of its representations, warranties or covenants under Section 21.1.8 of this Agreement.

22.1.10. Vendor Personnel

Subject to the provisions of Section 22.4, Vendor shall indemnify, defend and hold the Commonwealth Indemnitees harmless from and against any and all claims, liabilities, losses, costs, damages, and expenses, including attorney's fees, and out-of-pocket expenses reasonably incurred in connection with the investigations and defense of such claims, to the extent based upon or related to a claim that Vendor's or its Subcontractors' employees are employees of the Commonwealth.

22.1.11. Affiliate, Subcontractor, and Assignee Claims

Subject to the provisions of Section 22.4, Vendor shall indemnify, defend, and hold the Commonwealth Indemnitees harmless from and against any and all Losses related to any claim initiated by a Vendor Affiliate or Subcontractor or other entity asserting rights under this Agreement.

22.1.12. Transfer of Leases, Licenses and Contracts

Vendor shall indemnify, defend and hold the Commonwealth Indemnitees harmless from and against, and reimburse the Commonwealth for any and all Losses due to claims by third parties resulting from (i) any failure of Vendor to perform its obligations with respect to periods on or after the date of assignment or conveyance under leases, licenses and contracts assigned or conveyed to Vendor pursuant to Section 2, and (ii) any failure of Vendor to perform its obligations with respect to periods prior to the date of assignment or conveyance under leases, licenses and contracts assigned or conveyed to the Commonwealth pursuant to Section 15.4.6.

22.1.13. Encumbrances

Vendor shall indemnify, defend, and hold the Commonwealth Indemnitees harmless from and against any and all Losses incurred or sustained by any of them due to claims by third parties to the extent caused by, or resulting from, (i) any failure of the Deliverables or other goods to be provided under this Agreement to be free of liens or encumbrances or (ii) Vendors', or its Affiliates' or Subcontractors', faulty performance of work, negligence, willful misconduct, or unlawful acts, or non-compliance with any applicable federal, state, or local laws, codes, regulations, rules, ordinances, orders, or statutes, including the Occupational Safety and Health Act.

22.2 Subrogation

If Vendor shall be obligated to indemnify a Commonwealth Indemnitee pursuant to this Section 22, Vendor shall, upon payment of such indemnity in full, be subrogated to all

rights of the Commonwealth Indemnitee with respect to the claims and defenses to which such indemnification relates.

22.3 Setoff

Upon an adjudicated determination of liability or the settlement of a claim, the Commonwealth may set off against, and deduct from, any and all amounts otherwise payable to Vendor pursuant to any of the provisions of this Agreement, any and all amounts owed by Vendor to any of the Commonwealth Indemnitees under this Section 22. Upon the exercise of such right of setoff, the Commonwealth shall notify Vendor in writing of the extent to which such right has been asserted. This section is subject to the provisions of the Virginia Debt Collection Act, Code of Virginia §2.2-4800 et seq.

22.4 Procedures

If any legal action governed by this Section 22 is commenced against an Indemnitee, (i) the Indemnitee shall provide Vendor prompt, written, and reasonable notice of such legal action subject to indemnification, and (ii) the Indemnitee shall provide its reasonable cooperation with Vendor in defense of the claim, including providing information and assistance in defending the claim. Failure to give prompt notice shall not, however, reduce Vendor's obligations under this Section 22, except to the extent it is prejudiced thereby. Nothing herein shall restrict the Indemnitee from participating in the defense of the claim and Vendor's duty to defend Indemnitee shall be in accordance with §2.2-510 and §2.2-514 of the Code of Virginia. No settlement of a claim may be entered into by Vendor on behalf of the Indemnitee which includes obligations to be performed by the Indemnitee without the Indemnitee's prior written approval and in accordance with §2.2-514 of the Code of Virginia. If Indemnitee settles a claim without Vendor's prior written approval, then Vendor's indemnification obligations hereunder with respect to the settlement of such claim shall not apply.

23. INSURANCE

23.1 General Requirements

Vendor shall purchase and maintain insurance as set forth below. The Commonwealth reserves the right to examine, at any time during regular business hours and with reasonable notice to Vendor, the underlying insurance and self-insurance policies and programs applicable to this Agreement.

23.2 Coverages

The insurance required hereunder shall be: (i) maintained by Vendor at all times during the Term and for at least four (4) years after the last date on which Vendor provides Services (including any Disentanglement Services) pursuant to this Agreement; and (ii) written for not less than the greater of the limits of coverage specified herein or the limits of coverage required by law in any jurisdiction with authority over Vendor's operations or performance. Such insurance coverage shall include at least the following:

(a) Worker's Compensation and Employers Liability Insurance affording compensation benefits for all employees in an amount sufficient by virtue of the laws of the state or jurisdiction in which the Services or any portion of the Services are performed and employers' liability insurance with limits of not less than Five Million Dollars (\$5,000,000) for each accident or disease;

(b) Commercial General Liability Insurance with a combined single limit of not less than Five Million Dollars (\$5,000,000) per occurrence and Ten Million Dollars (\$10,000,000) in the aggregate for personal injury, bodily injury (including wrongful death) and property damage liability, including coverage for all premises and operations, broad form property damage, independent contractors, contractual liability, personal injury and advertising injury, product/completed operations coverage, and a severability of interest clause;

(c) Automobile Liability Insurance with combined single limit of not less than Five Million Dollars (\$5,000,000) per occurrence for injuries, including accidental death and property damage;

(d) Umbrella or Excess Liability Insurance, with limits of not less than Twenty Million Dollars (\$20,000,000) per occurrence, that provides additional coverage and combined higher limits for employers' general liability and automobile liability insurance;

(e) Directors and Officers Liability insurance with limits of not less than Twenty Five Million Dollars (\$25,000,000) per claim;

(f) Professional Liability Insurance with limits of not less than Five Million Dollars (\$5,000,000) per claim; and

(g) Employee Dishonesty and Computer Fraud Insurance with limits of not less than Ten Million Dollars (\$10,000,000) per occurrence.

Whenever insurance policies are renewed or replaced, Vendor shall cause the policy retroactive date to coincide with, or precede, the Effective Date of this Agreement.

23.3 Specific Requirements

Vendor shall abide by and comply with the following terms for all insurance coverage required by this Section 23.

(a) All such insurance, except for Professional Liability insurance and Directors and Officers Liability insurance, shall provide coverage on the basis of occurrences during the policy period, and not on the basis of claims made during the policy period.

(b) Vendor shall provide insurance coverage by insurance companies acceptable to the Commonwealth that have policyholder ratings no lower than "A+ Superior" and financial ratings not lower than "VIII" in the latest edition of Best's Insurance Guide in effect as of the Effective Date. Such insurance shall be written with insurers of good standing and authorized by the Virginia State Corporation Commission to conduct business in Virginia.

(c) Vendor shall verify and provide evidence that all of Vendor's agents, consultants, suppliers, and Subcontractors are sufficiently insured against claims arising out of or relating to their performance related to specific portions of this Agreement, with coverages and limits complying with those required of Vendor pursuant to, and subject to the other requirements of, this Section 23.

(d) The insurance policies described in Section 23.2, except for Professional Liability insurance, Employers Liability insurance and Directors and Officers Liability insurance, shall each name the Commonwealth as an additional insured on a primary basis with respect to liability arising out of or in any way connected with Vendor's performance under this Agreement.

(e) Each Party hereby waives and shall cause its insurers to waive their rights of subrogation against the other Party, and all of such other Party's subsidiaries, Affiliates, directors, officers, employees, and elected or appointed officials under the insurance policies described in Section 23.2.

(f) The insurance policy requirements set forth in this Section 23 shall be subject to the laws of the United States and the Commonwealth of Virginia.

(g) The insurance coverages described in this Section 23 shall be primary to and non-contributory with respect to any other insurance or self-insurance that may be maintained by the Commonwealth, and shall contain a cross-liability or severability-of-interest clause, where applicable. The fact that Vendor has obtained the insurance required in this Section 23 shall in no manner lessen nor affect Vendor's other obligations or liabilities set forth in this Agreement. Within thirty (30) days after the Effective Date, and from time to time during the Term, at the Commonwealth's reasonable request (but not more frequently than annually), Vendor shall, and shall cause each of its Subcontractors to, supply the Commonwealth with certificates of insurance demonstrating that: (i) all of the insurance required by this Section 23 is in force; (ii) not less than thirty (30) days' written notice shall be given to the Commonwealth prior to any cancellation of any such insurance policies; and (iii) the waivers of subrogation required hereunder are in force (except that, if the Commonwealth prefers that Vendor provide a copy of the endorsement that adds the Commonwealth as an additional insured to the applicable policy in lieu of any such certificate of insurance, Vendor shall provide a copy such endorsement within thirty (30) days after the Commonwealth's request therefor). At the request of the Commonwealth, Vendor shall, and shall cause its Subcontractors to, promptly provide a certified copy of any underlying insurance policy required under this Agreement.

(h) Any self-insurance, self-retained layer, deductibles, and exclusions in coverage in the insurance policies required by this Section 23: (i) shall be assumed by, for the account of, and at the sole risk of, Vendor; and (ii) as well as any changes in any of the foregoing, must be declared to the Commonwealth. In no event shall Vendor's liability be limited to the extent of the minimum limits of insurance required above.

(i) Vendor shall, at Vendor's expense, carry and maintain at all times, and for so long as any item of Vendor's property is in transit, or in the care, custody, or control of the Commonwealth, an insurance policy or policies covering loss, or destruction of, or

damage to any such item of Vendor's property in the amount of the full replacement value thereof providing protection against all perils normally covered in an "all risk" physical damage insurance policy. Vendor shall cause its "all risk" physical damage insurers to waive all rights of subrogation against the Commonwealth, and its directors, officers, agents, and employees for any loss, or destruction of, or damage to any item of Vendor's property that is covered by insurance pursuant to this clause (i) of Section 23.3.

23.4 Performance Bond

Within ten (10) days after the Service Commencement Date, Vendor shall furnish to the Commonwealth a surety bond in the amount of One Hundred Million Dollars (\$100,000,000) to guaranty Vendor's faithful performance under this Agreement. Such surety bond shall be on a form approved by the Commonwealth and shall be duly executed by Vendor and a responsible corporate surety authorized to issue such bonds in the Commonwealth of Virginia, and secured through an authorized agent with an office in the Commonwealth of Virginia and registered therewith. Vendor shall pay all bond premiums, costs, and incidental charges associated with acquisition of such surety bond. The surety bond required by this Section 23.4 shall be valid, and maintained in force and effect, from the Service Commencement Date through the entire Term of this Agreement, including any extensions or renewals of such Term and any periods during which Vendor is required to provide Disentanglement Services hereunder, and for at least two (2) years after any termination or expiration of the Term of this Agreement. The surety bond will be issued for the initial term of one year, and may be extended by the surety by continuation certificate; however, neither the non-renewal by the surety nor the failure or inability of the Vendor to file a replacement bond in the event of non-renewal shall constitute a loss to the Commonwealth recoverable under this bond or any renewal or continuation thereof. Notwithstanding the foregoing, prior to the expiration of the then-current surety bond, Vendor will be obligated to obtain a replacement bond in the form set forth in this Section 23.4. The surety's liability under this bond and all continuation certificates issued in connection herewith shall not be cumulative and shall in no event exceed the amount as set forth in this bond or in any riders or endorsements properly issued by the surety as supplements thereto. Vendor shall be entitled to reduce the amount of the surety bond to: (i) \$75,000,000 after the third annual anniversary of the Service Commencement Date; and (ii) \$50,000,000 after the sixth annual anniversary of the Service Commencement Date. The bond shall be returned to Vendor once the Term of this Agreement has expired or been terminated and Vendor has successfully completed all of its obligations to perform Disentanglement Services hereunder, as determined by the Commonwealth in its sole discretion.

24. DISPUTE RESOLUTION

24.1 Dispute

24.1.1. Informal Dispute Resolution

If any Disagreement, other than a dispute involving a claim of breach under Section 19 hereof, arises between the Parties, Vendor's Relationship Manager and the Commonwealth's Relationship Manager shall, within seven (7) business days after receipt by either of notice from the other of such disputed matter, commence efforts to resolve such

Disagreement in good faith via the Operations Committee (such committee further described in Schedule 6.3). If the disputed matter has not been resolved by the Relationship Managers within thirty (30) days after first having been referred to the Relationship Managers (or at any earlier time, in the discretion of either Relationship Manager), such dispute may be referred by either Relationship Manager to the Strategy Committee (such committee further described in Schedule 6.3) for resolution. If a disputed matter is referred to the Strategy Committee and such disputed matter has not been resolved by, or at the direction of, the Strategy Committee within thirty (30) days after such dispute was first referred to it (or such longer period as agreed to in writing by the Parties), or if a disputed matter shall not have been referred to the Strategy Committee within forty-five (45) days after first having been referred to the Relationship Managers for resolution, then the disputed matter shall be escalated to the Chief Information Officer of the Commonwealth and Vendor's President for resolution. If such disputed matter has not been resolved by, or at the direction of, the Chief Information Officer of the Commonwealth and Vendor's President within thirty (30) days after such dispute was first referred to them (or such longer period as agreed to in writing by the Parties), then such disputed matter shall be submitted to an alternative dispute resolution (ADR) forum in accordance with Section 24.1.2.

24.1.2. Alternative Dispute Resolution (ADR)

The ADR forum shall consist of mandatory, nonbinding mediation. The mediation is to be conducted in accordance with VITA's Administrative Dispute Resolution Policy and administrative rules. The request for ADR may be made by either Party. Within ninety (90) days following the Effective Date, the Parties shall mutually agree upon a list of at least three (3) and no more than five (5) individuals that the Parties accept as possible mediators for purposes of this Agreement. In the event a Disagreement is referred to ADR in accordance with this Section 24, the Commonwealth may select any individual identified on such list to serve as the mediator or such other individual acceptable to both Parties. Periodically during the Term, the Parties shall update the list of possible mediators as appropriate.

24.1.3. Exceptions

In the event the disputed matter is not resolved by ADR, without regard to whether either Party has contested whether the procedures and duties set forth in Sections 24.1.1 or 24.1.2 (including the duty of good faith) have been respectively and properly followed or performed, each Party shall have the right to commence any legal action or proceeding as permitted by law. Neither Party shall be obligated to comply with this Section 24 with regard to breaches, or alleged breaches, of Section 19 hereof, or with regard to any other breach, alleged breach or violation as to which injunctive relief is sought.

24.2 No Termination or Suspension of Services

Notwithstanding anything to the contrary contained elsewhere herein, even if any Disagreement or other dispute arises between the Parties, and regardless of whether or not any such Disagreement or other dispute requires at any time the use of the dispute resolution procedures described above, in no event nor for any reason shall Vendor, at any time during the Term or during Disentanglement, halt, interrupt, or suspend the provision of Services to the Commonwealth or the performance of any of Vendor's obligations related to Disentanglement,

refuse to perform any Services or work requested pursuant to an In-Scope Work Request, disable, or otherwise render inoperable or unusable, the Systems (or any component thereof) or any hardware or Software used to provide Services, or perform any other action that prevents, impedes, impairs, reduces, or limits in any way the provision of Services, access to, or operation and use of, the Systems, or the Commonwealth's ability to conduct its business and activities (other than such minimal, routine interruptions as may be necessary and appropriate in order for Vendor to provide the Services), unless: (i) authority to do so is granted by the Commonwealth (or agreed to by the Commonwealth in writing in a Disentanglement Transition Plan) or conferred by a court of competent jurisdiction; or (ii) the Term of this Agreement has been terminated or has expired pursuant to Section 14 and a Disentanglement has been completed. Notwithstanding a termination of the Term of this Agreement by Vendor for the Commonwealth's Default, and even if a Disagreement exists, Vendor shall provide Disentanglement Services in accordance with this Agreement provided that the Commonwealth has (i) paid all outstanding and invoiced amounts not otherwise validly disputed in good faith by the Commonwealth pursuant to Section 24.1, and (ii) paid in advance on a monthly basis for such Disentanglement Services. If this Agreement is terminated due to the Commonwealth's Default and the Commonwealth fails to timely comply with such advance payment obligations regarding Disentanglement, Vendor may suspend its performance of Disentanglement Services only if such failure is not cured within ten (10) days after the Commonwealth's receipt of written notice thereof from Vendor.

24.3 Remedies

The procedures described and remedies provided in this Section 24 shall not be deemed to limit either Party's rights under Section 14 or Section 16. Vendor expressly acknowledges that any breach of any provision of Section 24.2 by Vendor, the Vendor Personnel, or Vendor's Subcontractors may cause immediate and irreparable injury to the Commonwealth that cannot be adequately compensated for in damages, and that, in the event of any such breach, and in addition to all other remedies available to it, the Commonwealth shall be entitled to seek injunctive or other equitable relief from any court of competent jurisdiction, without bond or other security.

25. USE OF AFFILIATES AND SUBCONTRACTORS

25.1 General

Except as expressly provided in Section 25.5: (i) Vendor shall not subcontract all or any part of the Service without the prior written consent of the Commonwealth; (ii) each Subcontractor may perform only the Services described with regard to such Subcontractor in a written request submitted by Vendor to the Commonwealth when seeking such consent; and (iii) no change may be made to the Services performed by a particular Key Subcontractor, and no substitution, replacement, or change of Key Subcontractors may be made, without the advance written consent of the Commonwealth. Notwithstanding the foregoing, Vendor may substitute, replace, or change any Subcontractor that is not a Key Subcontractor, or change the scope of Services to be performed by such Subcontractor under any subcontract, upon thirty (30) days advance written notice to the Commonwealth, unless the Commonwealth reasonably objects to such substitution, replacement, or change of such Subcontractor, or change of scope of Services

of such Subcontractor, within such thirty (30) days. Performance of Services by all Subcontractors shall be in accordance with the terms and conditions of this Agreement. Prior to performing any Services, each Subcontractor shall execute a Confidentiality Agreement in accordance with Section 19.6 hereof. Vendor covenants that its arrangements with Subcontractors shall not prohibit or restrict any such Subcontractor from, at any time, entering into direct agreements with the Commonwealth. Notwithstanding anything to the contrary set forth in this Section 25 or elsewhere in this Agreement, Vendor shall not engage any Subcontractors that are or now or hereafter debarred or suspended from performing services for the Commonwealth of Virginia or the United States government.

25.2 Approval and Removal

The Commonwealth's consent with respect to Vendor's use of a particular proposed Subcontractor, shall be given or withheld in writing within Vendor's reasonably requested timeframe (not to exceed thirty (30) days), and, if such consent is withheld, the Commonwealth's notice thereof to Vendor shall set forth the reasons for such withholding of consent. If the Commonwealth determines, in its reasonable discretion, that the performance or conduct of any Vendor Subcontractor or Affiliate is unsatisfactory, the Commonwealth may notify Vendor of such determination in writing, indicating the reasons therefor, and Vendor shall promptly take all necessary actions to remedy the performance or conduct of such Subcontractor or Affiliate and, if so requested by the Commonwealth, to promptly replace such Subcontractor or Affiliate.

25.3 Responsibility and Liability

Vendor shall be solely and exclusively responsible for supervising the activities and performance of each Subcontractor. Vendor and each such Subcontractor shall be jointly and severally responsible for any act or omission of such Subcontractor. Notwithstanding the fact that a Subcontractor or Affiliate of Vendor may be the party actually performing a particular Service or providing a particular Deliverable hereunder, Vendor shall at all times: (i) constitute the primary obligor for all of Vendor's duties and obligations hereunder; and (ii) be liable and responsible as a principal for the performance of all of the duties and obligations of Vendor hereunder that Vendor may elect to subcontract to any of its Subcontractors or Affiliates, or to any other third party.

25.4 Approved Subcontractors

The Commonwealth's consent, as described in Section 25.1, shall hereby be deemed to be given with respect to the Subcontractors, and their respective associated duties, identified in Schedule 25.4 attached hereto. Vendor has recommended to the Commonwealth each such Subcontractor identified as such on Schedule 25.4 and represents that each such Subcontractor is a competent, qualified, experienced provider of the particular types of Services identified with respect to such Subcontractor in Schedule 25.4, and that each such Subcontractor is particularly suited to, and fully capable of, fulfilling and satisfying the Commonwealth's requirements for such Services. Vendor shall continuously use all commercially reasonable efforts to ensure that each Subcontractor identified as a Key Subcontractor in Schedule 25.4 is retained and continues to perform the duties, or provide the particular types of Services, that are

identified with respect to such Key Subcontractor in Schedule 25.4, throughout the duration of the Term, unless Vendor has obtained the Commonwealth's prior written consent for the replacement or dismissal of such Key Subcontractor.

25.5 Exceptions

Notwithstanding Section 25.1 or anything else to the contrary elsewhere in this Agreement, Vendor may subcontract, without the Commonwealth's advance written consent: (i) for goods and services that are incidental to the performance of the Services and do not involve the anticipated expenditure under this Agreement of more than Five Million Dollars (\$5,000,000) within any one (1) year period; provided that subcontract does not involve direct contact with employees of the Commonwealth (other than Managed Employees) or performance of work at Commonwealth facilities; (ii) for additional goods or services with Subcontractors or their reasonable substitutes specifically identified in Schedule 25.4 attached hereto, as modified from time to time by mutual written agreement of the Parties; (iii) for building maintenance services for any of the Locations; and (iv) for goods acquired by Vendor that are in conformity with any published specifications of the Commonwealth relating to the configuration of the Commonwealth's approved IT infrastructure or environment. Upon the Commonwealth's written request, Vendor shall provide the Commonwealth with reasonably detailed information regarding any such subcontracting or other acquisition of goods and services by Vendor pursuant to this Section 25.5.

25.6 Subcontractor Agreements

Within thirty (30) days after such agreement is executed, Vendor shall provide the Commonwealth with a true and complete written copy (excluding only relevant pricing information) of any agreement between Vendor and its Key Subcontractors, as defined in Schedule 25.4, other than any Contract that relates to performance under this Agreement. Upon the Commonwealth's request, Vendor shall similarly provide a true and complete written copy (excluding only relevant pricing information) of any agreement between Vendor and its other Subcontractors (i.e., non-Key Subcontractors). Vendor covenants that each such agreement or subcontract shall appropriately reflect and conform with material terms and conditions of this Agreement applicable to the subcontract.

25.7 Use of SWAMs in Subcontracting

25.7.1. The Commonwealth's Policy

The Commonwealth is committed to equal opportunity to compete for contracting and subcontracting business and it is the policy of the Commonwealth, as part of this commitment, that small business enterprises, women-owned business enterprises, and minority-owned business enterprises (all of the foregoing, collectively, "SWAMs") shall have an equal opportunity to compete fairly to receive business as subcontractors and suppliers of the various different contractors and suppliers of the Commonwealth. Vendor shall at all times use its good faith efforts to carry out this policy in the award of subcontracts and supply contracts to the fullest extent that is consistent with efficient contract performance. Vendor shall conduct a

program that ensures that SWAMs are considered fairly as subcontractors and suppliers by Vendor in carrying out this Agreement.

In order to establish and conduct such a program, Vendor shall: (i) arrange contracting opportunities, quantities, specifications, and delivery schedules so as to avoid impeding participation by SWAM subcontractors and suppliers; (ii) provide adequate and timely consideration of SWAMs in “make-or-buy” decisions for which non-SWAM businesses are considered; (iii) designate a liaison manager who shall be responsible for interfacing with SWAMs and assuring compliance with this Section 25.7; (iv) counsel and discuss subcontracting and supply contract opportunities with representatives of SWAMs and non-SWAM firms requesting such counseling and discussion and make known the availability of such assistance; (v) maintain records showing procedures adopted by Vendor to comply with this Section 25.7, including the establishment of a source list of SWAMs and a record of awards made to SWAM and non-SWAM firms; and (vi) cooperate with Commonwealth representatives in any studies and surveys of Vendor’s procedures and practices regarding SWAMs that the Commonwealth may conduct periodically with respect to SWAMs providing Services pursuant to this Agreement.

The following actions, when taken by Vendor, are generally considered a sign of good faith effort. This list is not exclusive or exhaustive, but will be used by the Commonwealth, in conjunction with Vendor’s compliance with other requirements of this Section 25.7 as a guide in determining compliance with the required good faith effort: (i) efforts to inform SWAMs about this Agreement and Vendor’s commitment to provide SWAMs an equal opportunity to compete fairly for subcontracting and supply contract opportunities; (ii) advertisement in general circulation, trade association, and women and minority focus media to assure that SWAM as well as non-SWAM firms become aware of subcontracting and supply contract opportunities on a timely basis; (iii) written notice to SWAMs allowing sufficient time for reply; (iv) follow-up of initial solicitation of SWAMs; (v) selection of portions of the work likely to be performed by SWAMs; (vi) solicitation of potentially interested SWAMs whenever such solicitations are made to non-SWAM firms; (vii) negotiation with interested and qualified SWAMs whenever negotiation is conducted with non-SWAM firms; (viii) assistance to interested SWAMs and non-SWAM firms with information regarding bonding, insurance, or credit; and (ix) use of minority contractors’ groups and minority business assistance offices to facilitate awareness of subcontracting opportunities and awareness of Vendor’s commitments under this Section 25.7.

25.7.2. Reporting to the Commonwealth

Vendor shall report to the Commonwealth on a weekly and quarterly basis the following information and shall submit a signed certification that the report is accurate: (i) the names, addresses, and phone numbers of SWAMs that are or have participated in performance of Vendor’s obligations under the Agreement, along with documentation of SWAM certification by the Virginia Department of Minority Business Enterprise (DMBE); (ii) a description of Services or other work that each SWAM has performed; (iii) the dollar amount paid by Vendor to each SWAM. Such reports of Vendor shall be delivered to the Commonwealth in the form described in Schedule 17.1.

26. PUBLICITY

Vendor shall in no event issue or publish a press release, article, brochure, or other form of publication, promotional materials, or advertisement that includes statements about this Agreement, the Commonwealth and its agencies, or in any way use any logo, trademark, or other symbol of the Commonwealth and its agencies, without obtaining in advance the Commonwealth's written consent to the form and substance of such issuance, publication, advertisement, or use. Notwithstanding the foregoing, Vendor may identify the Commonwealth as a reference for all prospective customers of Vendor interested in obtaining services that are the same or substantially similar to the Services hereunder, unless directed not to do so by the Commonwealth.

27. MISCELLANEOUS

27.1 Entire Agreement

This Agreement, including all Schedules, Exhibits, and other attachments hereto (the terms of each of which are incorporated herein by this reference), constitutes the entire understanding and agreement between the Parties with respect to the transactions contemplated herein and supersedes all other prior or contemporaneous oral or written communications, understandings or discussions with respect to the subject matter of this Agreement. No usage of trade, or other regular practice or method of dealing between the Parties or others, may be used to modify, interpret, supplement, or alter in any manner the express terms of this Agreement.

27.2 Captions; Section Numbers; Terminology

Captions, Tables of Contents, Indices of Definitions, and Section, Schedule, and Exhibit titles and headings are used herein for convenience of reference only and shall not be used in the construction or interpretation of this Agreement. Except as otherwise specifically identified in this Agreement, any reference herein to a particular Section, or a particular Schedule or Exhibit (e.g., Schedule 3.3 (Statements of Work)), shall be deemed a reference to the Section, or the Schedule or Exhibit, or this Agreement that bears the specified number. Further, any reference herein to a particular Section number (e.g., "Section 2"), shall be deemed a reference not only to the referenced Section but also to all subsections thereof (e.g., a reference to "Section 2" refers to Sections 2.1, 2.1.1, 2.2, 2.2.1, 2.2.1.1, etc.). Any Exhibit, Schedule, or appendices or addenda thereto, referencing itself as an attachment to the "Comprehensive Infrastructure Agreement" shall be deemed to be referencing itself as an attachment to this Agreement.

27.3 Assignment

Except for subcontracting permitted under the terms of Section 25, neither this Agreement, nor any interest herein, nor any of the rights and obligations of Vendor hereunder, may be directly or indirectly assigned, sold, delegated, or otherwise disposed of by Vendor, in whole or in part, without the prior written consent of the Commonwealth. For purposes hereof, an "assignment" subject to the terms and conditions of this Section 27.3 shall be deemed to have occurred in the event of any change in control of Vendor (whether resulting from a single

transaction or series of related transactions), restructuring of Vendor, transfer or removal of a material amount of assets from Vendor, or assumption of debt by Vendor that results in Vendor's net worth being materially less than it was on the Service Commencement Date. The Commonwealth shall be entitled to assign, sell, or dispose of, this Agreement, its interest herein and its rights and obligations hereunder, to any Commonwealth entity that has the power and authority to assume and perform the Commonwealth's obligations hereunder. Any assignment made by Vendor in violation of this Section 27.3 shall be null and void and of no force and effect.

27.4 Notices to a Party

Except as expressly otherwise stated herein, all notices, requests, consents, approvals, or other communications provided for, or given under, this Agreement, shall be in writing, and shall be deemed to have been duly given to a Party if delivered personally, or transmitted by facsimile to such Party at its telecopier number set forth below (with the original sent by recognized overnight courier or first class mail to the Party at its address set forth below), or sent by first class mail or overnight courier to such Party at its address set forth below, or transmitted by e-mail to the Party at its e-mail address set forth below (with the original sent by recognized overnight courier or first class mail to the Party at its address below), or at such other telecopier number, address or e-mail address, as the case may be, as shall have been communicated in writing by such Party to the other Party in accordance with this Section. All notices shall be deemed given when received, in the case of personal delivery or delivery by mail or overnight courier, or when sent, in the case of transmission by facsimile with a confirmation, if confirmed by copy sent by overnight courier within one (1) day after sending the facsimile.

Notices to the Commonwealth shall be addressed as follows:

Office of the CIO
110 S. 7th Street
Richmond, Virginia 23219

E-mail: lem.stewart@vita.virginia.gov

With a copy on all legal notices, including lawsuits, third party actions and subpoenas to:

Office of the Attorney General
900 E. Main Street
Richmond, Virginia
Attention: John Westrick, Assistant Attorney General

E-mail: jwestrick@oag.state.va.us

Notices to Vendor shall be addressed as follows:

Northrop Grumman Information Technology, Inc.
Director of Contracts and Pricing
13825 Sunrise Valley Drive
Suite 120
Herndon, Virginia 20171

Fax: 703.713.4171
E-mail: Douglas.Hoffman@ngc.com

For service of process to:

Northrop Grumman Information Technology, Inc.
Office of General Counsel
1840 Century Park East
Los Angeles, California 90067-2199

Fax: (310) 201-3023

27.5 Amendments

Except as expressly provided herein, this Agreement may not be modified or amended except by written document duly executed by authorized representatives of both of the Parties hereto. No other act, document, usage or custom shall be deemed to amend or modify this Agreement. If either Party desires to amend this Agreement, the requesting Party shall deliver to the other Party's Relationship Manager a written request for an amendment (an "Amendment Request"), specifying the requested amendment with sufficient details to enable the other Party to reasonably evaluate it. Within five (5) business days after the date of receipt of such Amendment Request (unless the scope of the amendment is such that it cannot reasonably be evaluated in five (5) business days through the use of all commercially reasonable efforts, in which case within a reasonable time thereafter), the receiving Party shall provide the requesting Party with a written response as to whether the requesting Party's proposed amendment is acceptable. If, in such response, the receiving Party indicates that the requesting Party's proposed amendment is acceptable, the Parties shall promptly and duly execute a written document evidencing such amendment and this Agreement shall be amended in accordance with the terms of such written document.

27.6 Waiver

No term or provision of this Agreement shall be deemed waived and no breach excused, unless such waiver or excusal is in writing and signed by the Party claimed to have waived or excused. The failure or delay of either Party to exercise any right, power, or privilege hereunder shall not constitute a waiver thereof. A waiver shall be effective only in the specific instance, and for the specific purpose, stated in such writing, and shall not preclude further exercise of the same right, power, or privilege or the exercise of any other right, power, or privilege hereunder.

27.7 Relationship Between and Legal Status of Parties

This Agreement shall in no event be construed in such a way that either Party constitutes, or is deemed to be, the representative, agent, employee, partner, or joint venturer of the other Party. Vendor is and shall at all times be an independent contractor with regard to all performance under this Agreement. Neither Party shall have the authority to enter into any agreement, nor to assume any liability, on behalf of the other Party, nor to bind or commit the other Party in any manner, except as expressly provided herein. Vendor's and its Subcontractors' employees who provide Services pursuant to this Agreement, or who at any time are located or provide Services on the Commonwealth's premises, shall remain the respective employees of Vendor or its Subcontractors, as applicable, and Vendor and its Subcontractors shall have sole responsibility for all such employees, including responsibility for payment of all compensation to them, the provision of employee benefits to them, and responsibility for injury to them in the course of their employment. Vendor and its Subcontractors shall be responsible for all aspects of labor relations with such employees, including their hiring, supervision, evaluation, discipline, firing, wages, benefits, overtime, and job and shift assignments, and all other terms and conditions of their employment, and the Commonwealth shall have no responsibility whatsoever for any of the foregoing.

27.8 Non-Exclusive Remedies

Unless expressly provided otherwise in this Agreement, no remedy set forth in this Agreement shall be exclusive of any other remedy and each such remedy shall be in addition to and not in lieu of every other remedy given hereunder, or now or hereafter existing or available at law, in equity, by statute, or otherwise.

27.9 Severability

If any provision of this Agreement is determined by any court or tribunal of competent jurisdiction to be invalid or unenforceable, that provision shall be deemed severed and stricken from this Agreement and: (i) the remainder of this Agreement shall continue in full force and effect insofar as it remains a workable instrument to accomplish the intent and purposes of the Parties, as evidenced herein; and (ii) the severed provision shall be deemed replaced by the valid, legal, and enforceable provision that comes closest to reflecting the intention of the Parties underlying the severed provision.

27.10 Counterparts

This Agreement may be executed in duplicate counterparts. Each such counterpart, if executed by both Parties, shall be an original and both such counterparts together shall constitute but one and the same document. This Agreement shall not be deemed executed unless and until at least one counterpart bears the signature of each Party's designated signatory.

27.11 Governing Law; Venue

The construction, formation, and interpretation of this Agreement, and the performance of the Parties hereunder, shall be governed and construed in accordance with the

laws of the Commonwealth of Virginia, without regard to conflicts of laws provisions thereof. The exclusive venue for all actions or proceedings arising out of, or related to, this Agreement shall be in an appropriate Virginia circuit court located in Richmond, Virginia, and Vendor hereby irrevocably consents to the personal and subject matter jurisdiction of such court and waives any claim that such courts do not constitute a convenient and appropriate venue for such actions or proceedings. Vendor consents to service of process upon itself by means of any of the methods for delivery of notice that are specified in Section 27.4 hereof. The Parties specifically exclude from application to this Agreement the United Nations Convention on Contracts for the International Sale of Goods.

27.12 Governmental Immunity

Notwithstanding anything to the contrary set forth elsewhere in this Agreement, the Commonwealth has not, and in no event shall be construed to have, waived any rights or defenses of governmental immunity that it may have with respect to any matters arising out of this Agreement or performance hereunder.

27.13 No Third-Party Beneficiaries

This Agreement is an agreement by and between the Parties, and neither: (i) confers any rights upon any of the employees, agents, or contractors of either Party, or upon any other Person not a Party hereto; or (ii) precludes any actions or claims against, or rights of recovery from, any Person not a Party hereto.

27.14 Expenses

Each Party shall be solely responsible for all expenses paid or incurred by it in connection with the planning, preparation, negotiation, and consummation of this Agreement.

27.15 Order of Precedence

In the event of conflict in substance or impact between (i) the terms and conditions of Sections 1 through 28 of this Agreement and those of any Schedule, Exhibit, or other attachment hereto, the terms and conditions of such Sections shall control; and (ii) the terms and conditions of any Appendix to Schedule 3.3 and the Statement of Technical Approach Addendum for such Appendix, the terms and conditions of such Appendix shall control, subject to the right of Vendor and the Commonwealth to mutually amend the Agreement and the Schedules, Exhibits, and other attachments, as set forth herein.

27.16 Further Assurances

Each Party agrees to execute and deliver any and all additional documents and instruments, and take all other actions that may be necessary to give effect to this Agreement and all transactions and activities contemplated hereby.

27.17 Neither Party Considered Drafter

Despite the possibility that one Party may have prepared the initial draft of this Agreement or played the greater role in the physical preparation of subsequent drafts, the Parties agree that neither Party shall be deemed the drafter of this Agreement and that in construing this Agreement, in the event of any claim that any provision hereof may be ambiguous, no provision hereof shall be construed in favor of one Party on the ground that such provision was drafted by the other. In all respects, this Agreement shall be construed as though jointly prepared by the Parties.

28. DEFINITIONS

The following words and phrases, when used in this Agreement, shall have the indicated meanings. (Terms capitalized within a particular definition are defined elsewhere within this Agreement.)

28.1 Acceptance Criteria

“Acceptance Criteria” means the applicable Specifications, warranties and acceptance criteria agreed to in writing for the item being tested as set forth or referenced in this Agreement and any Schedules hereto.

28.2 Acceptance Test Procedures

“Acceptance Test Procedures” means, collectively, the acceptance test procedures for the item being tested set forth or referenced in this Agreement or any Schedules hereto, or such other procedures and standards mutually agreed upon by the Parties in writing.

28.3 Additional Resource Charge (ARC)

“Additional Resource Charge” or “ARC” means a specific amount of Fees that, with regard to any particular resource category and time period, is equal to the product of the number of Resource Units by which actual measured resource utilization for such resource category during such time period exceeds the Baseline Volume for such resource category, if and as specified in Schedule 10.1, times the per Resource Unit charge, if and as specified in Schedule 10.1, that is applicable to Resource Units that are actually utilized in such resource category in excess of such Baseline Volume.

28.4 Affected Employees

“Affected Employees” is defined in Schedule 8.1.

28.5 Affiliate

“Affiliate” means, as to entity, any Person that, directly or indirectly, controls, is controlled by, or is under common control with, such entity, whether through ownership of voting securities or otherwise. For this purpose, and without limiting the foregoing, any Person

that owns more than fifty percent (50%) of the outstanding voting securities of any other Person shall be deemed to control such other Person.

28.6 Agreement or Comprehensive Infrastructure Agreement

“Agreement” or “Comprehensive Infrastructure Agreement” means this Interim Comprehensive Infrastructure Agreement between the Commonwealth and Vendor, as amended from time to time, including these terms and conditions, and all Exhibits, Schedules, and other attachments hereto.

28.7 Assignment and Assumption Agreement

“Assignment and Assumption Agreement” has the meaning given it in Section 2.2.1.

28.8 Assumed Contracts

“Assumed Contracts” has the meaning given it in Section 2.2.1, and shall include those Contracts identified as Assumed Contracts in Schedule 2.2.

28.9 Auditors

“Auditors” means, with respect to a Party, the independent third-party auditors designated by such Party in writing from time to time, in its sole discretion. With respect to the Commonwealth, such term shall include the Commonwealth Auditor of Public Accounts, the staff of the Joint Legislative Review and Audit Commission (JLARC), the Commonwealth Department of Accounts, and the VITA Internal Audit Services. Further with respect to the Commonwealth, “Auditors” shall not include any person or entity that is a Vendor Competitor.

28.10 Baseline Volume

“Baseline Volume” means, the quantity of Resource Units specified in Schedule 10.1 with respect to any particular resource category and time period.

28.11 Benchmarking Firm

“Benchmarking Firm” has the meaning given it in Section 10.8.

28.12 Chargeback System

“Chargeback System” means the Third-Party Software and related System, which shall be used to implement VITA’s chargeback process (related to the Services and otherwise) and specifically identified in and meeting the Specifications set forth in Schedule 28.12 hereto.

28.13 The Commonwealth

“The Commonwealth” means the Commonwealth of Virginia.

28.14 The Commonwealth IT Base Case

“The Commonwealth IT Base Case” means the financial summary attached hereto as Schedule 28.14, including the detailed financial and budget information and records of actual and planned IT expenditures underlying such summary.

28.15 Commonwealth Data

“Commonwealth Data” means, in or on any media or form of any kind: (i) data, or summaries or indices of data, related to or describing the Commonwealth or any Eligible Customer, or the residents, constituents, citizens, clients, customers, employees, agents, subcontractors, or other representatives of the same, or related to or describing the Services or the Systems, regardless of whether or not such data, summaries or indices are owned by the Commonwealth or any Eligible Customer, generated or compiled by the Commonwealth or any Eligible Customer, or provided by such residents, constituents, citizens, clients, customers, employees, agents, subcontractors, or representatives, including data that are in the Commonwealth’s or any Eligible Customer’s databases or otherwise in their possession or control on the Effective Date or at any time thereafter; (ii) other Commonwealth or any Eligible Customer records, data, files, input materials, processed data, results of data analyses, information, reports, forms, and other such items and materials that may be created, received, computed, developed, used, or stored by Vendor, or by any of Vendor’s Subcontractors, for or on behalf of the Commonwealth or any Eligible Customer in, or in connection with, the performance of Vendor’s duties under this Agreement, but excluding in any event any internal data and information of Vendor and its Subcontractors (other than service level measurements and contract charges) and any correspondence between the Parties; and (iii) modifications, compilations, and derivative works of the items, data, and other materials described by the foregoing clauses (i) and (ii) as being included within Commonwealth Data.

28.16 Commonwealth Resources

“Commonwealth Resources” has the meaning given it in Section 3.14.1.

28.17 Commonwealth Software

“Commonwealth Software” means Software that is created, developed, or otherwise owned by the Commonwealth before, on, or after the Effective Date, and all supporting documentation, media, and related materials, and all modifications, enhancements, updates, replacements, and other derivative works of any of the foregoing, including the Software identified in Schedule 28.17, but excluding the Vendor Software and the Third-Party Software.

28.18 Commonwealth Works

“Commonwealth Works” means tangible and intangible information and developments that are owned by the Commonwealth (including Commonwealth Software, to the fullest extent of the Commonwealth’s rights therein), including all intermediate and/or partial versions thereof and all designs, specifications, inventions, discoveries, improvements, materials, program materials, software, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, other creations, and the like, in any form or media.

28.19 Commonwealth Confidential Information

“Commonwealth Confidential Information” means:

(a) technical information, materials, data, reports, programs, documentation, diagrams, ideas, concepts, techniques, processes, inventions, knowledge, know-how, and trade secrets, whether in tangible or intangible form, whether disclosed or conveyed by visits to the Commonwealth’s or any Eligible Customer’s sites or facilities, whether or not marked or otherwise identified as confidential, and whether in any specific form or media, or disclosed orally, that are developed or acquired by such Party, except for Work Product;

(b) information and data relating to the Commonwealth’s or any Eligible Customer’s practices, personnel, customers (and the business practices, habits, needs, trends, and ordering history of such customers), products, services, orders, business, management information services, financials, costs, or margins that is not generally known by others in the same line of business;

(c) information that the Commonwealth or any Eligible Customer identifies to Vendor as confidential by a stamp or other similar notice;

(d) information and data relating to the employees and former employees of the Commonwealth or any Eligible Customer, and the salaries, severance packages, and other benefits, and performance assessments or appraisals, of or applicable to such employees or former employees;

(e) other information relating to the Commonwealth or any Eligible Customer that is treated as confidential by the Commonwealth or any Eligible Customer and that a reasonably prudent person would expect not to be made available to third parties without restriction or payment; and

(f) (i) Work Product, Commonwealth Data, and Commonwealth Software; and (ii) records, data, information or materials in the possession or control of the Commonwealth, or created, developed, collected, processed, handled, stored, transmitted, or received, in any form or media, by Vendor or the Systems in connection with this Agreement (including individually identifiable health information), that the Commonwealth is, for any reason, prohibited from publicly disclosing, whether by law, statute, regulation, ordinance, or contract.

28.20 Confidentiality Agreement

“Confidentiality Agreement” has the meaning given it in Section 19.6.

28.21 Consent

“Consent” whether capitalized or not and unless expressly specified otherwise, means, with regard to either a specified or an applicable Party whose consent is required hereunder, the voluntary, freely-given consent of such Party, which consent may be withheld in such Party’s sole discretion, with no duty to be reasonable in the withholding of such consent.

28.22 Contract Fees Amount

“Contract Fees Amount” has the meaning given it in Section 2.2.4.

28.23 Contract Quarter

“Contract Quarter” means each successive three month period beginning on the Service Commencement Date.

28.24 Contract Year

“Contract Year” means any one-year period ending at the end of the day before an anniversary of the Service Commencement Date.

28.25 Contracts

“Contracts” shall mean those written (i) contracts (e.g., maintenance agreements, service agreements, subcontractor agreements, master ordering agreements) under which the Commonwealth or Eligible Customers receive third party services relating to the Services, (ii) leases (e.g., real property or equipment leases) that will be used in connection with the performance of the Services as of the Service Commencement Date, and (iii) licenses under which the Commonwealth or Eligible Customers receive from third parties the right to use software related to the Services. All known Contracts as of the Effective Date shall be identified in Schedule 2.2 and further identified therein as Assumed Contracts, Retained Contracts (including Shared Contracts) or Unquantifiable Contracts.

28.26 Credit Rating

“Credit Rating” means the rating category assigned by Moody’s Investors Service, Inc., or its successor, with respect to any long-term obligations issued by the Person to whom such rating category is assigned.

28.27 Critical Milestones

“Critical Milestones” means actions and projects identified as Critical Milestones in Schedule 6.6.

28.28 Cross-Functional Tower

“Cross-Functional Tower” means the cross-functional Services as further described in Appendix 1 to Schedule 3.3.

28.29 Current Projects

“Current Projects” means IT-related projects of the Commonwealth that (i) are in progress as of the Service Commencement Date (whether or not such projects involve third-party services) and (ii) are scheduled to commence during the first Contract Year and are contemplated by the Commonwealth IT Base Case, including all such projects specifically identified in Schedule 28.29.

28.30 Data Network Tower

“Data Network Tower” means the data telecommunications Services as further described in Appendix 8 to Schedule 3.3.

28.31 Day

“Day” whether capitalized or not and unless expressly specified otherwise, means a calendar day.

28.32 Default

“Default” means the occurrence of any one or more of the following:

(a) any material breach by Vendor of its obligations under this Agreement, provided that such breach, if curable, is not cured within thirty (30) days (or such longer period as expressly set forth in this Agreement) after the Commonwealth provides Vendor with written notice thereof;

(b) any material breach by Vendor with respect to its obligations under this Agreement not capable of cure;

(c) performance of the Services by Vendor in a manner that meets or satisfies any one or more of the criteria expressly specified in Schedule 3.3 or Schedule 3.12 as constituting a Default, subject to any applicable cure period and except to the extent excused pursuant to Sections 6.7, 9, 10.9, 14.7, 14.9, 16.2, 16.4 or as otherwise expressly set forth in this Agreement or excused in writing by the Commonwealth;

(d) any breach by Vendor with respect to any of its representations and warranties under Section 21 of this Agreement, provided that such breach, if curable, is not cured within thirty (30) days (or such longer period as expressly set forth in this Agreement) after the Commonwealth provides Vendor with written notice thereof;

(e) the failure by Vendor to complete the transition of all Services to Vendor as set forth in Section 3.2.2, provided that such Default shall not be subject to a cure period;

(f) any material breach by Vendor of its obligations regarding execution of the Disaster Recovery Plan during a disaster, provided that such Default shall not be subject to a cure period;

(g) any material breach by Vendor as described in Section 13.1.5, provided that such Default shall not be subject to a cure period;

(h) numerous or repeated breaches by Vendor of its obligations under this Agreement which collectively constitute a material breach by Vendor of its obligations under this Agreement, provided that such Default shall not be subject to a cure period;

(i) the existence of a material representation by Vendor in Section 21 of this Agreement that Vendor knew or should have known was materially false when made, except that, if such misrepresentation is curable and such cure will fully and completely effect a reasonable resolution, there shall not be a Default if such misrepresentation is cured within fifteen (15) days after Vendor has been notified by the Commonwealth in writing thereof;

(j) the insolvency of Vendor, the entrance of Vendor into receivership or any arrangement or composition with creditors generally, the filing of a voluntary petition (or an involuntary petition that is not dismissed within sixty (60) days) for bankruptcy or reorganization or dissolution or winding-up of Vendor, a general assignment for the benefit of creditors of Vendor, or a seizure or a sale of a material part of Vendor's property by or for the benefit of any creditor or governmental agency;

(k) an assignment or attempted assignment by Vendor in violation of Section 27.3 hereof;

For purposes of this Agreement, the word "cure" shall include implementation by the applicable Party of a reasonable work-around or similar temporary measures, provided that such measures do not cause the other Party to incur significant expense, or expend significant time or resources, and that the defaulting Party continually pursues and promptly implements a full and complete cure until such time as such cure is so effected.

Unless this Agreement expressly states that no cure period shall apply or otherwise provides for a different cure period with respect to any event or circumstance that qualifies as a Default under paragraphs (a) through (k) above (in which case no cure period or such other cure period shall apply, as applicable), there shall be a cure period of thirty (30) days with respect to such event or circumstance.

In each instance in which this Agreement contemplates a cure period or otherwise affords a Party an opportunity to cure a potential Default, (i) the other Party shall be required to provide written notice to such Party of such potential Default, (ii) the cure period shall begin when such notice has been received by such Party, and (iii) the potential Default shall not give

rise to a Party's rights and remedies under Section 14 unless such notice has been provided and the cure period based thereon has elapsed.

28.33 Deliverable

"Deliverable" means tangible and intangible information or material that must be provided by Vendor to the Commonwealth under the terms of this Agreement. Deliverables shall constitute Work Product, Vendor Works or Third Party Works.

28.34 Desktop Computing Tower

"Desktop Computing Tower" means the desktop Services as further described in Appendix 5 to Schedule 3.3.

28.35 Disabling Device

"Disabling Device" has the meaning given it in Section 3.15.

28.36 Disagreement

"Disagreement" means a dispute, controversy, or claim of any nature arising under or in connection with this Agreement, including any that results from any of the following:

- (a) an alleged failure by either Party to perform its obligations under this Agreement;
- (b) an alleged inadequacy or delay of either Party's performance under this Agreement;
- (c) a request for products, services, or resources where the Parties disagree whether such products, services, or resources are within the scope of this Agreement;
- (d) a disagreement as to the responsibilities either Party has under this Agreement; or
- (e) a disagreement as to the creation, validity, interpretation, breach, or termination of this Agreement.

28.37 Disaster Recovery Plan

"Disaster Recovery Plan" means the disaster recovery plan attached hereto as Schedule 3.9, as revised and amended from time to time, in accordance with Section 3.9.

28.38 Disentanglement

"Disentanglement" has the meaning given it in Section 15.1.

28.39 Disentanglement Commencement Date

“Disentanglement Commencement Date” has the meaning given it in Section 15.2.

28.40 Disentanglement Transition Plan

“Disentanglement Transition Plan” has the meaning given it in Section 15.2.

28.41 Documentation

“Documentation” means, with respect to any particular Items: (i) all of the written, printed, electronic, or otherwise formatted materials that relate to such Items, or any component thereof; (ii) all user, operator, system administration, technical, training, support, and other manuals and all other written, printed, electronic, or other format materials that represent, demonstrate, explain or describe the functional, operational or performance capabilities of such Items; and (iii) all specifications, materials, flow charts, notes, outlines, manuscripts, writings, pictorial or graphical materials, schematics, and other documents that represent, demonstrate, explain or describe such Items.

28.42 Effective Date

“Effective Date” has the meaning given it in Section 1.4.

28.43 Eligible Customer

“Eligible Customer” means, collectively, and to the extent such entity or person is receiving Services under this Agreement, the following: (i) VITA; (ii) any current or future executive body, agency, office, department, authority, post, commission, committee, institution, board or other political subdivision of the Commonwealth; (iii) any current or future non-executive body, agency, office, department, authority, post, commission, committee, institution, board or other political subdivision of the Commonwealth; (iv) any current or future city, town, locality or local government of the Commonwealth; (v) any entity or person engaged in the provision of products or services to any of the Eligible Customers identified in clauses (i) through (iv) of this definition, but only in connection with the provision of such products or services to the Eligible Customers; (vi) any entity to which an Eligible Customer outsources any of its existing functions to the extent necessary for such entity to continue performing such function for the Eligible Customer, or any other customer of such Eligible Customer, but only in connection with the provision of such outsourced functions and provided such entity agrees in writing to be bound by the terms and conditions of this Agreement; and (vii) other entities to which the Parties agree. Without limiting the foregoing, the Eligible Customers intended to receive the benefit of the Services as of the Effective Date are identified on Schedule 28.68. During the first one hundred twenty (120) days after the Effective Date, the Parties shall work together in good faith to validate and finalize the list of Eligible Customers set forth in Schedule 28.68. Such finalized and validated version of Schedule 28.68 shall be incorporated herein and replace the version of Schedule 28.68 attached hereto as of the Effective Date.

28.44 End-User

“End-User” means a Person upon whom an Eligible Customer intends to confer the right to access and use the Systems or receive the benefit of the performance of the Services or the provision of the Deliverable, whether an employee, client, customer, resident, constituent or citizen of the Commonwealth, VITA, or any Eligible Customer, or any other Person.

28.45 Environmental Laws

“Environmental Laws” means applicable federal, state, or local statutes, laws, regulations, rules, ordinances, codes, licenses, orders, or permits of any governmental entity relating to environmental matters including: (i) the Clean Air Act (42 U.S.C. §§ 7401 et seq.), the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. §§ 300f et seq.), the Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), the Endangered Species Act (16 U.S.C. §§ 1531 et seq.), the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. §§ 110011 et seq.); and (ii) all state and local provisions similar in substance or intent to the federal laws described in the foregoing clause (i).

28.46 Exit Fee

“Exit Fee” means the early termination fees specified in Schedule 10.1.

28.47 Expiration Date

“Expiration Date” has the meaning given it in Section 14.1.1.

28.48 Fees

“Fees” means the fees payable by the Commonwealth to Vendor hereunder in consideration of Vendor’s performance of the Services, as described in Section 10 and specified in, and calculated pursuant to, Schedule 10.1.

28.49 Force Majeure Event

“Force Majeure Event” means a cause beyond the reasonable control of a Party that materially prevents or delays such Party’s performance hereunder (or that materially affects such Party’s need for, ability to effectively utilize, or ability to provide, Services hereunder), including acts of God, act of governmental body or military authority, fire, explosion, power failure, flood, epidemic, riot or civil disturbance, war, sabotage, accidents, civil insurrections, blockades, embargoes, storms, labor disputes (except those involving personnel of Vendor, its Affiliates or its Subcontractors), earthquakes, elements of nature, terrorism, rebellions or revolutions in the United States, or other similar events.

28.50 Go Live Date

“Go Live Date” has the meaning given it in Section 7.2.

28.51 Government Approvals

“Government Approvals” means permits, waivers, approvals or consents that are required, under applicable laws and regulations, in connection with the consummation of a particular agreement, event or transaction.

28.52 Hazardous Material

“Hazardous Material” means a substance, the presence of which requires investigation or remediation under an Environmental Law, or that is or becomes defined as a “hazardous waste,” “hazardous substance,” pollutant, or contaminant under an Environmental Law.

28.53 Help Desk Tower

“Help Desk Tower” means the help desk Services as further described in Appendix 4 to Schedule 3.3.

28.54 Hourly Rates

“Hourly Rates” has the meaning given it in Section 6.5.

28.55 IT

“IT” means information technology.

28.56 Including

“Including,” whether capitalized or not, means “including, but not limited to.”

28.57 Indemnites or Commonwealth Indemnites

“Indemnites” or “Commonwealth Indemnites” means, with respect to the Commonwealth, the Commonwealth, VITA and the Eligible Customers, and the officers, directors, elected and appointed officials, employees, agents, successors, and assigns of each of the foregoing.

28.58 Infringement Claim

“Infringement Claim” has the meaning given it in Section 22.1.1.

28.59 Initiative

“Initiative” means a significant IT-related project, or other services, that is outside the scope of the Services when proposed in accordance with Section 11.1, and that the Parties agree in accordance with Section 11.1 is to be performed by Vendor for the Commonwealth. For avoidance of doubt, none of the following shall be deemed an Initiative when proposed, but instead are included within the scope of the Services: (i) services that are not materially different

than the Services; (ii) services that do not require a material increase in the level of effort or resources necessary to perform the Services; and (iii) changes in the volume or demand for the Services.

28.60 In-Scope Work Request

“In-Scope Work Request” means a request by the Commonwealth for the performance of work that is not being performed by Vendor at the time such request is made but that is within the scope of the Services.

28.61 Intellectual Property Rights

“Intellectual Property Rights” means intellectual or industrial property rights, and moral rights or similar or analogous proprietary rights, pertaining to a particular invention, work of authorship, symbol or other mark or designation indicative of source or quality, or other particular item of tangible or intangible property, arising under statutory or common law or by contract, in the United States, whether or not perfected, now existing or hereafter filed, issued, or acquired, including: (i) patent rights associated with an invention and processes (including business processes), methods and apparatuses entailed by such invention (including, as applicable, the rights to make, use, sell, offer to sell, import into the United States, or have made, and the rights to file and prosecute patent applications and provisional patent applications); (ii) rights associated with works of authorship, including copyrights and mask work rights (including the rights to copy, adapt, distribute, display, perform, and create derivative works) including copyright of foreign works entitled to protection in the United States under the Berne Convention; (iii) rights relating to the protection of trade secrets and confidential information (including the rights to use and disclose); (iv) trademarks, service marks, trade dress, trade names, and design patent rights (including the right to goodwill appertaining thereto); (v) moral rights; and (vi) other rights analogous, similar, or comparable to those described by the foregoing clauses (i) through (v), and other proprietary rights relating to intangible property (including licensing rights and shop rights).

28.62 Interest

“Interest” means a financial amount calculated as the average financial amount outstanding multiplied times the number of days outstanding divided by 365 days multiplied times the base rate on corporate loans (prime rate) at large United States money center commercial banks as reported daily in the Wall Street Journal.

28.63 Internal Applications Tower

“Internal Applications Tower” means the VITA-related application Services as further described in Appendix 2 to Schedule 3.3.

28.64 Item

“Item” means any Service, System, Deliverable, Work Product, Underlying Work, or Residual.

28.65 Key Personnel

“Key Personnel” means those Vendor Personnel who are identified in Schedule 8.2 attached hereto, or the holders of the positions that are identified in such Schedule, and such other Vendor Personnel that Vendor and the Commonwealth may agree to identify as Key Personnel from time to time.

28.66 Key Subcontractor

“Key Subcontractor” means any Subcontractor identified in Schedule 25.4 attached hereto as a Key Subcontractor, and such other Subcontractors as Vendor and the Commonwealth may agree to identify as Key Subcontractors from time to time, in writing.

28.67 Live Testing

“Live Testing” has the meaning given it in Section 7.2.

28.68 Location

“Location” means any location at which the Commonwealth operates, during the period from the Effective Date until the Service Commencement Date, a data center or performs any IT-related services or functions, and any other location at which Vendor at any time during the Term of this Agreement operates a data center or performs any IT-related services or functions for or on behalf of the Commonwealth. The Locations as of the Effective Date are identified in Schedule 28.68 hereto. During the first one hundred twenty (120) days after the Effective Date, the Parties shall work together in good faith to validate and finalize the list of Locations set forth in the Schedule 28.68 attached hereto as of the Effective Date. Such finalized and validated version of Schedule 28.68 shall be incorporated herein and replace the version of Schedule 28.68 attached hereto as of the Effective Date.

28.69 Losses

“Losses” means: (i) amounts actually paid to third parties by the applicable Indemnitees (including judgments, settlements, awards, liabilities, losses, damages, and civil penalties); (ii) reasonable attorneys’ fees incurred by the applicable Indemnitees, in the case of litigation or arbitration; and (iii) out-of-pocket expenses reasonably incurred by the applicable Indemnitees in connection with the investigation or defense of such claims or demands.

28.70 Machines

“Machines” means computers and related equipment, including central processing units and other processors, controllers, modems, communications or telecommunications equipment, cables, storage devices, printers, terminals, other peripherals and input and output devices, and other tangible mechanical and electronic equipment intended for the processing, input, output, storage, transmission, and retrieval of information and data or voice communications.

28.71 Mainframe & Server Tower

“Mainframe & Server Tower” means the mainframe and server Services as further described in Appendix 7 to Schedule 3.3.

28.72 Managed Employees

“Managed Employees” means every Affected Employee who does not accept an offer of employment from the Vendor (or Vendor’s Affiliates or Subcontractors) pursuant to this Agreement, remains employed by the Commonwealth and is made available to Vendor by the Commonwealth for performance of the Services.

28.73 Messaging Tower

“Messaging Tower” means the messaging Services as further described in Appendix 6 to Schedule 3.3.

28.74 New Vendor Employee

“New Vendor Employee” is defined in Schedule 8.1.

28.75 Notice to Proceed

“Notice to Proceed” has the meaning given it in Section 6.5.

28.76 Out-of-Scope Work Request

“Out-of-Scope Work Request” has the meaning given it in Section 6.5.

28.77 Paradigm Technology Shift

“Paradigm Technology Shift” has the meaning given it in Section 10.15.

28.78 Party

“Party” means the Commonwealth or Vendor; “Parties” means both the Commonwealth and Vendor.

28.79 Performance Credit

“Performance Credit” means a monetary credit to which the Commonwealth is entitled, as specified in this Agreement, as a result of a particular failure or deficiency in Vendor’s performance, including, for example: (i) Services being performed at levels that do not meet or exceed the applicable Service Levels; and (ii) Critical Milestones not being met or achieved by their respective required dates.

28.80 Person

“Person” means any natural person, corporation, limited liability company, limited liability partnership, general partnership, limited partnership, trustee of a trust or estate, association, governmental body or organization or agency, or other legal person or legally constituted entity of any kind.

28.81 Post-live Acceptance

“Post-live Acceptance” has the meaning given it in Section 7.2.

28.82 Pre-live Acceptance

“Pre-live Acceptance” has the meaning given it in Section 7.1.

28.83 Pre-live Testing Period

“Pre-live Testing Period” has the meaning given it in Section 7.1.

28.84 Procedures Manual

“Procedures Manual” means the written document setting forth the operational policies, practices and procedures to be followed by the Parties in connection with performance of the Services, as further described in Section 3.8.

28.85 Proposals

“Proposals” has the meaning given it in Section 1.2.

28.86 Provided Resources

“Provided Resources” has the meaning given it in Section 3.14.1.

28.87 Reduced Resource Credit (RRC)

“Reduced Resource Credit” or “RRC” means a specific amount of credit that, with regard to any particular resource category and time period, is equal to the product of the number of Resource Units by which actual measured resource utilization for such resource category during such time period is less than the Baseline Volume for such resource category, if and as specified in Schedule 10.1, times the per Resource Unit credit, if and as specified in Schedule 10.1, that is applicable in the event that the number of Resource Units actually utilized in such resource category is less than such Baseline Volume.

28.88 Relationship Manager

“Relationship Manager” means, with respect to a Party, the individual who is designated its Relationship Manager in Schedule 8.2 hereto, and any subsequent holder of that

position designated by such Party and, to the extent required by the terms and conditions of Section 8.1, approved by the other Party.

28.89 Required Consents

“Required Consents” means Government Approvals and other third-party consents or approvals required in connection with: (i) the sale or assignment to Vendor of any Contracts; (ii) the right of the Commonwealth to use the software that is assigned to Vendor; (iii) the assignment or transfer to the Commonwealth of the rights set forth in Section 12 related to Vendor Works, Third Party Works, Deliverables and Work Product; (iv) the license grants set forth in Section 12 related to Commonwealth Works, Third Party Works and the Chargeback System; and (v) the re-sale or re-assignment to the Commonwealth of the Contracts in connection with Disentanglement.

28.90 Residuals

“Residuals” means a Party’s general knowledge, skills, and experience, and ideas, concepts, know-how, and techniques, whether developed by it before or during the Term or otherwise obtained by it in connection with performing or receiving the Services, that are related to such Party’s business or business practices and are used by it in the course of providing or receiving the Services, or in using, operating, supporting, or maintaining the Systems, that are retained in the unaided memories of such Party’s personnel in connection with the performance or receipt of the Services, or in using, operating, supporting, or maintaining the Systems, except that Residuals shall in no event include any: (i) information intentionally memorized for the purpose of permitting its subsequent use or disclosure; (ii) proprietary information of, or related to or describing, the other Party or its Affiliates (or in the case of the Commonwealth, VITA and the Eligible Customers), or the personnel of any of the foregoing; (iii) issued or pending patents; or (iv) trademarks, service marks, or certification marks.

28.91 Resource Unit (RU)

“Resource Unit” or “RU” means, with regard to a particular resource category, the level of resource utilization specified in Schedule 10.1 as constituting the relative unit of measurement used to determine the Commonwealth’s actual utilization of such resource in comparison to the Baseline Volume, for purposes of calculating ARCs and RRCs, as described herein and in Schedule 10.1.

28.92 Response Period

“Response Period” has the meaning given it in Section 6.5.

28.93 Retained Contracts

“Retained Contracts” has the meaning given it in Section 2.2.2, and shall include those Contracts identified as Retained Contracts in Schedule 2.2.

28.94 Retained Personnel

“Retained Personnel” means those Commonwealth personnel who are identified as Retained Personnel by the Commonwealth.

28.95 Root Cause Analysis

“Root Cause Analysis” has the meaning given it in Appendix 10 to Schedule 3.3.

28.96 Savings

“Savings” has the meaning given it in Section 10.14.

28.97 Security Policies

“Security Policies” has the meaning given it in Section 13.1.1.

28.98 Security Tower

“Security Tower” means the security Services as further described in Appendix 3 to Schedule 3.3.

28.99 Service Commencement Date

“Service Commencement Date” means 12:01 a.m., U.S. Standard Time, on July 1, 2006, or such other date as mutually agreed by the Parties in writing.

28.100 Service Level

“Service Level” means the minimum acceptable level of service or performance for a particular task, activity, or Service performed by Vendor hereunder, as specified in the Appendices to Schedule 3.3.

28.101 Services

“Services” has the meaning given it in Section 3.1.

28.102 Shared Contracts

“Shared Contracts” shall mean those Contracts that, as of the Service Commencement Date, are partially utilized by or for Eligible Customers currently receiving Services under this Agreement and otherwise utilized by other Commonwealth entities or public bodies, the financial, operational and managerial responsibility for which shall be shared by the Parties as set forth in Section 2.2.2(b), and shall include those Contracts identified as Shared Contracts in Schedule 2.2 as of the Effective Date and as may be agreed in writing by the Parties from time to time.

28.103 Shared Resources

“Shared Resources” has the meaning given it in Section 2.4.

28.104 Signing Date

“Signing Date” has the meaning given it in Section 1.4.

28.105 Software

“Software” means computer programs and program objects of any kind (including object code and source code, and any intermediate forms or versions thereof), program set-up and customization parameters and data, and the tangible media on which any of the foregoing are recorded. Notwithstanding the foregoing, in no event shall “Software” as used in this Agreement include Third-Party Software source code.

28.106 Software Component

“Software Component” has the meaning given it in Section 7.1.

28.107 Specifications

“Specifications” means the descriptions of Items (except for Residuals) provided hereunder, and the respective components, capacities, functions, and methods of such Items, as set forth in this Agreement, and all Documentation pertaining to such Items, or as otherwise provided to the Commonwealth by Vendor in writing.

28.108 Statement of Work

“Statement of Work” has the meaning given it in Section 3.3.

28.109 Status Report

“Status Report” has the meaning given it in Section 6.1.

28.110 Strategy Committee

“Strategy Committee” has the meaning given it in Schedule 6.3.

28.111 Subcontractor

“Subcontractor” means any Person (including any Vendor Affiliate) other than Vendor that provides Services to the Commonwealth in connection with this Agreement pursuant to an agreement such Person has with Vendor.

28.112 Suspension

“Suspension” has the meaning given it in Section 14.9.

28.113 Systems

“Systems” means the IT functions, capabilities, operations, and systems that, at any particular time prior to the Service Commencement Date, are used, operated, supported, or maintained by the Commonwealth, or that, at any particular time during the Term on or after the Service Commencement Date, are used, operated, supported, or maintained by Vendor on behalf of, or for the benefit of, the Commonwealth in Vendor’s performance of the Services hereunder, including such IT systems as are described in this Agreement, including as components thereof: (i) the Vendor Software; (ii) the Third-Party Software; (iii) Commonwealth Software; (iv) the Work Product; and (v) the entire system of hardware, Software, equipment, networks, and network components that constitute, are associated with or related to, or interconnect, any of the items described by the foregoing clauses (i) through (iv), or on which such items are installed, operated, or used, at any of the Locations, including any such hardware and Software produced by third parties that is embedded within such Vendor Software, Third-Party Software or the Work Product, and revisions, updates, modifications, and customizations to any or all of the hardware, Software, equipment, networks, and network components described by such clauses, in accordance with this Agreement.

28.114 Technology Refresh Plan

“Technology Refresh Plan” means the plan to be followed by Vendor in periodically replacing or refreshing the technology used to perform the Services or provide the Deliverables, or otherwise used by Vendor and its Subcontractors in connection with the Systems, as set forth in Schedule 3.11 attached hereto and as further described in Section 3.11.

28.115 Term

“Term” means the period during which Vendor shall be obligated to provide the Services, as specified in Section 14.1.

28.116 Termination Date

“Termination Date” has the meaning given it in Section 14.2.

28.117 Termination Notice

“Termination Notice” has the meaning given it in Section 14.2.

28.118 Third-Party Software

“Third-Party Software” means the Software provided to the Commonwealth by Vendor through its Subcontractors (including all updates, enhancements, customizations, and other improvements thereof), as specifically identified in Schedule 28.118 hereto, as may be modified by mutual agreement of the Parties from time to time.

28.119 Third-Party Works

“Third-Party Works” means tangible and intangible information and material that: (i) had already been conceived, invented, created, developed or acquired by a third-party prior to the Effective Date; or (ii) were conceived, invented, created, developed or acquired by a third-party after the Effective Date, but only to the extent such information and material do not constitute Work Product hereunder. A Third-Party Work includes all intermediate and partial versions thereof, including all source code and object code with respect thereto, and all designs, specifications, inventions, discoveries, improvements, materials, program materials, software, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, other creations, and the like, whether or not patented or patentable or otherwise protectible by law. Third-Party Works shall include Third-Party Software.

28.120 Tower

“Tower” means as applicable, the Cross-Functional Tower, the Internal Applications Tower, the Security Tower, the Help Desk Tower, the Desktop Computing Tower, the Messaging Tower, the Mainframe & Server Tower, the Data Network Tower and/or the Voice and Video Telecom Tower.

28.121 Transition Plan

“Transition Plan” means the project plan for the transition of the Services to Vendor that is described in Section 3.2.3 and a copy of which is attached hereto as Schedule 3.2.

28.122 Unquantifiable Contracts

“Unquantifiable Contracts” has the meaning given it in Section 2.2.3, and shall include those Contracts identified as Unquantifiable Contracts in Schedule 2.2.

28.123 Vendor

“Vendor” has the meaning given it in the preamble to this Agreement.

28.124 Vendor Competitor

“Vendor Competitor” means a Person identified as a Vendor Competitor on Schedule 28.124 attached hereto, and any other Persons that may be designated by Vendor from time to time, in a written notice to the Commonwealth, subject to the Commonwealth’s approval, which shall not be unreasonably withheld, conditioned or delayed, as additional Vendor Competitors and that are engaged, as a substantial and not incidental part of their respective businesses, in providing products to, or performing activities, functions, or services for, their respective customers that are competitive, on greater than an incidental basis, with the products provided, or activities, functions, or services performed, by Vendor for Vendor’s customers (including the Commonwealth), regardless of the locations from which any such products are provided or received, or any such activities, functions, or services performed or utilized.

28.125 Vendor Personnel

“Vendor Personnel” means, at a given time during the Term, Vendor’s Relationship Manager, the Key Personnel, and all other employees of Vendor or of Subcontractors of Vendor who are then assigned or performing responsibilities in connection with providing the Services. An individual falling within such description is a “Vendor Person.” A complete list of Vendor Personnel, including the specific position occupied or function performed by each Vendor Person, shall be promptly provided by Vendor at any time, and from time to time, during the Term, upon the reasonable written request of the Commonwealth.

28.126 Vendor Software

“Vendor Software” means the Software licensed by the Commonwealth from Vendor, including the Software that is specifically identified in Schedule 28.126 hereto (including all updates, enhancements, customizations, and other improvements thereof).

28.127 Vendor Works

“Vendor Works” means tangible and intangible information and material that: (i) had already been conceived, invented, created, developed or acquired by Vendor prior to the Effective Date; or (ii) were conceived, invented, created, developed or acquired (but excluding Third Party Works approved for Vendor’s use in the Services by the Commonwealth) by Vendor after the Effective Date, but only to the extent such information and material do not constitute Work Product hereunder. A Vendor Work includes all intermediate and partial versions thereof, including all source code and object code with respect thereto, and all designs, specifications, inventions, discoveries, improvements, materials, program materials, software, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, other creations, and the like, whether or not patented or patentable or otherwise protectible by law. Vendor Works shall include Vendor Software.

28.128 VITA

“VITA” means the Virginia Information Technologies Agency, or any replacement or successor agency or governmental entity designated by the Commonwealth.

28.129 Voice and Video Telecom Tower

“Voice and Video Telecom Tower” means the voice and video telecommunications Services as further described in Appendix 9 to Schedule 3.3.

28.130 WARN Act

“WARN Act” means the Worker Adjustment and Retraining Notification Act, 29 U.S.C. §§ 2101 et seq, and any state or local statute, code, regulation or ordinance that is analogous or similar to the WARN Act.

28.131 WARN Notice

“WARN Notice” means a notice required by the WARN Act, or other applicable law, to be provided to a Party’s employees in connection with an event or circumstance that is likely to result in the termination or redeployment of such employees and that might result in the imposition of incremental severance and other costs, damages, fines, or penalties if such laws are not complied with.

28.132 Work Product

“Work Product” means information and developments, and intermediate or partial versions thereof, including source code and object code with respect thereto, processes, methods, apparatus, programs and materials related to processing, handling, tracking, enabling or fulfilling the Commonwealth’s receipt or the Services, or access to and use of the Systems, and related policies and procedures, and designs, specifications, inventions, discoveries, improvements, ideas, know-how, techniques, materials, program materials, Software, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, other creations, and the like, whether or not patented or patentable, subject to copyright, constituting a trade secret, or otherwise protectible by law, that are created, invented, or conceived by Vendor in its performance under this Agreement, or by any Person engaged by Vendor in the performance of Vendor’s obligations or the exercise of Vendor’s rights under this Agreement, and the Intellectual Property Rights in or pertaining to any of the foregoing. All Work Product constitutes a Deliverable. Each of the Parties acknowledges that, to the extent that Work Product contains confidential information of another Party, such Work Product shall be subject to the provisions of Section 19 of this Agreement.

[SIGNATURE PAGE FOLLOWS]

The Parties have executed this Agreement on the dates indicated below, with the Effective Date as set forth in Section 1.4.

THE COMMONWEALTH OF VIRGINIA	NORTHROP GRUMMAN INFORMATION TECHNOLOGY, INC.
By: _____	By: _____
Name: Lemuel C. Stewart	Name: Douglas R. Hoffman
Title: Chief Information Officer of the Commonwealth	Title: Director, Contracts and Pricing
Date: _____	Date: _____