

**Amendment Number 2**  
**to**  
**Contract Number DIR-TSO-2644**  
**between**  
**State of Texas, acting by and through the Department of Information Resources**  
**and**  
**Brocade Communications Systems, Inc.**

This Amendment Number 2 to Contract Number DIR-TSO-2644 (“Contract”) is between the Department of Information Resources (“DIR”) and Brocade Communications Systems, Inc. (“Vendor”). DIR and Vendor agree to modify the terms and conditions of the Contract as follows:

**1. Contract, Section 2. Term of Contract,** is hereby amended as follows:

DIR and Vendor hereby agree to extend the term of the Contract for one (1) year through August 13, 2018 or until terminated pursuant to the termination clauses contained in the Contract, completing all two (2) additional one-year options. **No additional extension options remain.**

**2. Contract, Section 6. Notification**

All notices under this Contract shall be sent to a party at the respective address indicated below.

If sent to the State:

Kelly A. Parker, CTPM, CTCM  
Director, Cooperative Contracts  
Department of Information Resources  
300 W. 15<sup>th</sup> St., Suite 1300  
Austin, Texas 78701  
Phone: (512) 475-4000  
Facsimile: (512) 475-4759  
Email: [kelly.parker@dir.texas.gov](mailto:kelly.parker@dir.texas.gov)

If sent to the Vendor:

Tania Craythorne  
Brocade Communications Systems, Inc.  
130 Holger Way  
San Jose, CA 95134  
Phone: 408-333-6226  
Email: [SLEDTeam@brocade.com](mailto:SLEDTeam@brocade.com)

**3. Contract, Section 7. Software License and Leasing Agreements, D. Conflicting or Additional Terms,** is hereby replaced in its entirety as follows:

**D. Conflicting or Additional Terms**

In the event that conflicting or additional terms in Vendor Software License Agreements, Shrink/Click Wrap License Agreements, Service Agreements or linked or supplemental

documents amend or diminish the rights of DIR Customers or the State, such conflicting or additional terms shall not take precedence over the terms of this Contract.

In the event of a conflict, any linked documents may not take precedence over the printed or referenced documents comprising this contract; provided further that any update to such linked documents shall only apply to purchases or leases of the associated Vendor product or service offering after the effective date of the update; and, provided further, that, if Vendor has responded to a solicitation or request for pricing, no update of such linked documents on or after the initial date of Vendor's initial response shall apply to that purchase unless Vendor directly informs Customer of the update before the purchase is consummated.

In the event that different or additional terms or conditions would otherwise result from accessing a linked document, agreement to said linked document shall not be effective until reviewed and approved in writing by Customer's authorized signatory.

Vendor shall not [without prior written agreement from Customer's authorized signatory,] require any document that: 1) diminishes the rights, benefits, or protections of the Customer, or that alters the definitions, measurements, or method for determining any authorized rights, benefits, or protections of the Customer; or 2) imposes additional costs, burdens, or obligations upon Customer, or that alters the definitions, measurements, or method for determining any authorized costs, burdens, or obligations upon Customer.

If Vendor attempts to do any of the foregoing, the prohibited documents will be void and inapplicable to the contract between DIR and Vendor or Vendor and Customer, and Vendor will nonetheless be obligated to perform the contract without regard to the prohibited documents, unless Customer elects instead to terminate the contract, which in such case may be identified as a termination for cause against Vendor.

The foregoing requirements apply to all contracts, including, but not limited to, contracts between Customer and a reseller who attempts to pass through documents and obligations from its Manufacturer or Publisher.

- 4. Appendix A, Standard Terms and Conditions for Product and related Services Contracts, is hereby replaced in its entirety with Appendix A, Standard Terms and Conditions for Product and related Services Contracts dated 05/10/17, as attached.**

**5. Authorized Exceptions to Appendix A, Standard Terms and Conditions for Product and related Services Contracts,** is hereby amended as follows:

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

This contract does not contemplate, authorize or support acquisition of custom software products or services. If Vendor and Customer seek to contract for such product or service, they must use a separate contract or seek amendment with DIR of this contract. If DIR and Vendor decide to authorize customized software or hardware products; then the intellectual property language will be negotiated and applied.

All other terms and conditions of the Contract as amended, not specifically modified herein, shall remain in full force and effect. In the event of conflict among the provisions, the order of precedence shall be Amendment Number 2, Amendment Number 1 and then the Contract DIR-TSO-2644.

(Remainder of page intentionally left blank)

**IN WITNESS WHEREOF**, the parties hereby execute this Amendment Number 2 to be effective as of the date of last signature, but in all events not later than August 13, 2017.

**Brocade Communications Systems, Inc.**

**Authorized By:** Signature on file

**Name:** Mike LaBelle

**Title:** VP Sales Operations

**Date:** 6/23/2017 | 12:38 PM CDT

**The State of Texas, acting by and through the Department of Information Resources**

**Authorized By:** Signature on file

**Name:** Hershel Becker

**Title:** Chief Procurement Officer

**Date:** 6/27/2017 | 3:30 PM CDT

**Office of General Counsel:** DB 6/26/2017 | 10:02 AM CDT