PARTICIPATING ADDENDUM
WSCA-NASPO COOPERATIVE PURCHASING ORGANIZATION
DATA COMMUNICATIONS PRODUCTS AND SERVICES 14-19
Administered by the State of Utah (hereinafter "Lead State")

MASTER AGREEMENT
Brocade
Master Agreement No: AR214
(hereinafter "Contractor")

And

State of Washington
(hereinafter "Participating State/Entity")
Contract No: 01114

WSCA-NASPO DATA COMMUNICATIONS
WASHINGTON PARTICIPATING ADDENDUM
WSCA Master Agreement No: AR214
Washington Contract No: 01114

Contents

1. SCOPE 3
2. PRIMARY CONTACTS 3
3. PARTICIPATION 3
4. ACQUISITION AUTHORITY 3
   5.1 Minority and Women's Business Enterprises (MWBE) 4
   5.2 Liens, claims and encumbrances 4
   5.3 Contract administration 4
      5.3.1 State contract administrator 4
      5.3.2 Administration of term contract 4
   5.4 Contractor supervision and coordination 4
   5.5 Statewide Payee Desk 5
   5.6 Management fee 5
   5.7 Contract sales report 6
   5.8 Other required term contract reports 6
   5.9 Common vendor-registration and bid-notification system 6
   5.10 Contractor qualifications and requirements 6
      5.10.1 Qualified and established business 6
      5.10.2 Authorized Service Provider and product Reseller certifications 6
      5.10.3 Dealer authorization 6
      5.10.4 Assignment 7
      5.10.5 Contractor authority and infringement 7
      5.10.6 Hours of labor 7
      5.10.7 Materials and workmanship 7
      5.10.8 Hazardous materials 7
   5.11 Payment 8
      5.11.1 Advance payment prohibited 8
      5.11.2 Payment 8
      5.11.3 Invoicing and discounts 8
   5.12 Taxes, fees and licenses 8
   5.13 Ownership of Data 10
   5.14 Clearing of Data 10
   5.15 Location of Data Storage 10
   5.16 Return of Data 10
   5.17 Security of Data 10
   5.18 Additional Roles 11
   5.19 Lease Agreement 11
5. INDEMNIFICATION 12
6. CONFIDENTIALITY, NON-DISCLOSURE AND INJUNCTIVE RELIEF 12
7. RECORDS RETENTION 13
8. TERMINATION 13
9. SUBCONTRACTORS 13
10. ORDERS 14
11. PRODUCT & SERVICES OFFERING 14
12. TERM 14
13. NOTICES 15
14. ENTIRE AGREEMENT 16

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1. **SCOPE**
Contractor and the Division of Purchasing and General Services, an agency of the Lead State have executed State Cooperative Contract, Contract Number AR214 for Data Communications Products and Services 14-19 ("WSCA-NASPO Master Price Agreement" or "Master Agreement"). The Master Agreement, as now or hereafter amended, is incorporated into this addendum ("Participating Addendum") as if set forth at length. This Participating Addendum covers the Data Communications Products and Services contracts led by the State of Utah for use by state agencies and other entities located in the Participating state of Washington authorized by that state's statutes to utilize state of Washington contracts with the prior approval of the state's chief procurement official. Capitalized terms not defined in this Participating Addendum shall have the meaning set forth in the Master Agreement. To the extent of a conflict of terms between the Master Agreement and this Participating Addendum, the order of precedence set forth in Section 1 of Attachment A of the Master Agreement shall apply.

2. **PRIMARY CONTACTS**
The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor

Name:	Tania Craythorne
Address:	130 Holger Way, San Jose, CA 95134
Telephone:	(408) 333-6226
Fax:	
E-mail:	SLEDTeam@brocade.com

Washington State

Name:	Neva Peckham
Address:	1500 Jefferson Street SE/ PO Box 41411
Telephone:	(360) 407-9411
Fax:	(360) 586-2426
E-mail:	neva.peckham@des.wa.gov

The Parties will keep and maintain current at all times a primary point of contact for administration of this *Participating Addendum*.

3. **PARTICIPATION**
Use of specific WSCA-NASPO cooperative contracts by agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use state of Washington contracts are subject to the prior approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

4. **ACQUISITION AUTHORITY**
The Washington State Department of Enterprise Services (DES), issues this Request for Qualifications and Quotations (RFQQ or Solicitation) acting under the authority of the Revised Code of Washington (RCW) 39.26 which regulates the manner in which state agencies may acquire services.

5.1 Minority and Women's Business Enterprises (MWBE)

In accordance with the legislative findings and policies set forth in RCW 39.19, the State of Washington encourages participation in all of its contracts by minority and woman-owned businesses firms certified by the Office of Minority and Women's Business Enterprises (OMWBE). While the state does not give preferential treatment, it does seek equitable representation from the minority and women's business community. In addition, the state welcomes participation by self-identified minority and woman-owned firms and strongly encourages such firms to become certified by OMWBE.

Participation may be either on a direct basis in response to this solicitation or as a subcontractor to a contractor. However, unless required by federal statutes, regulations, grants, or contract terms referenced in the original solicitation, no preference will be included in the evaluation of bids, no minimum level of MWBE participation is required as a condition for receiving an award, and bids will not be evaluated, rejected or considered non-responsive on that basis.

Any affirmative action requirements set forth in federal regulations or statutes included or referenced in the original solicitation will apply. Bidders are encouraged to contact OMWBE for information on becoming a certified firm as set forth in Washington Administrative Code (WAC) Chapters 326-02 and 326-20; or for information on other certified firms for potential sub-contracting arrangements. Nothing in this section is intended to prevent or discourage bidders from inviting participation from non-MWBE firms as well as MWBE firms. Prior to performance, an awarded bidder that is a MWBE or intends to use MWBE subcontractors is encouraged to identify the participating firm(s) to DES.

5.2 Liens, claims and encumbrances

All materials, equipment, supplies and/or services shall be free of all liens, claims, or encumbrances of any kind, and if DES or the purchaser requests, a formal release of same shall be delivered to the respective requestor.

5.3 Contract administration

5.3.1 State contract administrator

DES will appoint a single point of contact that will be the Contract Administrator for this contract and will provide contract oversight. The Contract Administrator will be the principal contact for the contractor for business activities under this contract. DES will notify contractor, in writing, when there is a new Contract Administrator assigned to this contract.

5.3.2 Administration of term contract

DES may maintain contract information and pricing and make it available on DES's web site. The contract prices are the maximum price contractor can charge. The contractor may also offer volume discounts to purchasers.

5.4 Contractor supervision and coordination

Contractor shall:

a. Competently and efficiently supervise and coordinate the implementation and completion of all contract requirements specified herein.

b. Identify the contractor's Authorized Representative, who will be the principal point of contact for DES concerning contractor's performance under this contract.

c. Immediately notify the Contract Administrator in writing of any change of the designated Authorized Representative assigned to this contract.

d. Be bound by all written communications given to or received from the contractor's Authorized Representative.

Violation of any provision of this section may be considered a material breach establishing grounds for contract termination.

5.5 Statewide Payee Desk

Contractors must register with the Statewide Payee Desk, maintained by DES, in order to be paid for contract sales. Washington state agencies cannot make payments to a contractor until it is registered. Registration materials are available here: Receiving Payment from the State.

5.6 Management fee

Contractor will pay a management fee of 0.74 percent to DES on all state contract sales. The management fee must be rolled into the contractor's current pricing, and not shown as a separate line item on an invoice.

DES may increase, reduce or eliminate the management fee, and reserves the right to negotiate contract pricing with the contractor when adjustment of the management fee might justify an increase in pricing. Written notifications of the management fee by DES become effective for new purchases or new change orders to existing purchases 30 calendar days after notification unless DES grants additional time.

The state reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced and all management fees have been paid. Failure to accurately report total net sales, to submit a timely usage report, or remit timely payment of the management fee may be cause for contract termination, the charging of interest or penalties, or the exercise of other remedies provided by law.

The management fee does not include or supersede fee terms owed to other entities such as the Western States Contracting Alliance (WSCA), National Association of State Procurement Officials (NASPO) or governmental entities other than the state of Washington.

Management fee payment must reference the contract number, work request number (if applicable), the year and quarter for which the management fee is being remitted, and the contractor's name as it is known to DES, if not already included on the face of the check. All payments are sent to:

Washington State Department of Enterprise services
Finance Department
1500 Jefferson St. S.E.
PO Box 41460
Olympia, WA 98504-1460

5.7 Contract sales report

The management fee will be based on total contract usage (sales), which must be reported quarterly by the contractor in the Contract Sales Reporting System. DES will provide a login password and a vendor number.

For each report, contractor must identify every purchaser who has made purchases during the reporting period. The "Miscellaneous" option may be used only with prior approval by DES, and use of this option without prior approval by DES may be cause for contract termination. Refer sales reporting questions to the Contract Administrator.

Due date: Reports must be submitted electronically within 30 days after the end of the calendar quarter: no later than April 30, July 31, October 31 and January 31.

Failure to provide reports in accordance with the schedule above may be cause for contract termination.

5.8 Other required term contract reports

DES may require the contractor to provide a detailed annual contract sales history report. This report, if requested, will include at a minimum, but is not limited to: product description, part number or other product identifier, per unit quantities sold, and contract price. This report must be provided to DES in an electronic format that can be read by MS Excel. Unless the solicitation specifies otherwise, all other required reports will be designed and approved by the parties by mutual agreement.

5.9 Common vendor-registration and bid-notification system

Contractor shall be registered in Washington's Electronic Business Solution (WEBS), the state's common vendor-registration and bid-notification system. Contractors already registered need not re-register. It is the sole responsibility of contractor to properly register and maintain an accurate vendor profile.

5.10 Contractor qualifications and requirements

DES reserves the right to require receipt of proof of compliance with any of the requirements in this section within 10 calendar days from the date of request, and to terminate this contract as a material breach for noncompliance with any requirement of this paragraph. Contractor shall maintain compliance with these requirements throughout the life of this contract.

5.10.1 Qualified and established business

Prior to performance, or prior to that time if required by DES, law or regulation, contractor must be an established business with all required licenses, fees, bonding, facilities, equipment, and trained personnel necessary to meet all requirements and perform the work as specified in the solicitation

5.10.2 Authorized Service Provider and product Reseller certifications

Upon request, contractor must provide evidence of its status as an authorized service provider or product reseller. Contractor shall maintain its authorized service provider or product reseller status for the initial term and any extensions of the resulting contract. If this status is discontinued, this contract may be terminated.

5.10.3 Dealer authorization

The contractor shall maintain dealer authorization from the manufacturer consistent with the requirements outlined in the original solicitation

5.10.4 Assignment

Contractor shall not assign or otherwise transfer its obligations or any claim arising under this contract without the prior written consent of DES. Such consent will not be unreasonably withheld. Contractor shall provide a minimum of 30 calendar days advance notification of intent to assign or otherwise transfer its obligations under this contract. Violation of this provision may be considered a material breach and be grounds for contract termination. Assignment or transfer of contract shall not relieve the contractor from its responsibilities and obligations under the contract.

5.10.5 Contractor authority and infringement

Under this contract, contractor is authorized to sell only those materials, supplies, services and/or equipment as stated herein and allowed for by the contract provisions. Contractor shall not misrepresent to purchasers that they have the contract authority to sell any other materials, supplies, services and/or equipment. Further, contractor may not intentionally infringe on other established state contracts.

5.10.6 Hours of labor

In compliance with RCW 49.28, contractor agrees that no worker, laborer, or mechanic in the employ of the contractor or subcontractor shall be permitted or required to work more than eight hours in any one calendar day, or 40 hours in any one calendar week. However, in cases of extraordinary emergency such as danger to life or property, the hours of work may be extended but in such cases the rate of pay for time employed in excess of the above shall be at the prevailing overtime rate of pay. Except, contracts will not require the payment of overtime rates for the first two hours worked in excess of eight hours per day when the employer has obtained the employee's agreement (as defined in WAC 296-127-022) to work a four-day, ten-hour work week.

5.10.7 Materials and workmanship

The contractor is required to furnish all materials, supplies, equipment and/or services necessary to perform contractual requirements. Materials, supplies, equipment and/or services used in the performance of this contract shall conform to all applicable federal, state, and local codes, regulations and requirements for such equipment, specifications contained herein, and the normal uses for which intended. Materials, supplies, and equipment shall be manufactured in accordance with the best commercial practices and standards for this type of materials, supplies, and equipment.

5.10.8 Hazardous materials

Consistent with WAC 296-839, all manufacturers and distributors of hazardous substances, including any of the items listed in this contract, must include a complete material safety data sheet (MSDS) for each hazardous material. Additionally, each container of hazardous materials must be appropriately labeled with:

- The identity of the hazardous material,
- Appropriate hazard warnings, and
- Name and address of the chemical manufacturer, importer, or other responsible party

The Department of Labor and Industries may levy appropriate fines for noncompliance and agencies may withhold payment pending receipt of a legible copy of MSDS. It should be noted that OSHA Form 20 is not acceptable in lieu of this requirement unless it is modified to include appropriate information relative to "carcinogenic ingredients" and "routes of entry" of the product(s) in question.

5.11 Payment

5.11.1 Advance payment prohibited

No advance payment shall be made for the products and services furnished by contractor under this contract.

Notwithstanding the above, maintenance payments, if any, may be made on a quarterly basis at the beginning of each quarter.

5.11.2 Payment

Payment is the sole responsibility of, and will be made by, the purchaser.

Under Chapter 39.76 RCW , if purchaser fails to make timely payment(s), contractor may invoice for 1 percent per month on the amount overdue or a minimum of $1. Payment will not be considered late if a check or warrant is mailed within the time specified. If no terms are specified otherwise in the solicitation, net 30 days will automatically apply.

Payment(s) made in accordance with contract terms shall fully compensate the contractor for all risk, loss, damages or expense of whatever nature and acceptance of payment shall constitute a waiver of all claims submitted by contractor.

Payment for materials, supplies and/or equipment received and for services rendered shall be made by purchaser and be redeemable in U.S. dollars. Unless otherwise specified, the purchaser's sole responsibility shall be to issue this payment. Any bank or transaction fees or similar costs associated with currency exchange procedures or the use of purchasing/credit cards shall be fully assumed by the contractor.

Note: when the state has been overcharged or otherwise reimbursed, the purchaser may elect to have either direct payments or written credit memos issued. If the contractor fails to make timely payment(s) or issuance of credit memos, the purchaser may impose a 1% per month on the amount overdue 30 days after notice to the contractor.

5.11.3 Invoicing and discounts

Contractor must provide a properly completed invoice to purchaser. All invoices are to be delivered to the address indicated in the purchase order.

Each invoice must be identified by the associated contract number; the contractor's statewide vendor registration number assigned by the Washington State Office of Financial Management (OFM), the applicable purchaser's order number, and must be in U.S. dollars. Invoices must be prominently annotated by the contractor with all applicable prompt payment and/or volume discount(s) and shipping charges unless otherwise specified in the solicitation.

Invoices for payment will accurately reflect all discounts due the purchaser. Invoices will not be processed for payment, nor will the period of prompt payment discount commence, until receipt of a properly completed invoice denominated in U.S. dollars and until all invoiced items are received and satisfactory performance of contractor has been accepted by the purchaser. If an adjustment in payment is necessary due to damage or dispute, any prompt payment discount period shall commence on the date final approval for payment is authorized.

5.12 Taxes, fees and licenses

5.12.1 Taxes

Where required by statute or regulation, the contractor shall pay for and maintain in current status all taxes that are necessary for contract performance. Unless otherwise indicated, the purchaser agrees to pay State of Washington taxes on all applicable materials, supplies, services and/or equipment purchased. No charge by the contractor shall be made for federal excise taxes and the purchaser agrees to furnish contractor with an exemption certificate where appropriate.

5.12.2 Collection of retail sales and use taxes

In general, contractors engaged in retail sales activities within the State of Washington are required to collect and remit sales tax to Department of Revenue (DOR). In general, out-of-state contractors must collect and remit "use tax" to Department of Revenue if the activity carried on by the seller in the State of Washington is significantly associated with contractor's ability to establish or maintain a market for its products in Washington. Examples of such activity include where the contractor either directly or by an agent or other representative:

- Maintains an in-state office, distribution house, sales house, warehouse, service enterprise, or any other in-state place of business;
- Maintains an in-state inventory or stock of goods for sale;
- Regularly solicits orders from purchasers located within the State of Washington via sales representatives entering the State of Washington;
- Sends other staff into the State of Washington (e.g. product safety engineers, etc.) to interact with purchasers in an attempt to establish or maintain market(s); or
- Other factors identified in WAC 458-20.

5.12.3 Department of Revenue registration for out-of-state contractors

Out-of-state contractors meeting any of the above criteria must register and establish an account with the Department of Revenue. Refer to WAC 458-20-193, and call the Department of Revenue at 800-647-7706 for additional information. When out-of-state contractors are not required to collect and remit "use tax," purchasers located in the State of Washington are responsible for paying this tax, if applicable, directly to the Department of Revenue.

5.12.4 Fees/Licenses

After award of contract, and prior to commencing performance under the contract, the contractor shall pay for and maintain in a current status any licenses, fees, assessments, permit charges, etc., which are necessary for contract performance. It is the contractor's sole responsibility to maintain licenses and to monitor and determine any changes or the enactment of any subsequent regulations for said fees, assessments, or charges and to immediately comply with said changes or regulations during the entire term of this contract.

5.12.5 Customs/Brokerage Fees

Contractor shall take all necessary actions, including, but not limited to, paying all customs, duties, brokerage, and/or import fees, to ensure that materials, supplies, and/or equipment purchased under the contract are expedited through customs. Failure to do so may subject contractor to liquidated damages as identified herein and/or to other remedies available by law or contract. Neither DES nor the purchaser will incur additional costs related to contractor's payment of such fees.

5.12.6 Taxes on invoice

Contractor shall calculate and enter the appropriate state and local sales tax on all invoices. Tax is to be computed on new items after deduction of any trade-in in accordance with WAC 458-20-247.

5.12.7 Overpayments to contractor

Contractor shall refund to purchaser the full amount of any erroneous payment or overpayment under this contract within 30 days' written notice. If contractor fails to make timely refund, purchaser may charge contractor 1 percent per month on the amount due, until paid in full.

5.13 Ownership of Data

The state of Washington or any user of the Contract shall own all rights, title and interest in its data as it relates to the services provided by this Contract.

The Service Provider will make the state of Washington's data and processes available to third parties only with the express written permission of the state.

5.14 Clearing of Data

When requested by the state of Washington, the provider must destroy all requested data in all of its forms, disk, CD / DVD, tape, paper, for examples. Data shall be destroyed according to National Institute of Standards and Technology (NIST) approved methods and certificates of destruction must be provided to the state of Washington.

5.15 Location of Data Storage

The Service Provider shall not store or transfer state of Washington data outside of the United States.

5.16 Return of Data

In the event of termination of the Contract, the Service Provider shall implement an orderly return of state of Washington assets and their subsequent secure disposal. During any period of suspension, the Service Provider will not take any action to intentionally erase any state of Washington Data.

5.17 Security of Data

The Service Provider must inform the state of Washington of any security breach or detection of any suspicious intrusion that is or has occurred that jeopardizes the state of Washington data or processes. This notice must be given to the state of Washington within 24 hours of its discovery. Full disclosure of the assets that might have been jeopardized must be made. In addition, the Service Provider must inform the state of Washington of the actions it is taking or will take to reduce the risk of further loss to the state. If the breach requires public notification, all communication shall be coordinated with the state of Washington.

The Service Provider shall: ensure that state information is protected with reasonable security measures, promote and maintain among the Service Provider's employees and agents an awareness of the security needs of the state's information, safeguard the confidentiality, integrity, and availability of state information and ensure that appropriate security measures are put in place to protect the Service Provider's internal systems from intrusions and other attacks.

The Service Provider shall not utilize any staff (including sub-contractors) to fulfill the obligations of the Contract who has been convicted of a felony or class A misdemeanor.

The Service Provider will not access state of Washington User accounts, or state of Washington Data, except (i) in the course of data center operations, (ii) response to service or technical issues or (iii) at state of Washington's written request.

The Service Provider must encrypt all non-public data in transit to the cloud. In addition, the Service Provider will comply with the ISO/IEC 27001 standard for information security management systems, providing evidence of their certification or pursuit of certification.

Service Provider will protect Category 1 and Category 2 data.

Contractor will cover the costs of response and recovery from a data breach. Agency will recover all breach costs from Contractor.

5.18 Additional Roles

The Service Provider shall disclose to the state of Washington a description of their roles and responsibilities related to electronic discovery, litigation holds, discovery searches and expert testimonies. The provider shall disclose its process for responding to subpoenas, service of process and other legal requests.

5.19 Lease Agreement

NOTE: Contractor's Master Agreement allows for leasing under Section 22. The terms and conditions of the BNS or Lease financing arrangement will be separately negotiated and set forth in an agreement between the purchaser and either Brocade Capital or its designated and/or approved financing partner Washington State agencies must follow the rules and guidelines for capital leases Washington State Treasurer's Office.

5.20 Acquisition Options: Equipment lease agreement terms and conditions have been approved in the Master Agreement. Brocade is offering agencies 2 options to acquire a network:

A. Brocade Network Subscription: a unique "As-a-Service" acquisition plan that offers agencies:

- Pay-as-you-go network manageability for rapid provisioning and dynamic scaling capability to optimize resource utilization using OpEx dollars.
- Unlimited upgradability with flexible, risk-free terms that allow you to refresh the network footprint at any time to exploit technology advancements and adjust to ever emerging standards.
- No upfront capital investment is required; no long-term commitments or end-of-lease considerations to manage

In summary, Brocade Network Subscription is a solution that works today and offers agencies limitless flexibility to shift to fit the requirements of tomorrow. For more information go to www.NoNetworkCapEx.com.

B. Brocade Lease Plans: Utilizing either CapEx or OpEx dollars, Brocade can structure traditional lease options such as Fair Market Value, $1 Buyout Leases, and Municipal Leases (for qualified tax-exempt agencies). Term options range from 24-60 months. We can further customize payment streams to match variable annual budget requirements, as well as provide monthly, quarterly or annual payment options, deferred payment structures or custom step/skip payment options are also available.

Executing a Brocade Network Subscription or Lease agreement is simple and straight forward:

- Work with your Brocade Sales Rep to determine the equipment and services you want and your preferred financing option.
- Send the configuration and total price into Brocade Capital for a quote. Standard credit guidelines apply.

- Upon agreement of terms, Brocade will provide an agreement and a payment schedule for your review and approval. When documentation is fully executed, equipment is shipped.

4a No Obligation to use Leasing or Brocade Network Subscription (BNS). There are no obligations for any WSCA-NASPO entity to use leasing or BNS to acquire equipment under this agreement.

5. INDEMNIFICATION

Contractor, at its expense, shall defend, indemnify, and save DES and Purchaser harmless from and against any claims against DES or Purchaser that any Product supplied hereunder, or Purchaser's use of the Product within the terms of this Contract, infringes any patent, copyright, trade secret, trademark, or other similar proprietary right of a third party worldwide. Contractor shall pay all costs of such defense and settlement and any penalties, costs, damages and attorneys' fees awarded by a court or incurred by DES or Purchaser provided that DES or Purchaser:

a) Promptly notifies Contractor in writing of the claim, but DES' or Purchaser's failure to provide timely notice shall only relieve Contractor from its indemnification obligations if and to the extent such late notice prejudiced the defense or resulted in increased expense or loss to Contractor; and
b) Cooperates with and agrees to use its best efforts to encourage the Office of the Attorney General of Washington to grant Contractor sole control of the defense and all related settlement negotiations.

If such claim has occurred, or in Contractor's opinion is likely to occur, DES and Purchaser agree to permit Contractor, at its option and expense, either to procure the right to continue using the Product or to replace or modify the same so that they become non-infringing and functionally equivalent. If use of the Product is enjoined by a court and Contractor determines that none of these alternatives is reasonably available, Contractor, at its risk and expense, will take back the Product and provide Purchaser a refund. In the case of Product, Contractor shall refund to Purchaser its depreciated value. No termination charges will be payable on such returned Product, and the Purchaser will pay only those charges that were payable prior to the date of such return. Depreciated value shall be calculated on the basis of a useful life of four (4) years commencing on the date of purchase and shall be an equal amount per year over said useful life. The depreciation for fractional parts of a year shall be prorated on the basis of three hundred sixty-five (365) days per year. In the event the Product has been installed less than one (1) year, all costs associated with the initial installation paid by Purchaser shall be refunded by Contractor.
Contractor has no liability for any claim of infringement arising solely from:

a) Contractor's compliance with any designs, specifications or instructions of Purchaser;
b) Modification of the Product by Purchaser or a third party without the prior knowledge and approval of Contractor;
c) Use of the Product in a way not specified by Contractor; or,
d) Use of the Product with equipment not supplied by Contractor;

6. CONFIDENTIALITY, NON-DISCLOSURE AND INJUNCTIVE RELIEF

Notwithstanding any of the terms in Section 5 of the Master Agreement, the following terms apply as required by State of Washington Statute RCW 42.56. The terms set forth below replace the terms set forth in such Section 5 when inconsistent. When not inconsistent, these terms shall supplement such Section 5.

Contractor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this PA or its performance may consist of Confidential Information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other state or federal statutes. Contractor agrees to hold Confidential Information in strictest confidence and not to make use of Confidential Information for any purpose other than the performance of this PA, to release it only to authorized employees or Subcontractors requiring such information for the purposes of carrying out this PA, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make the information known to any other party without Purchaser's express written consent or as provided by law. Contractor agrees to release such information or material only to employees or Subcontractors reasonably necessary to further the purpose of this PA. Contractor agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information.

Immediately upon expiration or termination of this PA, Contractor shall, at Purchaser's or DES' option: (i) certify to Purchaser or DES that Contractor has destroyed all Confidential Information; or (ii) return all Confidential Information to Purchaser; or (iii) take whatever other steps Purchaser or DES requires of Contractor to protect Purchaser's Confidential Information.

Violation of this section by Contractor or its Subcontractors may result in termination of this PA and demand for return of all Confidential Information, monetary damages, or penalties.

The obligations imposed by this PA shall not apply to any information that: (a) is already in the possession of, is known to, or is independently developed by Contractor; or (b) is or becomes publicly available through no fault of Contractor; or (c) is obtained by Contractor from a third person without breach by such third person of an obligation of confidence with respect to the Confidential Information disclosed; or (d) is disclosed without restriction by the Purchaser; or (e) is required to be disclosed pursuant to the lawful order of a government agency or disclosure is required by operation of the law.

7. **RECORDS RETENTION**
The Contractor will maintain, or require the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this Participating Addendum. These records will be retained by the Contractor for at least six years after the Participating Addendum terminates or until all audits initiated within the six years have been completed, whichever is later. The Contractor agrees to allow WSCA-NASPO, State and Federal auditors, and state agency staff access to all the records of this Participating Addendum and any order placed under this Participating Addendum, for audit and inspection, and monitoring of services. Such access will be 1) with at least ten (10) business days advance written notice, during normal business hours, 2) shall not unduly interrupt or interfere with Contractor's normal business operations, and 3) in the event that such audit is conducted by a third party, such third party shall, prior to conducting such audit, execute a confidentiality agreement for the benefit of the Contractor in a form reasonably satisfactory to Contractor.

8. **TERMINATION**
This Participating Addendum may be terminated in accordance on the same terms as set forth in the WSCA Master Agreement.

9. **SUBCONTRACTORS**
All Contractor's Fulfillment Partners, as defined in the Master Agreement, authorized in the State of XXX, as shown on the dedicated Contractor's (cooperative contract) website, are approved to provide sales and service support to participants in the WSCA-NASPO Master Price Agreement, e.g. for direct order taking, processing, fulfillment or provisioning. The Fulfillment Partners' participation will be in accordance with

the terms and conditions set forth in the aforementioned Master Agreement.

Subject to approval of the Participating State/Entity, and at the sole discretion of Contractor, Contractor may add Fulfillment Partners at any time during the term of this Participating Addendum. Contractor may designate a minimum of two Fulfillment Partners and no set maximum number of Fulfilment Partners to provide sales and services support . Contractor, in its sole discretion, is not required to add, and may delete upon thirty (30) days written notice, any Fulfillment Partner who does not meet Contractor's established qualifying criteria, or where the addition of the entity would violate any state or federal law or regulation.

10. ORDERS

Any Order placed by a Participating Entity or Purchasing Entity for a Product and/or Service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the Order agree in writing that another contract or agreement applies to such Order.

Purchasers may place orders directly only through Contractor's approved Fulfillment Partners or through Contractor for products or services as authorized under this Participating Addendum. Only those Fulfillment Partners approved and listed during the term of Participating Addendum at Contractor's website are authorized to directly provide quotes, receive purchase orders, invoice Customers, and receive payment from purchasers on Contractor's behalf.

Except as otherwise set forth in the qualifying criteria, Contractor will not, directly or indirectly, restrict any Fulfillment Partner's participation or ability to quote pricing for a Customer. The approved Fulfillment Partners will not offer less favorable pricing discounts than the contract discounts established by Contractor under the Master Agreement. However, the Fulfillment Partner may offer any additional incremental discounts to state of Washington, and such additional discounts if offered, may be provided in the discretion and as the sole legal obligation of the approved Fulfillment Partner to the state of Washington.

The Master Agreement number and the State Contract Number must appear on every Purchase Order placed under this Participating Addendum.

11. PRODUCT & SERVICES OFFERING

The full suite of product and service offerings available under the Master Agreement may be procured under this Participating Addendum.

12. TERM

The term of this Participating Addendum shall begin on the *later of* June 1, 2014, or the date of last signature below. The term shall continue for a period ending on the Termination Date of the Master Agreement or when this Participating Addendum is terminated in accordance with the Master Agreement, whichever shall occur first.

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

Participating State:	Contractor:
By:	By:
Name:	Name:
Title:	Title:
Date:	Date:

[Additional signatures as required by Participating State]

For questions on executing a participating addendum, please contact:

WSCA-NASPO

Cooperative Development Coordinator	Paul Stembler
Telephone	651-206-3858
E-mail	pstembler@wsca-naspo.org

[Please email fully executed PDF copy of this document to PA@wsca-naspo.org to support documentation of participation and posting in appropriate data bases]

14. ENTIRE AGREEMENT

This Participating Addendum and the Master Agreement (including all amendments and attachments thereto) constitute the entire agreement between the parties concerning the subject matter of this Participating Addendum and replaces any prior oral or written communications between the parties, all of which are excluded. There are no conditions, understandings, agreements, representations or warranties, expressed or implied, that are not specified herein. This Participating Addendum may be modified only by a written document executed by the parties hereto.

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

State of Washington Department of Enterprise Services	Contractor: Brocade Communications Systems, Inc.
By: 5/12/14	By:
Name: Neva Peckham	Name: Mark Nasiff
Title: Contracts Specialist	Title: VP, WW Sales Operations
Date: 5/12/14	Date: 5/7/2014
Name: Dale Colbert	
Title: Unit Manager	
Date:	
Name: Michael Maverick for Christine Warnock Michael Maverick	
Title: State Purchasing Agent	
Date: 5/12/2014	

BROCADE LEGAL
By AR
Date 5-7-14

13. NOTICES

Notwithstanding anything contained in the Master Agreement to the contrary, all notices required or permitted under this Participating Addendum will be in writing and will be deemed given: (a) when delivered personally; (b) when sent by confirmed facsimile or electronic mail (in the case of Brocade to Agreement-notice@Brocade.com); (c) three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (d) one (1) day after deposit with a commercial express courier specifying next day delivery, with written verification of receipt. All communications will be sent to the addresses set forth Section 5 of this Participating Addendum (and notices to Brocade shall be further addressed to the Office of the General Counsel, Attn: Contract Notice) or such other address as may be designated by a party by giving written notice to the other party pursuant to this paragraph, or, in the absence of such an address from Customer, to the address to which the last invoice under this Participating Addendum was sent before notice is served.

Notwithstanding the foregoing, notices regarding changes in pricing, Software license terms, policies or programs may be by posting on Brocade.com or by e-mail or fax.

Colbert, Dale L. (DES)

From: Warnock, Christine (DES)
Sent: Friday, May 09, 2014 4:50 PM
To: Jones, Cheral A. (DES); Colbert, Dale L. (DES); Maverick, Michael (DES)
Cc: Presnell, Farrell (DES); Ruder, Teresea (DES); Julsrud, Amy C. (DES); Edwards, Scott (DES)
Subject: Delegation

As you all know I'm being forced to go to Hawaii this next week (Monday, May 12th through Monday, May 19th). While I am being tortured into sunbathing, snorkeling, luaus, and relaxation, I will be thinking of you all.... ☺

During my absence, I am delegating my full signature and decision making authority to Cheral Jones. In the event Cheral is out, Michael Maverick will be delegated my full signature and decision making authority.

I will be maintaining contact by e-mail, so if you need to reach please e-mail me. I will also be available on my cell phones at (360) 951-8357 (personal) and (360) 951-8331 (work) if needed.

See you all on May 20th.