

DIR Contract No. DIR-TSO-3416

Vendor Contract No. _____

**Amendment Number 2
to
Contract Number DIR-TSO-3416
between
State of Texas Department of Information Resources
and
T-MOBILE USA, INC.**

This Amendment Number 2 to Contract Number DIR-TSO-3416 ("Contract") is between the State of Texas, acting by and through the Department of Information Resources ("DIR") and T-MOBILE USA, 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 by adding the following:

DIR and Vendor hereby mutually agree to exercise two (2) one-year extension options. This Amendment Number 2 shall extend the term of the Contract through May 3, 2020, or until terminated pursuant to the termination clauses contained in the Contract, with no remaining renewal options. The Contract will expire May 3, 2020.

2. **Contract, Section 6, Notification, If sent to the State**, is hereby amended as follows:

If sent to the State:
Aiko Neill, CTPM, CTCM
Director, Enterprise Contract Management
Department of Information Resources
300 W. 15th St., Suite 1300
Austin, Texas 78701
Phone: (512) 475-0515
Facsimile: (512) 475-4759
Email: aiko.neill@dir.texas.gov

3. **Appendix A, Standard Terms and Conditions**, 9/24/15 is hereby replaced in entirety by Appendix A dated 01/24/18.
4. **Contract, Section 8, Authorized Exceptions to Appendix A, Standard Terms and Conditions for Products and Related Services Contracts dated 01/24/2018**, is hereby amended as follows:

- A. **Appendix A, Section 4, General Provisions, D, Assignment**, is hereby restated in its entirety as follows:

D. Assignment

DIR or Vendor may assign the Contract without prior written approval to: i) a successor in interest, or to any party acquiring all or substantially all of the

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assigning Party's capital stock or assets (including, without limitation any assignment by operation of law) (for DIR, another state agency as designated by the Texas Legislature), or ii) a subsidiary, parent company or affiliate, or iii) as necessary to satisfy a regulatory requirement imposed upon a party by a governing body with the appropriate authority; or iv) Vendor may assign in whole or in part its rights or duties under this Agreement, without the consent of Customer in connection with (a) a reorganization of Vendor, or (b) the sale of a business unit, division or line of business. Assignment of the Contract under the above terms shall require written notification by the assigning party and, for Vendor, a mutually agreed written Contract amendment. Any other assignment by a party shall require the written consent of the other party and a mutually agreed written Contract amendment.

B. Appendix A, Section 5, Intellectual Property Matters, is hereby restated in its entirety as follows:

This Contract does not contemplate, authorize or support the development or acquisition of custom software products or services. If Vendor and Customer seek to contract for such product or services, they must use a separate contract or seek an amendment with DIR of this Contract. If Vendor seeks to offer such products or services to DIR Customers, DIR and Vendor must amend this Contract to include such services.

C. Appendix A, Section 8, Pricing, Purchase Orders, Invoices and Payments, C. Customer Price, 3) is hereby restated in its entirety as follows:

3) If pricing for products or services available under this Contract is provided by the Vendor at a lower price to: (i) an eligible Customer who is not purchasing those products or services under this Contract or (ii) to any other customer under the same terms and conditions provided for the State for the same commodities and services under this contract, then the available Customer Price in this Contract shall be adjusted to that lower price. This requirement applies to products or services quoted by Vendor or its resellers (which are resellers listed on the Contract and such resellers can only be added through the subcontracting plan under this Contract) for a quantity of one (1) under like terms and conditions, and does not apply to volume purchases, special pricing purchases, promotions or one-off offers. Vendor shall notify DIR within ten (10) days and this Contract shall be amended to reflect the lower price.

D. Appendix A, Section 10, Vendor Responsibilities, A, Indemnification, 2) ACTS OR OMISSIONS, is hereby restated in its entirety as follows:

2) ACTS OR OMISSIONS

Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR

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DESIGNEES FROM ANY AND ALL THIRD-PARTY LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, or resulting from any acts or omissions of the Vendor or its agents, employees, subcontractors, Order Fulfillers, or suppliers of subcontractors in the execution or performance of the Contract and any Purchase Orders issued under the Contract. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

- E. **Appendix A, Section 10, Vendor Responsibilities, B, Taxes/Worker's Compensation/UNEMPLOYMENT INSURANCE, 2)** is hereby restated in its entirety as follows:

2) VENDOR AGREES TO INDEMNIFY AND HOLD HARMLESS CUSTOMERS, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES FROM ANY AND ALL THIRD-PARTY LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION IN ITS PERFORMANCE UNDER THIS CONTRACT. VENDOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

All other terms and conditions of the Contract as amended by all previous amendments, 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 this Amendment Number 2, then Amendment 1, and then the Contract.

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IN WITNESS WHEREOF, the parties hereby execute this amendment to be effective May 3, 2018.

T-MOBILE USA, INC.

Authorized By: /signature on file/

Name: James Kirby

Title: Vice President

Date: 6/15/2018 | 1:43 PM CDT

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

Authorized By: /signature on file/

Name: Wayne Egeler

Title: Director CTS

Date: 6/18/2018 | 9:20 PM CDT

Office of General Counsel: /initials on file/