

STATE OF MICHIGAN
 DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET February 1, 2012
 PROCUREMENT
 P.O. BOX 30026, LANSING, MI 48909
 OR
 530 W. ALLEGAN, LANSING, MI 48933

**NOTICE
 OF
 CONTRACT NO. 071B2200102
 between
 THE STATE OF MICHIGAN
 and**

NAME & ADDRESS OF CONTRACTOR Cisco Systems Inc. ("Contractor" or "Cisco") 170 West Tasman Drive San Jose, California 95314 Email: aferyl@cisco.com	TELEPHONE Gigi Feril (408) 424-0712 CONTRACTOR NUMBER/MAIL CODE BUYER/CA (517) 335-0462 Christine Mitchell
Contract Compliance Inspector: Jack Harris (517) 241-7565 Cisco Customer Premises Equipment (CPE) – MiDEAL & Statewide	
CONTRACT PERIOD: 5 yrs. + 4 one-year options From: December 29, 2011 To: December 28, 2014	
TERMS <p style="text-align: center;">N/A</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">N/A</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
ALTERNATE PAYMENT OPTIONS: <input checked="" type="checkbox"/> P-card <input checked="" type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other	
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	
MISCELLANEOUS INFORMATION:	

THIS CONTRACT IS EXTENDED TO AUTHORIZED MiDEAL MEMBERS (www.michigan.gov/mideal).

PARTICIPATING ADDENDUM

Under WESTERN STATES CONTRACTING ALLIANCE (WSCA) CISCO NETWORKING COMMUNICATIONS & MAINTENANCE MASTER AGREEMENT ("WSCA Master Agreement") [State of Utah Contract Ref. No. AR-233]

Estimated Contract Value: \$1.00

STATE OF MICHIGAN
DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET
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P.O. BOX 30026, LANSING, MI 48909
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MISCELLANEOUS INFORMATION: THIS CONTRACT IS EXTENDED TO AUTHORIZED MiDEAL MEMBERS (www.michigan.gov/mideal). <u>PARTICIPATING ADDENDUM</u> Under WESTERN STATES CONTRACTING ALLIANCE (WSCA) CISCO NETWORKING COMMUNICATIONS & MAINTENANCE MASTER AGREEMENT ("WSCA Master Agreement") [State of Utah Contract Ref. No. AR-233]		
Estimated Contract Value: \$1.00		

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of The Cisco Networking Communications & Maintenance Master Agreement through the Western States Contracting Alliance (WSCA), State of Utah Contract Ref. No. AR-233. Orders for delivery will be issued directly by MiDEAL partners and State Departments through the issuance of a Purchase Order Form.

All terms and conditions of the invitation to bid are made a part hereof.

FOR THE CONTRACTOR: Cisco Systems, Inc.	FOR THE STATE:
Firm Name	Signature Jeff Brownlee, Chief Procurement Officer
Authorized Agent Signature	Name/Title DTMB, Procurement
Authorized Agent (Print or Type)	Division
Date	Date



PARTICIPATING ADDENDUM

Under
 WESTERN STATES CONTRACTING ALLIANCE (WSCA)
 CISCO NETWORKING COMMUNICATIONS & MAINTENANCE MASTER AGREEMENT
 ("WSCA Master Agreement")
 [State of Utah Contract Ref. No. AR-233]

Participating State:

Participating State Name	State of Michigan ("Participating State")
Office/Department Name:	Department of Technology, Management and Budget, Procurement
Primary Business Address:	530 West Allegan; P.O. Box 30026; Lansing, MI 48909
<i>Participating Addendum</i> State Contract ID #:	<u>071B2200102</u>
Other (Group / Award) ID #:	

Contractor:

Contractor Name:	Cisco Systems Inc. ("Contractor" or "Cisco") 170 West Tasman Drive San Jose, California 95314
<i>Participating Addendum</i> Cisco Contract ID #:	

This WSCA *Participating Addendum* between the above-referenced Participating State and Cisco (collectively hereafter referred to as the "Parties") is entered into for good and valuable consideration, the mutual receipt of which is hereby acknowledged by the Parties, on the terms and conditions set forth below as of the date of last signature below (the "Effective Date" of this *Participating Addendum*).

1. **Authority & Scope**

As an inducement to Cisco to enter into this agreement, the Participating State hereby warrants and represents to Cisco its legal authority to enter into this *Participating Addendum* for the purposes and upon the terms set forth herein.

- Michigan Public Act 431 of 1984 as amended gives the Chief Procurement Officer, of the Department of Technology, Management and Budget Procurement Division the authority and responsibility for the procurement of goods, services, supplies, and equipment and information technology for all State of Michigan Executive Departments and agencies.

This Participating Addendum is available for use by State agencies, local public bodies, including political subdivisions, public K-12 schools, higher education institutions and non-profit organizations; provided, however, that all authorized non-state purchasers who wish to use this Participating Addendum must be registered, active members of the MiDeal Program at <http://www.michigan.gov/localgov/0,4602,7-194-28994---,00.html>. The full suite of Cisco product and service offerings available under the WSCA Master Agreement may be procured under this Participating Addendum.

2. **State-Specific Constitutional & Statutory Requirements**

The provisions of this *Participating Addendum*, Appendix A are incorporated and apply to the transactions under this agreement to the extent mandated by state constitution or applicable law(s).

3. **Incorporation of WSCA Master Agreement**

The WSCA Master Agreement, as now or hereafter amended made by the original parties thereto during the term of this *Participating Addendum*, is incorporated as if set forth at length. All rights and obligations between the Parties are governed by the terms of the WSCA Master Agreement, as amended by this *Participating Addendum*. (“*Agreement*”) Capitalized terms in this *Participating Addendum* shall be defined as set forth in the WSCA Master Agreement, Attachment B.

To the extent of a conflict in terms between the WSCA Master Agreement and this *Participating Addendum*, the following descending order of precedence shall apply:

1. *Participating Addendum* – Appendix A, “Statutory Requirements”
2. *Participating Addendum* (remainder of addendum)
3. WSCA Master Agreement

4. **State-Specific Purchasing Guidelines**

The provisions of this *Participating Addendum*, Appendix B - “State-Specific Purchasing Guidelines”, apply to all transactions under this *Agreement*.

5. **Cisco Fulfillment Partners**

Cisco has the right to utilize alternate Fulfillment Partners, including Value Added Resellers (VARs) and/or distributors and dealers (hereafter “Reseller[s]”) as fulfillment agents under this *Agreement*, e.g., for direct order taking, processing, fulfillment or provisioning.

Subject to approval of the Participating State, Fulfillment Partners may be added at any time during the *Agreement* term at the sole discretion of Cisco, with a minimum of two Resellers and no set maximum number of Resellers who may be used, subject to the approval of the Participating State. Cisco, in its sole discretion, is not required to add and may delete upon thirty (30) days written notice any Reseller who does not meet Cisco’s established qualifying criteria, or where the addition of the entity would violate any state or federal law or regulation.

The name, address and approved contact number for Cisco approved Fulfillment Partners shall be separately set forth at the Contractor’s website, as amended by Cisco during the term of this *Agreement*, including any applicable technical certifications or general limitations (e.g., geographic) or Cisco qualifying criteria as applicable (qualifying criteria).

6. **Ordering/Invoices**

Purchasers may place orders directly only through these Fulfillment Partners or through Cisco on

products or services only provided through Cisco. Only those Fulfillment Partners approved and listed during the term of *Agreement* at Contractor's website are authorized to directly receive purchase orders, invoice Customers, and receive payment from Purchasers on Contractor's behalf. All authorized Fulfillment Partners are eligible to quote pricing to Purchasers for procurements under this *Participating Addendum* which otherwise meet the Partner's qualifying criteria.

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

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

Authorized Fulfillment Partners are responsible for delivering required contract reports and remittances to the WSCA Contract Manager in accordance with the requirements and schedule for delivery established in the WSCA Master Agreement.

7. Product & Services Offering

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

8. Primary Point of Contact

The Parties will keep and maintain current at all times a primary point of contact for administration of this *Participating Addendum*. The Parties' primary points of contact shall be set forth in this *Participating Addendum*, Appendix C - "Primary Points of Contact."

9. Term

The term of this *Participating Addendum* shall begin on the Effective Date and shall continue for a period ending on the Termination Date of the WSCA Master Agreement or when this *Participating Addendum* is terminated in accordance with the WSCA Master Agreement, whichever shall occur first.

10. Entire Agreement/Amendment

This *Agreement* constitutes the entire agreement between the parties concerning the subject matter of this *Agreement* 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 *Agreement* may be modified only by a written document executed by the parties hereto.

11. Notices

Notwithstanding anything contained in the Agreement to the contrary, all notices required or permitted under this Agreement 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 Cisco to Agreement-notice@cisco.com), (provided that the original document is placed in air mail/air courier or delivered personally, within seven days of the facsimile electronic notice); (c) three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid (or six (6) days for international mail); or (d) one (1) day after deposit with a commercial express courier specifying next day delivery (or two (2) days for international courier packages specifying 2-day delivery), with written verification of receipt. All communications will be sent to the addresses set forth on the cover sheet of this Agreement (and notices to Cisco 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 Agreement 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 Cisco.com or by e-mail or fax.

The WSCA Master Agreement, together with this *Participating Addendum* and its Appendices, set forth the entire *Agreement* between the Participating State and Cisco with respect to the subject matter and supersedes and replaces all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of the *Agreement* shall not be added to or incorporated into the *Agreement* by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this *Agreement* shall prevail and govern in the case of any such inconsistent or additional terms.

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

[Affix signatures as required by State Statutes, Rules or Policies below.]

Cisco Systems, Inc.

State of Michigan

By: _____

By: _____

Printed Name: _____

Printed Name: Jeff Brownlee

Title: _____

Title: Chief Procurement Officer

Date: _____

Date: _____



Appendix A

State –Specific Constitutional & Statutory Requirements

1.0 FEDERAL AND STATE CONTRACTUAL REQUIREMENTS

1.1 Nondiscrimination

In the performance of this Contract, Contractor agrees not to discriminate against any employee or applicant for employment, with respect to his or her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, physical or mental disability. Contractor further agrees that every subcontract entered into for the performance of any contract or purchase order resulting here from will contain a provision requiring non-discrimination in employment, as herein specified, binding upon each Subcontractor. This covenant is required pursuant to the Elliot Larsen Civil Rights Act, 1976 Public Act 453, as amended, MCL 37.2101, *et seq.* and the Persons with Disabilities Civil Rights Act, 1976 Public Act 220, as amended, MCL 37.1101, *et seq.*, and any breach thereof may be regarded as a material breach of this Contract.

1.2 Unfair Labor Practices

Pursuant to 1980 Public Act 278, as amended, MCL 423.231, *et seq.*, the State shall not award a contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled pursuant to section 2 of the Act. This information is compiled by the United States National Labor Relations Board. A contractor of the State, in relation to the Contract, shall not enter into a contract with a Subcontractor, manufacturer, or supplier whose name appears in this register. Pursuant to section 4 of 1980 Public Act 278, MCL 423.324, the State may void any Contract if, subsequent to award of the Contract, the name of Contractor as an employer or the name of the Subcontractor, manufacturer or supplier of Contractor appears in the register.

1.3 Disclosure of Litigation

(a) Disclosure. Contractor must disclose any material criminal litigation, investigations or proceedings involving the Contractor (and each Subcontractor) or any of its officers or directors. In addition, each Contractor (and each Subcontractor) must notify the State of any material civil litigation, arbitration or proceeding which arises during the term of the Contract and extensions thereto, to which Contractor (or, to the extent Contractor is aware, any Subcontractor hereunder) is a party, and which involves: (i) disputes that might reasonably be expected to adversely affect the viability or financial stability of Contractor or any Subcontractor hereunder; or (ii) a claim or written allegation of fraud against Contractor or, to the extent Contractor is aware, any Subcontractor hereunder by a governmental or public entity arising out of their business dealings with governmental or public entities. Any such litigation, investigation, arbitration or other proceeding (collectively, "Proceeding") must be disclosed in a written statement to the Contract Compliance Inspector within thirty (30) days of its occurrence. Details of settlements which are prevented from disclosure by the terms of the settlement may be annotated as such. Information provided to the State from Contractor's publicly filed documents referencing its material litigation will be deemed to satisfy the requirements of this Section 1.3(a).

(b) Assurances. In the event that any such Proceeding disclosed to the State pursuant to this Section, or of which the State otherwise becomes aware, during the term of this Contract would cause a reasonable party to be concerned about:

(i) the ability of Contractor (or a Subcontractor hereunder) to continue to perform this Contract in accordance with its terms and conditions, or

(ii) whether Contractor (or a Subcontractor hereunder) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in such Proceeding, which conduct would constitute a breach of this Contract or a violation of Michigan law, regulations or public policy, then Contractor shall be required to provide the State all reasonable assurances requested by the State to demonstrate that: (A) Contractor and/or its Subcontractors hereunder will be able to continue to perform this Contract and any Statements of Work in accordance with its terms and conditions, and (B) Contractor and/or its Subcontractors hereunder have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in such Proceeding.

1.4 Compliance with Laws

Contractor shall comply with all applicable state, federal, and local laws and ordinances {"Applicable Laws"} in providing the Services.



Appendix B

State – Specific Purchasing Terms and Guidelines

1.0 TERMINATION BY THE STATE

The State may terminate this Contract without further liability or penalty to the State, its departments, divisions, agencies, offices, commissions, officers, agents and employees for any of the following reasons:

1.1 Termination for Cause

(a) In the event that Contractor breaches any of its material duties or obligations under this Contract (including a Chronic Failure to meet any particular SLA as defined in the Statement of Work), which are either not capable of or subject to being cured, or are not cured within the time period specified in the written notice of breach provided by the State (such time period not to be less than thirty (30) days), or pose a serious and imminent threat to the health and safety of any person, or the imminent loss, damage or destruction of any real or tangible personal property, the State may, having provided written notice of termination to Contractor, terminate this Contract in whole or in part, for cause, as of the date specified in the notice of termination.

(b) In the event that a Statement of Work under this Contract is terminated for cause, in addition to any legal remedies otherwise available to the State by law or equity, Contractor shall be responsible for all costs incurred by the State in terminating a Statement of Work under this Contract, including but not limited to, State administrative costs, reasonable attorneys' fees and court costs, and any reasonable additional costs the State may incur to procure the terminated Services required by a Statement of Work under this Contract from other sources. Re-procurement costs shall not be considered by the parties to be consequential, indirect or incidental damages, and shall not be excluded by any other terms otherwise included in this Contract, provided such costs are not in excess of twenty-five percent (25%) more than the prices for such Service provided under this Contract; provided, however, that any such costs recovered by the State under this paragraph shall otherwise be treated as damages recovered by the State for the purposes of Section 5.1.

(c) In the event the State chooses to partially terminate this Contract for cause, charges payable under this Contract will be equitably adjusted to reflect those Services that are terminated and the State shall pay for all Services provided up to the termination date. Services and related provisions of this Contract that are terminated for cause shall cease on the effective date of the termination.

(d) In the event this Contract is terminated for cause pursuant to this section, and it is determined, for any reason, that Contractor was not in breach of contract pursuant to the provisions of this section, that termination for cause shall be deemed to have been a termination for convenience, effective as of the same date, and the rights and obligations of the parties shall be limited to that otherwise provided in this Contract for a termination for convenience.

1.2 Termination for Convenience by the State

The State may terminate this Contract for its convenience, in whole or part, if the State determines that such a termination is in the State's best interest. Reasons for such termination shall be left to the sole discretion of the State and may include, but not necessarily be limited to (a) the State no longer needs the Services or products specified in the Contract, (b) relocation of office, program changes, changes in laws, rules, or regulations make implementation of the Services no longer practical or feasible, or (c) unacceptable prices for Additional Services requested by the State. The State may terminate this Contract for its

convenience, in whole or in part, by giving Contractor written notice at least one hundred twenty (120) days prior to the date of termination. If the State chooses to terminate this Contract in part, the charges payable under this Contract shall be equitably adjusted to reflect those Services that are terminated. Services and related provisions of this Contract that are terminated for cause shall cease on the effective date of the termination.

1.3 Non-Appropriation

(a) Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this Contract. If funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available, the State shall have the right to terminate this Contract and all affected Statements of Work, in whole or in part, at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Contractor. The State shall give Contractor at least thirty (30) days advance written notice of termination for non-appropriation or unavailability (or such time as is available if the State receives notice of the final decision less than thirty (30) days before the funding cutoff).

(b) If funding for the Contract is reduced by law, or funds to pay Contractor for the agreed-to level of the Services to be provided by Contractor are not appropriated or otherwise made available, the State may, upon thirty (30) days written notice to Contractor, reduce the level of the Services in such manner and for such periods of time as the State may elect. The charges payable under this Contract will be equitably adjusted to reflect any equipment, services or commodities not provided by reason of such reduction.

(c) In the event the State terminates this Contract or reduces the level of Services to be provided by Contractor pursuant to this Section 1.3, the State shall pay Contractor for all work-in-progress performed through the effective date of the termination or reduction in level, as the case may be, to the extent funds are available. For the avoidance of doubt, this Section 1.3 will not preclude Contractor from reducing or stopping Services and/or raising against the State in a court of competent jurisdiction, any claim for a shortfall in payment for Services performed before the effective date of termination.

1.4 Criminal Conviction

The State may terminate this Contract immediately and without further liability or penalty in the event Contractor, an officer of Contractor, or an owner of a 25% or greater share of Contractor is convicted of a criminal offense incident to the application for, or performance of, a State, public or private Contract or subcontract; convicted of a criminal offense, including any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State reflects upon Contractor's business integrity.

1.5 Approvals Rescinded.

The State may proactively terminate a Statement of Work issued under this Contract without further liability or penalty in the event any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services pursuant to Constitution 1963, Article 11, section 5, and Civil Service Rule 7-1. Termination may be in whole or in part and may be immediate as of the date of the written notice to Contractor or may be effective as of the date stated in such written notice.

1.6 Rights and Obligations Upon Termination

(a) If this Contract is terminated by the State for any reason, Contractor shall (a) stop all work as specified in the notice of termination, (b) take any action that may be necessary, or that the State may direct, for preservation and protection of Deliverables or other property derived or resulting from this Contract that may be in Contractor's possession, (c) return all materials and property provided directly or indirectly to Contractor by any entity, agent or employee of the State, (d) in the event that the Contractor maintains title in equipment and software that is intended to be transferred to the State at the termination of the Contract, Contractor will transfer title in, and deliver to, the State, unless otherwise directed, all Deliverables and other Developed Materials intended to be transferred to the State at the termination of the Contract and which are resulting from the Contract (which shall be provided to the State on an "As-Is" basis except to the extent the amounts paid by the State in respect of such items included compensation to Contractor for the provision of warranty services in respect of such materials), and (e) take any action to mitigate and limit any potential

damages, or requests for Contractor adjustment or termination settlement costs, to the maximum practical extent, including terminating or limiting as otherwise applicable those subcontracts and outstanding orders for material and supplies resulting from the terminated Contract.

(b) In the event the State terminates this Contract prior to its expiration for its own convenience, the State shall pay Contractor for all charges due for Services provided prior to the date of termination and, if applicable, as a separate item of payment pursuant to this Contract, for partially completed Deliverables, on a percentage of completion basis. All completed or partially completed Deliverables prepared by Contractor pursuant to this Contract shall, at the option of the State, become the State's property, and Contractor shall be entitled to receive equitable fair compensation for such Deliverables. Regardless of the basis for the termination, the State shall not be obligated to pay, or otherwise compensate, Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.

(c) Reserved.

(d) Upon a good faith termination, the State shall have the right to assume, at its option, any and all subcontracts and agreements for services and materials provided under this Contract, and may further pursue completion of the Services under this Contract by replacement contract or otherwise as the State may in its sole judgment deem expedient.

1.7 Termination Assistance

If this Contract (or any Statement of Work issued under it) is terminated for any reason before completion, Contractor agrees to provide for up to two-hundred seventy (270) days after the termination all reasonable termination assistance requested by the State to facilitate the orderly transfer of such Services to the State or its designees in a manner designed to minimize interruption and adverse effect. Such termination assistance will be deemed by the parties to be governed by the terms and conditions of this Contract (notwithstanding its termination) other than any terms or conditions that do not reasonably apply to such termination assistance. The State shall compensate Contractor for such termination assistance at the same rates and charges set forth in the Contract on a time and materials basis in accordance with the Amendment Labor Rates. If this Contract is terminated by Contractor under Section 2.0, then Contractor may condition its provision of termination assistance under this Section on reasonable assurances of payment by the State for such assistance, and any other amounts owed under the Contract.

1.8 Reservation of Rights

Any termination of this Contract or any Statement of Work issued under it by a party shall be with full reservation of, and without prejudice to, any rights or remedies otherwise available to such party with respect to any claims arising prior to or as a result of such termination.

1.9 End of Contract Transition

In the event this contract is terminated, for convenience or cause, or upon expiration, the Contractor agrees to comply with direction provided by the State to assist in the orderly transition of equipment, services, software, leases, etc. to the State or a third party designated by the State. In the event of termination or the expiration of this Contract, the Contractor agrees to make all reasonable efforts to effect an orderly transition of services within a reasonable period of time that in no event will exceed 270 days. These efforts shall include, but are not limited to, the following:

(a) Personnel - The Contractor shall work with the State, or a specified third party, to develop a transition plan setting forth the specific tasks and schedule to be accomplished by the parties, to effect an orderly transition. The Contractor shall allow as many personnel as practicable to remain on the job to help the State, or a specified third party, maintain the continuity and consistency of the services required by this Contract. In addition, during or following the transition period, in the event the State requires the Services of the Contractor's subcontractors or vendors, as necessary to meet its telecommunication needs, Contractor agrees to reasonably, and with good-faith, work with the State to use the Services of Contractor's subcontractors or vendors.

(b) Reserved.

(c) Information - The Contractor agrees to provide reasonable detailed specifications for all Services needed by the State, or specified third party, to properly provide the services required under this Contract. The Contractor will also provide any licenses required to perform the Services under this Contract.

(d) Software. - The Contractor shall reasonably assist the State in the acquisition of any Contractor software required to perform the Services under this Contract. This shall include any documentation being used by the Contractor to perform the Services under this Contract. If the State transfers any software licenses to the Contractor, those licenses shall, upon expiration of the Contract, transfer back to the State at their current revision level.

(e) Payment - If the transition results from a termination for any reason, reimbursement shall be governed by the termination provisions of this Contract. If the transition results from expiration, the Contractor will be reimbursed for all reasonable transition costs (i.e. costs incurred within the agreed period after contract expiration that result from transition operations).

1.10 Transition Out of this Contract

(a) In the event that this Contract is terminated, dissolved, voided, rescinded, nullified, or otherwise rendered unenforceable, the Contractor agrees to perform the following obligations, and any others upon which the State and the Contractor agree:

(i) Cooperating with any contractors, vendors, or other entities with whom the State contracts to meet its telecommunication needs, for at least two hundred and seventy (270) days after the termination of this Contract;

(ii) Reserved.

(iii) Providing the State with all asset management data generated from the inception of this Contract through the date on which this Contract is terminated, in a comma-delimited format unless otherwise required by the Program Office;

(iv) Reconciling all accounts between the State and the Contractor;

(viii) Allowing the State to request the winding up of any pending or ongoing projects at the price to which the State and the Contractor agreed at the inception of the project;

(ix) Freezing all non-critical software changes;

(x) Notifying all of the Contractor's subcontractors of procedures to be followed during the transition out phase;

(xv) Assisting with the communications network turnover, if applicable;

(xvi) Assisting in the execution of a parallel operation until the effective date of termination of this Contract

(xvii) Answering questions regarding post-migration services;

(xviii) Delivering to the State any remaining owed reports and documentation still in the Contractor's possession.

(b) In the event that this Contract is terminated, dissolved, voided, rescinded, nullified, or otherwise rendered unenforceable, the State agrees to perform the following obligations, and any others upon which the State and the Contractor agree:

(i) Reconciling all accounts between the State and the Contractor;

(ii) Completing any pending post-project reviews.

2.0 TERMINATION BY THE CONTRACTOR

If the State materially breaches its obligation to pay Contractor undisputed amounts due and owing under this Contract in accordance with Section 1, or if the State breaches its other obligations under this Contract to an extent that makes it impossible or commercially impractical for Contractor to perform the Services, and if the State does not cure the breach within the time period specified in a written notice of breach provided to the State by Contractor (such time period not to be less than thirty (30) days), then Contractor may terminate this Contract for cause, as of the date specified in the notice of termination; provided, however, that Contractor must discharge its obligations prior to any such termination.

3.0 STOP WORK

3.1 Issuance of Stop Work Order

The State may, at any time, by written stop work order to Contractor, require that Contractor stop all, or any part, of the work called for by this Contract for a period of up to ninety (90) days after the stop work order is delivered to Contractor, and for any further period to which the parties may agree. The stop work order shall be specifically identified as such and shall indicate that it is issued under this Section 3.1. Upon receipt of the stop work order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the stop work order during the period of work stoppage. Within the period of the stop work order, the State shall either: (a) cancel the stop work order; or (b) terminate the work covered by the stop work order as provided in Section 1 of this Contract.

3.2 Cancellation or Expiration of Stop Work Order

If a stop work order issued under this Section 3.2 is canceled or the period of the stop work order or any extension thereof expires, Contractor shall resume work. The parties shall agree upon an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified, in writing, accordingly, if: (a) the stop work order results in an increase in the time required for, or in Contractor's costs properly allocable to, the performance of any part of this Contract; and (b) Contractor asserts its right to an equitable adjustment within thirty (30) days after the end of the period of work stoppage; provided that, if the State decides the facts justify the action, the State may receive and act upon a Contractor proposal submitted at any time before final payment under this Contract.

3.3 Allowance of Contractor Costs

If the stop work order is not canceled and the work covered by the stop work order is terminated for reasons other than material breach, such termination shall be deemed to be a termination for convenience under Section 1.2, and the State shall allow reasonable costs resulting from the stop work order in arriving at the termination settlement. For the avoidance of doubt, the State shall not be liable to Contractor for loss of profits because of a stop work order issued under this Section 3.0.

4. INSURANCE

4.1 Coverage

Contractor shall purchase and maintain insurance at Contractor's expense for at least the following types and amounts of insurance coverage, which amounts shall be not less than any limits set forth in this Section 4.1 or required by law, whichever is greater:

(a) **Commercial General Liability Insurance** (including premises/operations liability, independent contractors liability, contractual liability, products liability, completed operations liability, broad form property damage liability, personal injury liability and extended bodily injury and death coverage) in a minimum amount of \$2,000,000 per occurrence and \$4,000,000 aggregate combined single limit for bodily injury or death, personal injury or property damage.

(b) **Workers Compensation Insurance** (including workers' disability compensation, disability benefit and other similar employee benefits) covering Contractor's employees in an amount not less than the limits required by law and Employers Liability Insurance covering Contractor's employees in an amount not less than \$500,000 per occurrence. A non-resident Subcontractor shall have insurance for benefits payable under Michigan's Workers' Disability Compensation Law for any employee resident of and hired in Michigan; and as respects any other employee protected by workers' disability compensation laws of any other State, Contractor and its Subcontractors shall have insurance or participate in a mandatory State fund to cover the benefits payable to any such employee.

(c) **Professional Liability Insurance** issued to and covering the liability of Contractor for errors or omissions committed by Contractor, its agents and employees, in the performance of this Contract. The policy shall have limits of liability of not less than \$1,000,000 per claim.

(d) **Computer Crime Insurance** providing coverage for which Contractor has been found to be legally liable to the State arising out of or related to fraudulent or dishonest acts committed by the employees of Contractor, acting alone or in collusion with others, in a minimum amount of \$2,000,000.

(e) **Commercial Automobile Liability Insurance** including coverage for owned, hired and non-owned vehicles with a combined single limit minimum of \$1,000,000 per occurrence for bodily injury, personal injury and property damage or as required by law.

(f) **Umbrella Liability Insurance** in a minimum amount of \$10,000,000, which shall apply, at a minimum, to the insurance required by Sections 4.1(a) and (e).

The insurers selected by Contractor shall have an A.M. Best rating of A-, or as otherwise approved in writing by the State, or better or, if such ratings are no longer available, with a comparable rating from a recognized insurance rating agency.

4.2 Subcontractors

Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor shall require all of its Subcontractors hereunder to purchase and maintain the insurance coverage as described in Section 4.1 for each Contractor in connection with the performance of work by such Subcontractors. Alternatively, Contractor may include any Subcontractors under Contractor's insurance on each coverage required in Section 4.1.

4.3 Certificates of Insurance and Other Requirements

Within thirty (30) days after the Effective Date of this Contract, Contractor shall furnish to the Purchasing Operations certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "Certificates"). The contract number must be shown on each Certificate. The Certificates shall provide that the Purchasing Operations shall be given at least thirty (30) days prior written notice (bearing the contract number) of termination, non-renewal or reduction in limit below the amounts specified herein or in material scope of coverage of such policies. Within thirty (30) days following the execution of this Contract, and every year thereafter, the Contractor shall provide evidence that the State and its agents, officers and employees are listed as additional insureds, but only to the extent of liabilities assumed by Contractor as set forth in Section 5 of this Contract, under each commercial general liability and commercial automobile liability policy. Insurance policies listing the State as an additional insured, to the extent of liabilities assumed by Contractor as set forth in Section 5 of this Contract, are required to contain language in the certificate which provides that, "Any litigation activity on behalf of the State of Michigan, or any of its subdivisions, as additional insured must be coordinated with the Department of Attorney General." In the event the insurer's attorney is asked to represent the State, the insurer's attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan. Contractor shall maintain all required insurance coverage throughout the term of the Contract and any extensions thereto and, in the case of claims-made Commercial General Liability policies, shall secure tail coverage for at least three (3) years following the expiration or termination for any reason of this Contract. The minimum limits of coverage specified above are not intended, and shall not be construed, to limit any liability or indemnity of Contractor under this Contract to any indemnified party or other persons. Contractor shall be responsible for all deductibles with regard to such insurance. If Contractor fails to pay any premium for required insurance as specified herein, or if any insurer cancels or significantly reduces any required insurance as specified herein without the State's written consent, at the State's election (but without any obligation to do so) after the State has given Contractor at least thirty (30) days written notice, the State may pay such premium or procure similar insurance coverage from another company or companies; and at the State's election, the State may deduct the entire cost (or part thereof) from any payment due Contractor, or Contractor shall pay the entire cost (or any part thereof) upon demand by the State.

5. INDEMNIFICATION

5.1 Patent/Copyright Infringement Indemnity

To the extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State to the extent that such action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the Contractor or its subcontractors, or the operation of such equipment, software, commodity or service, or the use or reproduction of any documentation provided with such equipment, software, commodity

or service infringes any United States patent, copyright, trademark or trade secret of any person or entity, which is enforceable under the laws of the United States. Notwithstanding the foregoing, the Contractor shall have no obligation to indemnify or defend the State for, or to pay any costs, damages or attorneys' fees related to, any claim based upon (i) equipment developed based on written specifications of the State; or (ii) use of the equipment in a configuration other than implemented or approved in writing by the Contractor, including, but not limited to, any modification of the equipment by the State; or (iii) the combination, operation, or use of the equipment with equipment or software not supplied by the Contractor under this Contract. The State shall in a timely manner notify the Contractor of any claim of infringement, violation or misappropriation for which the Contractor may be responsible under this Contract and shall cooperate with the Contractor to facilitate the defense or settlement of such claim. The Contractor shall keep the State reasonably apprised of the continuing status of the claim, including any lawsuit resulting there from, and shall permit the State, at its expense, to participate in the defense or settlement of such claim where executory obligations may be placed on the State, although the Contractor shall have final authority regarding defense and settlement.

In addition, should the equipment, software, commodity, or service, or its operation, become or in the State's or Contractor's reasonable opinion be likely to become the subject of a claim of infringement, the Contractor shall at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if such option is not reasonably available to the Contractor, (ii) replace or modify to the State's reasonable satisfaction the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if such option is not reasonably available to Contractor, (iii) accept its return by the State with appropriate credits to the State against the Contractor's charges and reimburse the State for reasonable direct costs associated with the return of such equipment. THIS SECTION 5.1 STATES THE ENTIRE LIABILITY OF THE CONTRACTOR WITH RESPECT TO THE INFRINGEMENT OF INTELLECTUAL PROPERTY.

5.2 Other Indemnities

(a) General Indemnification

To the extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State from liability of any kind for claims brought by third parties based upon bodily injury (including death) or damage to tangible personal property (not including lost or damaged data), including all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties), accruing or resulting to any person, firm or corporation that may be injured or damaged by the Contractor in the performance of this Contract and that are attributable to the negligence or tortious acts of the Contractor or any of its subcontractors, or by anyone else for whose acts any of them may be liable provided that the State make reasonable effort to notify the Contractor in writing within thirty (30) days from the time that the State has knowledge of such claims. The Contractor shall not be liable to the State for claims attributable to the State's negligence or tortuous acts or consequential damages arising out of claims brought by third parties except for claims for infringement of any United States patent, copyright, trademark or trade secret.

(b) Reserved.

(c) Independent Contractor Indemnification

Contractor will defend, indemnify, and hold harmless the State, its departments, divisions, agencies, sections, commissions, officers, employees, and agents from and against all Losses, whether based on statutes, contract or tort, to the extent arising out of or resulting from any claim or action by, on behalf of or related to any employees or personnel of Contractor, including claims arising under Occupational Safety and Health Administration requirements or orders, Equal Employment Opportunity Commission requirements or orders, National Labor Relations Board or Fair Labor Standards Act, unemployment insurance or workers' compensation laws, disability benefit acts, employee benefits acts, or other applicable federal, state or local laws or regulations, except to the extent that such losses result from the State's failure to comply with this Contract or such claim or action arose or grew out of events that occurred while such person was an employee of the State, prior to his or her hire by and employment with Contractor.

(d) Continuation of Indemnification Obligations

The Contractor's duty to indemnify pursuant to Sections 5.1 and 5.2 continues in full force and effect, notwithstanding the expiration or early cancellation of the Contract, with respect to any claims based on facts or conditions that occurred prior to expiration or cancellation.

5.3 Indemnification Procedures

The procedures set forth below shall apply to all indemnity obligations under this Contract. The State agrees to provide reasonably necessary assistance and cooperation in the defense of any claim.

(a) After receipt by the State of notice of the action or proceeding involving a claim in respect of which it will seek indemnification, the State shall promptly notify Contractor of such claim in writing and take or assist Contractor in taking, as the case may be, any reasonable action to avoid the imposition of a default judgment against Contractor. No failure to so notify Contractor shall relieve Contractor of its indemnification obligations except to the extent that Contractor can demonstrate damages attributable to such failure. Within thirty (30) days following receipt of written notice from the State relating to any claim, Contractor shall notify the State in writing whether Contractor agrees to assume control of the defense and settlement of that claim (a "Notice of Election"). After notifying Contractor of a claim and prior to the State receiving Contractor's Notice of Election, the State shall be entitled to defend against the claim if necessary to preserve its defense, at Contractor's expense, and Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during such period.

(b) If Contractor delivers a Notice of Election relating to any claim: (i) the State shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of such claim and to monitor and advise the State about the status and progress of the Defense; (ii) Contractor shall provide written notice to the State of a proposed settlement and allow the State five (5) Business Days to provide written consent for the settlement proposed, unless a shorter time period is reasonably necessary to preserve the settlement opportunity and such shorter time is reflected in the notice of the proposed settlement. In no event shall the time period be less than twenty-four (24) hours following actual notice. If the State does not reject the proposal in writing, stating the reasons for the rejection by the date specified in the notice or five (5) Business Days if no other time period is specified, the State will be deemed to have approved the proposed settlement or ceasing to defend against such claim and (iii) to the extent that any principles of Michigan governmental or public law may be involved or challenged, the State shall have the right, at its own expense, to control the defense of that portion of such claim involving the principles of Michigan governmental or public law. Notwithstanding the foregoing, consent is not required where Contractor settlement is in compliance with State law and includes a release of the State by Contractor from any liability arising out of such claim. Any litigation activity on behalf of the State of Michigan, or any of its subdivisions pursuant to this Section, must be coordinated with the Department of Attorney General. In the event the insurer's attorney represents the State pursuant to this Section, the insurer's attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

(c) If Contractor does not deliver a Notice of Election relating to any claim of which it is notified by the State as provided above, the State shall have the right to defend the claim in such manner as it may deem appropriate. If it is determined that the claim was one against which Contractor was required to indemnify the State, upon request of the State, Contractor shall promptly reimburse the State for all such reasonable costs and expenses.

6.0 LIMITATION OF LIABILITY AND EXCUSABLE FAILURE

6.1 Limitation of Liability

The Contractor's liability for damages to the State shall be limited to the greater of (i) money paid to Contractor per rolling 365 Day period or (ii) Contractor limits as specified in 4.1(a) and (f). This limitation of liability is cumulative and not per incident. The foregoing limitation of liability shall not apply to claims for infringement of United States patent, copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

The parties agree that neither the Contractor nor the State shall be liable to each other, regardless of the form of action, whether in contract, tort, strict liability, or otherwise, for consequential, incidental, indirect, or special damages including lost profits, sustained or incurred in connection with this Contract and whether or not such damages are foreseeable. The foregoing limitation of liability shall not apply to claims for infringement of United States patent, copyright, trademark or trade secrets or to claims for personal injury or damage to property (excluding loss of data) caused by the gross negligence or willful misconduct of the Contractor.



Appendix C

WSCA Master Agreement Primary Points of Contact

STATE OF MICHIGAN'S PRIMARY POINT OF CONTACT:

The primary State contract contact for this Participating Addendum is as follows:

Contact: Christine L. Mitchell, CPPB
Buyer Specialist

State/Political Entity: State of Michigan,
Department of Technology, Management & Budget
Procurement

Address: Mason Bldg, 2nd Floor, P.O. Box 30026

City, State, Zip: Lansing, MI 48909

Phone: (517) 335-0462

Fax: (517) 335-0046

Email: mitchellc4@michigan.gov

CISCO'S PRIMARY POINT OF CONTACT:

The primary Cisco contract contact for this Participating Addendum is as follows:

Contact: Gigi Feril

Address: 135 North McCarthy Blvd.

City, State, Zip: Milpitas, CA 95035

Phone: (408) 424-0712

Fax: (408) 608-1729

Email: aferil@cisco.com



PARTICIPATING ADDENDUM

Under
 WESTERN STATES CONTRACTING ALLIANCE (WSCA)
 CISCO NETWORKING COMMUNICATIONS & MAINTENANCE MASTER AGREEMENT
 (“WSCA Master Agreement”)
 [State of Utah Contract Ref. No. AR-233]

Participating State:

Participating State Name	State of Michigan (“Participating State”)
Office/Department Name:	Department of Technology, Management and Budget, Procurement
Primary Business Address:	530 West Allegan; P.O. Box 30026; Lansing, MI 48909
<i>Participating Addendum</i> State Contract ID #:	(INSERT #)
Other (Group / Award) ID #:	(INSERT #)

Contractor:

Contractor Name:	Cisco Systems Inc. (“Contractor” or “Cisco”) 170 West Tasman Drive San Jose, California 95314
<i>Participating Addendum</i> Cisco Contract ID #:	

This WSCA *Participating Addendum* between the above-referenced Participating State and Cisco (collectively hereafter referred to as the “Parties”) is entered into for good and valuable consideration, the mutual receipt of which is hereby acknowledged by the Parties, on the terms and conditions set forth below as of the date of last signature below (the “Effective Date” of this *Participating Addendum*).

1. Authority & Scope

As an inducement to Cisco to enter into this agreement, the Participating State hereby warrants and represents to Cisco its legal authority to enter into this *Participating Addendum* for the purposes and upon the terms set forth herein.

[NOTE: The following section is to be drafted by the Participating State describing that entity’s legal authority to enter into this Participating Addendum.]

- Briefly describe the legal authority of the signatory to execute this Participating Addendum for the purpose of participating in the above-referenced, WSCA cooperative buying vehicle. If the entity is a WSCA Member, or non-member participating with the permission of WSCA and Cisco, state that here.

This Participating Addendum is available for use by State agencies, local public bodies, including political subdivisions, public K-12 schools, higher education institutions and non-profit organizations; provided, however, that all authorized non-state purchasers who wish to use this Participating Addendum must be registered, active members of the MiDeal Program at <http://www.michigan.gov/localgov/0,4602,7-194-28994---,00.html>. The full suite of Cisco product and service offerings available under the WSCA Master Agreement may be procured under this Participating Addendum.

2. State-Specific Constitutional & Statutory Requirements

The provisions of this *Participating Addendum*, Appendix A are incorporated and apply to the transactions under this agreement to the extent mandated by state constitution or applicable law(s).

3. Incorporation of WSCA Master Agreement

The WSCA Master Agreement, as now or hereafter amended made by the original parties thereto during the term of this *Participating Addendum*, is incorporated as if set forth at length. All rights and obligations between the Parties are governed by the terms of the WSCA Master Agreement, as amended by this *Participating Addendum*. (“*Agreement*”) Capitalized terms in this *Participating Addendum* shall be defined as set forth in the WSCA Master Agreement, Attachment B.

To the extent of a conflict in terms between the WSCA Master Agreement and this *Participating Addendum*, the following descending order of precedence shall apply:

4. *Participating Addendum* – Appendix A, “Statutory Requirements”
5. *Participating Addendum* (remainder of addendum)
6. WSCA Master Agreement

4. State-Specific Purchasing Guidelines

The provisions of this *Participating Addendum*, Appendix B - “State-Specific Purchasing Guidelines”, apply to all transactions under this *Agreement*.

5. Cisco Fulfillment Partners

Cisco has the right to utilize alternate Fulfillment Partners, including Value Added Resellers (VARs) and/or distributors and dealers (hereafter “Reseller[s]”) as fulfillment agents under this *Agreement*, e.g., for direct order taking, processing, fulfillment or provisioning.

Subject to approval of the Participating State, Fulfillment Partners may be added at any time during the *Agreement* term at the sole discretion of Cisco, with a minimum of two Resellers and no set maximum number of Resellers who may be used, subject to the approval of the Participating State. Cisco, in its sole discretion, is not required to add and may delete upon thirty (30) days written notice any Reseller who does not meet Cisco’s established qualifying criteria, or where the addition of the entity would violate any state or federal law or regulation.

The name, address and approved contact number for Cisco approved Fulfillment Partners shall be separately set forth at the Contractor’s website, as amended by Cisco during the term of this *Agreement*, including any applicable technical certifications or general limitations (e.g., geographic) or Cisco qualifying criteria as applicable (qualifying criteria).

6. Ordering/Invoices

Purchasers may place orders directly only through these Fulfillment Partners or through Cisco on products or services only provided through Cisco. Only those Fulfillment Partners approved and listed during the term of *Agreement* at Contractor’s website are authorized to directly receive purchase orders, invoice Customers, and receive payment from Purchasers on Contractor’s behalf. All authorized Fulfillment Partners are eligible to quote pricing to Purchasers for procurements under this *Participating Addendum* which otherwise meet the Partner’s qualifying criteria.

Except as otherwise set forth in the qualifying criteria, Cisco will not, directly or indirectly, restrict any Fulfillment Partner’s participation or ability to quote pricing for a Customer. Fulfillment Partner will not

offer less favorable pricing discounts than the contract discounts established by Cisco under the WSCA Master Agreement. However, any additional incremental discounts available to WSCA Purchasers, if offered, may be provided in the discretion and as the sole legal obligation of the Fulfillment Partner to the Participating State.

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

Authorized Fulfillment Partners are responsible for delivering required contract reports and remittances to the WSCA Contract Manager in accordance with the requirements and schedule for delivery established in the WSCA Master Agreement.

7. Product & Services Offering

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

8. Primary Point of Contact

The Parties will keep and maintain current at all times a primary point of contact for administration of this *Participating Addendum*. The Parties' primary points of contact shall be set forth in this *Participating Addendum*, Appendix C - "Primary Points of Contact."

9. Term

The term of this *Participating Addendum* shall begin on the Effective Date and shall continue for a period ending on the Termination Date of the WSCA Master Agreement or when this *Participating Addendum* is terminated in accordance with the WSCA Master Agreement, whichever shall occur first.

10. Entire Agreement/Amendment

This *Agreement* constitutes the entire agreement between the parties concerning the subject matter of this *Agreement* 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 *Agreement* may be modified only by a written document executed by the parties hereto.

11. Notices

Notwithstanding anything contained in the Agreement to the contrary, all notices required or permitted under this Agreement 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 Cisco to Agreement-notice@cisco.com), (provided that the original document is placed in air mail/air courier or delivered personally, within seven days of the facsimile electronic notice); (c) three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid (or six (6) days for international mail); or (d) one (1) day after deposit with a commercial express courier specifying next day delivery (or two (2) days for international courier packages specifying 2-day delivery), with written verification of receipt. All communications will be sent to the addresses set forth on the cover sheet of this *Agreement* (and notices to Cisco 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 *Agreement* 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 Cisco.com or by e-mail or fax.

The WSCA Master Agreement, together with this *Participating Addendum* and its Appendices, set forth the entire *Agreement* between the Participating State and Cisco with respect to the subject matter and supersedes and replaces all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and

conditions of the *Agreement* shall not be added to or incorporated into the *Agreement* by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this *Agreement* shall prevail and govern in the case of any such inconsistent or additional terms.

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

[Affix signatures as required by State Statutes, Rules or Policies below.]

Cisco Systems, Inc.

**State of Michigan
Participating State**

By: _____

By: _____

Printed Name: _____

Printed Name: Jeff Brownlee

Title: _____

Title: Chief Procurement Officer

Date: _____

Date: _____



Appendix A

State –Specific Constitutional & Statutory Requirements

1.0 FEDERAL AND STATE CONTRACTUAL REQUIREMENTS

1.1 Nondiscrimination

In the performance of this Contract, Contractor agrees not to discriminate against any employee or applicant for employment, with respect to his or her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, physical or mental disability. Contractor further agrees that every subcontract entered into for the performance of any contract or purchase order resulting here from will contain a provision requiring non-discrimination in employment, as herein specified, binding upon each Subcontractor. This covenant is required pursuant to the Elliot Larsen Civil Rights Act, 1976 Public Act 453, as amended, MCL 37.2101, *et seq.* and the Persons with Disabilities Civil Rights Act, 1976 Public Act 220, as amended, MCL 37.1101, *et seq.*, and any breach thereof may be regarded as a material breach of this Contract.

1.2 Unfair Labor Practices

Pursuant to 1980 Public Act 278, as amended, MCL 423.231, *et seq.*, the State shall not award a contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled pursuant to section 2 of the Act. This information is compiled by the United States National Labor Relations Board. A contractor of the State, in relation to the Contract, shall not enter into a contract with a Subcontractor, manufacturer, or supplier whose name appears in this register. Pursuant to section 4 of 1980 Public Act 278, MCL 423.324, the State may void any Contract if, subsequent to award of the Contract, the name of Contractor as an employer or the name of the Subcontractor, manufacturer or supplier of Contractor appears in the register.

1.3 Disclosure of Litigation

(a) Disclosure. Contractor must disclose any material criminal litigation, investigations or proceedings involving the Contractor (and each Subcontractor) or any of its officers or directors. In addition, each Contractor (and each Subcontractor) must notify the State of any material civil litigation, arbitration or proceeding which arises during the term of the Contract and extensions thereto, to which Contractor (or, to the extent Contractor is aware, any Subcontractor hereunder) is a party, and which involves: (i) disputes that might reasonably be expected to adversely affect the viability or financial stability of Contractor or any Subcontractor hereunder; or (ii) a claim or written allegation of fraud against Contractor or, to the extent Contractor is aware, any Subcontractor hereunder by a governmental or public entity arising out of their business dealings with governmental or public entities. Any such litigation, investigation, arbitration or other proceeding (collectively, "Proceeding") must be disclosed in a written statement to the Contract Compliance Inspector within thirty (30) days of its occurrence. Details of settlements which are prevented from disclosure by the terms of the settlement may be annotated as such. Information provided to the State from Contractor's publicly filed documents referencing its material litigation will be deemed to satisfy the requirements of this Section 1.3(a).

(b) Assurances. In the event that any such Proceeding disclosed to the State pursuant to this Section, or of which the State otherwise becomes aware, during the term of this Contract would cause a reasonable party to be concerned about:

(i) the ability of Contractor (or a Subcontractor hereunder) to continue to perform this Contract in accordance with its terms and conditions, or

(ii) whether Contractor (or a Subcontractor hereunder) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in such Proceeding, which conduct would constitute a breach of this Contract or a violation of Michigan law, regulations or public policy, then Contractor shall be required to provide the State all reasonable assurances requested by the State to demonstrate that: (A) Contractor and/or its Subcontractors hereunder will be able to continue to perform this Contract and any Statements of Work in accordance with its terms and conditions, and (B) Contractor and/or its Subcontractors

hereunder have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in such Proceeding.

1.4 Compliance with Laws

Contractor shall comply with all applicable state, federal, and local laws and ordinances {"Applicable Laws"} in providing the Services.



Appendix B

State – Specific Purchasing Terms and Guidelines

1.0 TERMINATION BY THE STATE

The State may terminate this Contract without further liability or penalty to the State, its departments, divisions, agencies, offices, commissions, officers, agents and employees for any of the following reasons:

1.1 Termination for Cause

(a) In the event that Contractor breaches any of its material duties or obligations under this Contract (including a Chronic Failure to meet any particular SLA as defined in the Statement of Work), which are either not capable of or subject to being cured, or are not cured within the time period specified in the written notice of breach provided by the State (such time period not to be less than thirty (30) days), or pose a serious and imminent threat to the health and safety of any person, or the imminent loss, damage or destruction of any real or tangible personal property, the State may, having provided written notice of termination to Contractor, terminate this Contract in whole or in part, for cause, as of the date specified in the notice of termination.

(b) In the event that a Statement of Work under this Contract is terminated for cause, in addition to any legal remedies otherwise available to the State by law or equity, Contractor shall be responsible for all costs incurred by the State in terminating a Statement of Work under this Contract, including but not limited to, State administrative costs, reasonable attorneys' fees and court costs, and any reasonable additional costs the State may incur to procure the terminated Services required by a Statement of Work under this Contract from other sources. Re-procurement costs shall not be considered by the parties to be consequential, indirect or incidental damages, and shall not be excluded by any other terms otherwise included in this Contract, provided such costs are not in excess of twenty-five percent (25%) more than the prices for such Service provided under this Contract; provided, however, that any such costs recovered by the State under this paragraph shall otherwise be treated as damages recovered by the State for the purposes of Section 5.1.

(c) In the event the State chooses to partially terminate this Contract for cause, charges payable under this Contract will be equitably adjusted to reflect those Services that are terminated and the State shall pay for all Services provided up to the termination date. Services and related provisions of this Contract that are terminated for cause shall cease on the effective date of the termination.

(d) In the event this Contract is terminated for cause pursuant to this section, and it is determined, for any reason, that Contractor was not in breach of contract pursuant to the provisions of this section, that termination for cause shall be deemed to have been a termination for convenience, effective as of the same date, and the rights and obligations of the parties shall be limited to that otherwise provided in this Contract for a termination for convenience.

1.2 Termination for Convenience by the State

The State may terminate this Contract for its convenience, in whole or part, if the State determines that such a termination is in the State's best interest. Reasons for such termination shall be left to the sole discretion of the State and may include, but not necessarily be limited to (a) the State no longer needs the Services or products specified in the Contract, (b) relocation of office, program changes, changes in laws, rules, or regulations make implementation of the Services no longer practical or feasible, or (c) unacceptable prices for Additional Services requested by the State. The State may terminate this Contract for its convenience, in whole or in part, by giving Contractor written notice at least one hundred twenty (120) days prior to the date of termination. If the State chooses to terminate this Contract in part, the charges payable under this Contract shall be equitably adjusted to reflect those Services that are terminated. Services and related provisions of this Contract that are terminated for cause shall cease on the effective date of the termination.

1.3 Non-Appropriation

(a) Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this Contract. If funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available, the State shall have the right to terminate this Contract and all affected Statements of Work, in whole or in part, at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Contractor. The State shall give Contractor at least thirty (30) days advance written notice of termination for non-appropriation or unavailability (or such time as is available if the State receives notice of the final decision less than thirty (30) days before the funding cutoff).

(b) If funding for the Contract is reduced by law, or funds to pay Contractor for the agreed-to level of the Services to be provided by Contractor are not appropriated or otherwise made available, the State may, upon thirty (30) days written notice to Contractor, reduce the level of the Services in such manner and for such periods of time as the State may elect. The charges payable under this Contract will be equitably adjusted to reflect any equipment, services or commodities not provided by reason of such reduction.

(c) In the event the State terminates this Contract or reduces the level of Services to be provided by Contractor pursuant to this Section 1.3, the State shall pay Contractor for all work-in-progress performed through the effective date of the termination or reduction in level, as the case may be, to the extent funds are available. For the avoidance of doubt, this Section 1.3 will not preclude Contractor from reducing or stopping Services and/or raising against the State in a court of competent jurisdiction, any claim for a shortfall in payment for Services performed before the effective date of termination.

1.4 Criminal Conviction

The State may terminate this Contract immediately and without further liability or penalty in the event Contractor, an officer of Contractor, or an owner of a 25% or greater share of Contractor is convicted of a criminal offense incident to the application for, or performance of, a State, public or private Contract or subcontract; convicted of a criminal offense, including any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State reflects upon Contractor's business integrity.

1.5 Approvals Rescinded.

The State may proactively terminate a Statement of Work issued under this Contract without further liability or penalty in the event any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services pursuant to Constitution 1963, Article 11, section 5, and Civil Service Rule 7-1. Termination may be in whole or in part and may be immediate as of the date of the written notice to Contractor or may be effective as of the date stated in such written notice.

1.6 Rights and Obligations Upon Termination

(a) If this Contract is terminated by the State for any reason, Contractor shall (a) stop all work as specified in the notice of termination, (b) take any action that may be necessary, or that the State may direct, for preservation and protection of Deliverables or other property derived or resulting from this Contract that may be in Contractor's possession, (c) return all materials and property provided directly or indirectly to Contractor by any entity, agent or employee of the State, (d) in the event that the Contractor maintains title in equipment and software that is intended to be transferred to the State at the termination of the Contract, Contractor will transfer title in, and deliver to, the State, unless otherwise directed, all Deliverables and other Developed Materials intended to be transferred to the State at the termination of the Contract and which are resulting from the Contract (which shall be provided to the State on an "As-Is" basis except to the extent the amounts paid by the State in respect of such items included compensation to Contractor for the provision of warranty services in respect of such materials), and (e) take any action to mitigate and limit any potential damages, or requests for Contractor adjustment or termination settlement costs, to the maximum practical extent, including terminating or limiting as otherwise applicable those subcontracts and outstanding orders for material and supplies resulting from the terminated Contract.

(b) In the event the State terminates this Contract prior to its expiration for its own convenience, the State shall pay Contractor for all charges due for Services provided prior to the date of termination and, if applicable, as a separate item of payment pursuant to this Contract, for partially completed Deliverables, on a percentage of completion basis. All completed or partially completed Deliverables prepared by Contractor

pursuant to this Contract shall, at the option of the State, become the State's property, and Contractor shall be entitled to receive equitable fair compensation for such Deliverables. Regardless of the basis for the termination, the State shall not be obligated to pay, or otherwise compensate, Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.

(c) Reserved.

(d) Upon a good faith termination, the State shall have the right to assume, at its option, any and all subcontracts and agreements for services and materials provided under this Contract, and may further pursue completion of the Services under this Contract by replacement contract or otherwise as the State may in its sole judgment deem expedient.

1.7 Termination Assistance

If this Contract (or any Statement of Work issued under it) is terminated for any reason before completion, Contractor agrees to provide for up to two-hundred seventy (270) days after the termination all reasonable termination assistance requested by the State to facilitate the orderly transfer of such Services to the State or its designees in a manner designed to minimize interruption and adverse effect. Such termination assistance will be deemed by the parties to be governed by the terms and conditions of this Contract (notwithstanding its termination) other than any terms or conditions that do not reasonably apply to such termination assistance. The State shall compensate Contractor for such termination assistance at the same rates and charges set forth in the Contract on a time and materials basis in accordance with the Amendment Labor Rates. If this Contract is terminated by Contractor under Section 2.0, then Contractor may condition its provision of termination assistance under this Section on reasonable assurances of payment by the State for such assistance, and any other amounts owed under the Contract.

1.8 Reservation of Rights

Any termination of this Contract or any Statement of Work issued under it by a party shall be with full reservation of, and without prejudice to, any rights or remedies otherwise available to such party with respect to any claims arising prior to or as a result of such termination.

1.9 End of Contract Transition

In the event this contract is terminated, for convenience or cause, or upon expiration, the Contractor agrees to comply with direction provided by the State to assist in the orderly transition of equipment, services, software, leases, etc. to the State or a third party designated by the State. In the event of termination or the expiration of this Contract, the Contractor agrees to make all reasonable efforts to effect an orderly transition of services within a reasonable period of time that in no event will exceed 270 days. These efforts shall include, but are not limited to, the following:

(a) Personnel - The Contractor shall work with the State, or a specified third party, to develop a transition plan setting forth the specific tasks and schedule to be accomplished by the parties, to effect an orderly transition. The Contractor shall allow as many personnel as practicable to remain on the job to help the State, or a specified third party, maintain the continuity and consistency of the services required by this Contract. In addition, during or following the transition period, in the event the State requires the Services of the Contractor's subcontractors or vendors, as necessary to meet its telecommunication needs, Contractor agrees to reasonably, and with good-faith, work with the State to use the Services of Contractor's subcontractors or vendors.

(b) Reserved.

(c) Information - The Contractor agrees to provide reasonable detailed specifications for all Services needed by the State, or specified third party, to properly provide the services required under this Contract. The Contractor will also provide any licenses required to perform the Services under this Contract.

(d) Software. - The Contractor shall reasonably assist the State in the acquisition of any Contractor software required to perform the Services under this Contract. This shall include any documentation being used by the Contractor to perform the Services under this Contract. If the State transfers any software licenses to the Contractor, those licenses shall, upon expiration of the Contract, transfer back to the State at their current revision level.

(e) Payment - If the transition results from a termination for any reason, reimbursement shall be governed by the termination provisions of this Contract. If the transition results from expiration, the Contractor will be reimbursed for all reasonable transition costs (i.e. costs incurred within the agreed period after contract expiration that result from transition operations).

1.10 Transition Out of this Contract

(a) In the event that this Contract is terminated, dissolved, voided, rescinded, nullified, or otherwise rendered unenforceable, the Contractor agrees to perform the following obligations, and any others upon which the State and the Contractor agree:

(i) Cooperating with any contractors, vendors, or other entities with whom the State contracts to meet its telecommunication needs, for at least two hundred and seventy (270) days after the termination of this Contract;

(ii) Reserved.

(iii) Providing the State with all asset management data generated from the inception of this Contract through the date on which this Contract is terminated, in a comma-delimited format unless otherwise required by the Program Office;

(iv) Reconciling all accounts between the State and the Contractor;

(viii) Allowing the State to request the winding up of any pending or ongoing projects at the price to which the State and the Contractor agreed at the inception of the project;

(ix) Freezing all non-critical software changes;

(x) Notifying all of the Contractor's subcontractors of procedures to be followed during the transition out phase;

(xv) Assisting with the communications network turnover, if applicable;

(xvi) Assisting in the execution of a parallel operation until the effective date of termination of this Contract

(xvii) Answering questions regarding post-migration services;

(xviii) Delivering to the State any remaining owed reports and documentation still in the Contractor's possession.

(b) In the event that this Contract is terminated, dissolved, voided, rescinded, nullified, or otherwise rendered unenforceable, the State agrees to perform the following obligations, and any others upon which the State and the Contractor agree:

(i) Reconciling all accounts between the State and the Contractor;

(ii) Completing any pending post-project reviews.

2.0 TERMINATION BY THE CONTRACTOR

If the State materially breaches its obligation to pay Contractor undisputed amounts due and owing under this Contract in accordance with Section 1, or if the State breaches its other obligations under this Contract to an extent that makes it impossible or commercially impractical for Contractor to perform the Services, and if the State does not cure the breach within the time period specified in a written notice of breach provided to the State by Contractor (such time period not to be less than thirty (30) days), then Contractor may terminate this Contract for cause, as of the date specified in the notice of termination; provided, however, that Contractor must discharge its obligations prior to any such termination.

3.0 STOP WORK

3.1 Issuance of Stop Work Order

The State may, at any time, by written stop work order to Contractor, require that Contractor stop all, or any part, of the work called for by this Contract for a period of up to ninety (90) days after the stop work order is delivered to Contractor, and for any further period to which the parties may agree. The stop work order shall be specifically identified as such and shall indicate that it is issued under this Section 3.1. Upon receipt of the stop work order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the stop work order during the period of work stoppage. Within the period of the stop work order, the State shall either: (a) cancel the stop work order; or (b) terminate the work covered by the stop work order as provided in Section 1 of this Contract.

3.2 Cancellation or Expiration of Stop Work Order

If a stop work order issued under this Section 3.2 is canceled or the period of the stop work order or any extension thereof expires, Contractor shall resume work. The parties shall agree upon an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified, in writing, accordingly, if: (a) the stop work order results in an increase in the time required for, or in Contractor's costs properly allocable to, the performance of any part of this Contract; and (b) Contractor asserts its right to an equitable adjustment within thirty (30) days after the end of the period of work stoppage; provided that, if the

State decides the facts justify the action, the State may receive and act upon a Contractor proposal submitted at any time before final payment under this Contract.

3.3 Allowance of Contractor Costs

If the stop work order is not canceled and the work covered by the stop work order is terminated for reasons other than material breach, such termination shall be deemed to be a termination for convenience under Section 1.2, and the State shall allow reasonable costs resulting from the stop work order in arriving at the termination settlement. For the avoidance of doubt, the State shall not be liable to Contractor for loss of profits because of a stop work order issued under this Section 3.0.

4. INSURANCE

4.1 Coverage

Contractor shall purchase and maintain insurance at Contractor's expense for at least the following types and amounts of insurance coverage, which amounts shall be not less than any limits set forth in this Section 4.1 or required by law, whichever is greater:

(a) **Commercial General Liability Insurance** (including premises/operations liability, independent contractors liability, contractual liability, products liability, completed operations liability, broad form property damage liability, personal injury liability and extended bodily injury and death coverage) in a minimum amount of \$2,000,000 per occurrence and \$4,000,000 aggregate combined single limit for bodily injury or death, personal injury or property damage.

(b) **Workers Compensation Insurance** (including workers' disability compensation, disability benefit and other similar employee benefits) covering Contractor's employees in an amount not less than the limits required by law and Employers Liability Insurance covering Contractor's employees in an amount not less than \$500,000 per occurrence. A non-resident Subcontractor shall have insurance for benefits payable under Michigan's Workers' Disability Compensation Law for any employee resident of and hired in Michigan; and as respects any other employee protected by workers' disability compensation laws of any other State, Contractor and its Subcontractors shall have insurance or participate in a mandatory State fund to cover the benefits payable to any such employee.

(c) **Professional Liability Insurance** issued to and covering the liability of Contractor for errors or omissions committed by Contractor, its agents and employees, in the performance of this Contract. The policy shall have limits of liability of not less than \$1,000,000 per claim.

(d) **Computer Crime Insurance** providing coverage for which Contractor has been found to be legally liable to the State arising out of or related to fraudulent or dishonest acts committed by the employees of Contractor, acting alone or in collusion with others, in a minimum amount of \$2,000,000.

(e) **Commercial Automobile Liability Insurance** including coverage for owned, hired and non-owned vehicles with a combined single limit minimum of \$1,000,000 per occurrence for bodily injury, personal injury and property damage or as required by law.

(f) **Umbrella Liability Insurance** in a minimum amount of \$10,000,000, which shall apply, at a minimum, to the insurance required by Sections 4.1(a) and (e).

The insurers selected by Contractor shall have an A.M. Best rating of A-, or as otherwise approved in writing by the State, or better or, if such ratings are no longer available, with a comparable rating from a recognized insurance rating agency.

4.2 Subcontractors

Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor shall require all of its Subcontractors hereunder to purchase and maintain the insurance coverage as described in Section 4.1 for each Contractor in connection with the performance of work by such Subcontractors. Alternatively, Contractor may include any Subcontractors under Contractor's insurance on each coverage required in Section 4.1.

4.3 Certificates of Insurance and Other Requirements

Within thirty (30) days after the Effective Date of this Contract, Contractor shall furnish to the Purchasing Operations certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "Certificates"). The contract number must be shown on each Certificate. The Certificates shall provide that the Purchasing Operations shall be given at least thirty (30) days prior written notice (bearing the contract number) of termination, non-renewal or reduction in limit below the amounts specified herein or in material scope of coverage of such policies. Within thirty (30) days

following the execution of this Contract, and every year thereafter, the Contractor shall provide evidence that the State and its agents, officers and employees are listed as additional insureds, but only to the extent of liabilities assumed by Contractor as set forth in Section 5 of this Contract, under each commercial general liability and commercial automobile liability policy. Insurance policies listing the State as an additional insured, to the extent of liabilities assumed by Contractor as set forth in Section 5 of this Contract, are required to contain language in the certificate which provides that, "Any litigation activity on behalf of the State of Michigan, or any of its subdivisions, as additional insured must be coordinated with the Department of Attorney General." In the event the insurer's attorney is asked to represent the State, the insurer's attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan. Contractor shall maintain all required insurance coverage throughout the term of the Contract and any extensions thereto and, in the case of claims-made Commercial General Liability policies, shall secure tail coverage for at least three (3) years following the expiration or termination for any reason of this Contract. The minimum limits of coverage specified above are not intended, and shall not be construed, to limit any liability or indemnity of Contractor under this Contract to any indemnified party or other persons. Contractor shall be responsible for all deductibles with regard to such insurance. If Contractor fails to pay any premium for required insurance as specified herein, or if any insurer cancels or significantly reduces any required insurance as specified herein without the State's written consent, at the State's election (but without any obligation to do so) after the State has given Contractor at least thirty (30) days written notice, the State may pay such premium or procure similar insurance coverage from another company or companies; and at the State's election, the State may deduct the entire cost (or part thereof) from any payment due Contractor, or Contractor shall pay the entire cost (or any part thereof) upon demand by the State.

5. INDEMNIFICATION

5.1 Patent/Copyright Infringement Indemnity

To the extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State to the extent that such action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the Contractor or its subcontractors, or the operation of such equipment, software, commodity or service, or the use or reproduction of any documentation provided with such equipment, software, commodity or service infringes any United States patent, copyright, trademark or trade secret of any person or entity, which is enforceable under the laws of the United States. Notwithstanding the foregoing, the Contractor shall have no obligation to indemnify or defend the State for, or to pay any costs, damages or attorneys' fees related to, any claim based upon (i) equipment developed based on written specifications of the State; or (ii) use of the equipment in a configuration other than implemented or approved in writing by the Contractor, including, but not limited to, any modification of the equipment by the State; or (iii) the combination, operation, or use of the equipment with equipment or software not supplied by the Contractor under this Contract. The State shall in a timely manner notify the Contractor of any claim of infringement, violation or misappropriation for which the Contractor may be responsible under this Contract and shall cooperate with the Contractor to facilitate the defense or settlement of such claim. The Contractor shall keep the State reasonably apprised of the continuing status of the claim, including any lawsuit resulting there from, and shall permit the State, at its expense, to participate in the defense or settlement of such claim where executory obligations may be placed on the State, although the Contractor shall have final authority regarding defense and settlement.

In addition, should the equipment, software, commodity, or service, or its operation, become or in the State's or Contractor's reasonable opinion be likely to become the subject of a claim of infringement, the Contractor shall at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if such option is not reasonably available to the Contractor, (ii) replace or modify to the State's reasonable satisfaction the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if such option is not reasonably available to Contractor, (iii) accept its return by the State with appropriate credits to the State against the Contractor's charges and reimburse the State for reasonable direct costs associated with the return of such equipment. THIS SECTION 5.1 STATES THE ENTIRE LIABILITY OF THE CONTRACTOR WITH RESPECT TO THE INFRINGEMENT OF INTELLECTUAL PROPERTY.

5.2 Other Indemnities

(a) General Indemnification

To the extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State from liability of any kind for claims brought by third parties based upon bodily injury (including death) or damage to tangible personal property (not including lost or damaged data), including all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties), accruing or resulting to any person, firm or corporation that may be injured or damaged by the Contractor in the performance of this Contract and that are attributable to the negligence or tortious acts of the Contractor or any of its subcontractors, or by anyone else for whose acts any of them may be liable provided that the State make reasonable effort to notify the Contractor in writing within thirty (30) days from the time that the State has knowledge of such claims. The Contractor shall not be liable to the State for claims attributable to the State's negligence or tortious acts or consequential damages arising out of claims brought by third parties except for claims for infringement of any United States patent, copyright, trademark or trade secret.

(b) Reserved.

(c) Independent Contractor Indemnification

Contractor will defend, indemnify, and hold harmless the State, its departments, divisions, agencies, sections, commissions, officers, employees, and agents from and against all Losses, whether based on statutes, contract or tort, to the extent arising out of or resulting from any claim or action by, on behalf of or related to any employees or personnel of Contractor, including claims arising under Occupational Safety and Health Administration requirements or orders, Equal Employment Opportunity Commission requirements or orders, National Labor Relations Board or Fair Labor Standards Act, unemployment insurance or workers' compensation laws, disability benefit acts, employee benefits acts, or other applicable federal, state or local laws or regulations, except to the extent that such losses result from the State's failure to comply with this Contract or such claim or action arose or grew out of events that occurred while such person was an employee of the State, prior to his or her hire by and employment with Contractor.

(d) Continuation of Indemnification Obligations

The Contractor's duty to indemnify pursuant to Sections 5.1 and 5.2 continues in full force and effect, notwithstanding the expiration or early cancellation of the Contract, with respect to any claims based on facts or conditions that occurred prior to expiration or cancellation.

5.3 Indemnification Procedures

The procedures set forth below shall apply to all indemnity obligations under this Contract. The State agrees to provide reasonably necessary assistance and cooperation in the defense of any claim.

(a) After receipt by the State of notice of the action or proceeding involving a claim in respect of which it will seek indemnification, the State shall promptly notify Contractor of such claim in writing and take or assist Contractor in taking, as the case may be, any reasonable action to avoid the imposition of a default judgment against Contractor. No failure to so notify Contractor shall relieve Contractor of its indemnification obligations except to the extent that Contractor can demonstrate damages attributable to such failure. Within thirty (30) days following receipt of written notice from the State relating to any claim, Contractor shall notify the State in writing whether Contractor agrees to assume control of the defense and settlement of that claim (a "Notice of Election"). After notifying Contractor of a claim and prior to the State receiving Contractor's Notice of Election, the State shall be entitled to defend against the claim if necessary to preserve its defense, at Contractor's expense, and Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during such period.

(b) If Contractor delivers a Notice of Election relating to any claim: (i) the State shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of such claim and to monitor and advise the State about the status and progress of the Defense; (ii) Contractor shall provide written notice to the State of a proposed settlement and allow the State five (5) Business Days to provide written consent for the settlement proposed, unless a shorter time period is reasonably necessary to preserve the settlement opportunity and such shorter time is reflected in the notice of the proposed settlement. In no event shall the time period be less than twenty-four (24) hours following actual notice. If the State does not reject the proposal in writing, stating the reasons for the rejection by the date specified in the notice or five (5) Business Days if no other time period is specified, the State will be deemed to have approved the proposed settlement or ceasing to defend against such claim and (iii) to the extent that any principles of Michigan governmental or public law may be involved or challenged, the State shall have the right, at its own expense, to control the defense of that portion of such claim involving the principles of Michigan governmental or public law. Notwithstanding the foregoing, consent is not required where Contractor settlement is in compliance with State law and includes a release of the State by Contractor from any liability arising out of such claim. Any

litigation activity on behalf of the State of Michigan, or any of its subdivisions pursuant to this Section, must be coordinated with the Department of Attorney General. In the event the insurer's attorney represents the State pursuant to this Section, the insurer's attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

(c) If Contractor does not deliver a Notice of Election relating to any claim of which it is notified by the State as provided above, the State shall have the right to defend the claim in such manner as it may deem appropriate. If it is determined that the claim was one against which Contractor was required to indemnify the State, upon request of the State, Contractor shall promptly reimburse the State for all such reasonable costs and expenses.

6.0 LIMITATION OF LIABILITY AND EXCUSABLE FAILURE

6.1 Limitation of Liability

The Contractor's liability for damages to the State shall be limited to the greater of (i) money paid to Contractor per rolling 365 Day period or (ii) Contractor limits as specified in 4.1(a) and (f). This limitation of liability is cumulative and not per incident. The foregoing limitation of liability shall not apply to claims for infringement of United States patent, copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

The parties agree that neither the Contractor nor the State shall be liable to each other, regardless of the form of action, whether in contract, tort, strict liability, or otherwise, for consequential, incidental, indirect, or special damages including lost profits, sustained or incurred in connection with this Contract and whether or not such damages are foreseeable. The foregoing limitation of liability shall not apply to claims for infringement of United States patent, copyright, trademark or trade secrets or to claims for personal injury or damage to property (excluding loss of data) caused by the gross negligence or willful misconduct of the Contractor.



Appendix C

WSCA Master Agreement Primary Points of Contact

STATE OF MICHIGAN'S PRIMARY POINT OF CONTACT:

The primary State contract contact for this Participating Addendum is as follows:

Contact: Christine L. Mitchell, CPPB
Buyer Specialist
State/Political Entity: State of Michigan,
Department of Technology, Management & Budget
Procurement
Address: Mason Bldg, 2nd Floor, P.O. Box 30026
City, State, Zip: Lansing, MI 48909
Phone: (517) 335-0462
Fax: (517) 335-0046
Email: mitchellc4@michigan.gov

CISCO'S PRIMARY POINT OF CONTACT:

The primary Cisco contract contact for this Participating Addendum is as follows:

Contact: Gigi Feril
Address: 135 North McCarthy Blvd.
City, State, Zip: Milpitas, CA 95035
Phone: (408) 424-0712
Fax: (408) 608-1729
Email: aferil@cisco.com

































































































































































Addendum #1 to Master Price Agreement
 Between
CISCO Systems, Inc
 And
 State of Utah, State Procurement Office
 Representing the Western States Contracting Alliance (WSCA)
 Lead State Contract #: AR233 Executed on: October 1, 2007
 Page 1 of 1

This Cisco Networking Communications & Maintenance Master Agreement ("Master Price Agreement") Addendum #1 governs CISCO Systems, Inc's (hereinafter "CONTRACTOR") use of the WSCA name and logo during the term of this Master Price Agreement and amendments to this Master Price Agreement. CONTRACTOR may use the name and logo only as set forth below. Any use not expressly permitted herein is prohibited, and such use constitutes a material breach of the Master Price Agreement with the Lead State and all Participating States.

1. CONTRACTOR may display the WSCA name and logo on the face of the Master Price Agreement, including all electronic and hard copy versions.
2. CONTRACTOR and its subcontractors, resellers, and agents may display the WSCA names and logos on a web site as a "click on" link to the Master Price Agreement and on the web site as required by CONTRACTOR pursuant to Attachment A, Section D(5) of the Master Price Agreement. No other use of the logos or names is permitted on any web site, except as permitted in this Addendum.
3. With, and only with, prior written approval of the Lead State Contract Administrator, CONTRACTOR may advertise the Master Price Agreement in publications and promotional materials aimed at state and local government entities eligible to use the Master Price Agreement. The sole focus and intent of such advertisements must be to increase participation in the Master Price Agreement. The WSCA names may be used and the logos displayed in the advertisement ONLY as it relates to the Master Price Agreement. The Lead State Contract Administrator's approval must encompass the content and appearance of the advertisement and the media in which the advertisement will appear.
4. CONTRACTOR may not make explicit or implicit representations concerning the opinion of WSCA, the Lead State, or any Participating State regarding CONTRACTOR or its products or services. This restriction includes general use of the WSCA names and logos NOT directly linked to or related to this Master Price Agreement.
5. CONTRACTOR shall follow the terms of this Addendum to its sub-contractors, resellers, and agents, and CONTRACTOR is responsible for any breach by these entities.
6. CONTRACTOR must cease all use of the WSCA names and logos within ten (10) business days if directed to do so in writing by the Lead State Contract Administrator, and CONTRACTOR must ensure that its sub-contractors, resellers, and agents cease all use within the said timeframe.
7. CONTRACTOR shall not make, or permit its subcontractors, resellers, or agents to make, any alterations to WSCA's names or logos (including characters, style and colors) and CONTRACTOR shall not use or permit the use of WSCA's names or logos in a manner or context that could adversely affect WSCA's integrity, goodwill, or reputation.
8. Upon termination or expiration of the Master Price Agreement, CONTRACTOR and its sub-contractors, re-sellers, and agents must cease all use of the WSCA names and logos; except that, CONTRACTOR may use the WSCA names for reference purposes in a description of its prior experience.

IN WITNESS WHEREOF, the parties have executed this Master Price Agreement Addendum #1 as of the date of last execution by the Parties below.

Acknowledged:

CONTRACTOR:

The Contractor certifies that the appropriate person(s) have executed this agreement on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.

Signature Juan Pablo Brockmann
 Title Controller Finance
 Date Oct 15th 2011

LEAD STATE:

In accordance with state statutes or rules.

Signature [Signature]
 Title Contract Manager
 Date 10/28/11

APPROVED BY LEGAL







STATE OF UTAH COOPERATIVE CONTRACT AMENDMENT

AMENDMENT # **2**
CONTRACT # **AR233 - WESTERN STATES CONTRACTING ALLIANCE (WSCA) CISCO NETWORKING COMMUNICATIONS & MAINTENANCE MASTER AGREEMENT ("Contract")**
Original Starting Date: **10/01/07**
Original Expiration Date : **05/31/2010**

TO BE ATTACHED AND MADE PART OF the specified Contract by and between the State of Utah Division of Purchasing and

CISCO SYSTEMS INC
(Referred to as CONTRACTOR)

BOTH PARTIES AGREE TO AMEND THE CONTRACT AS FOLLOWS:

Amended Expiration Date: **05/31/2012**
Effective Date of Amendment: **Date of last signature**
Potential Renewal Options Remaining: **One (2) yr or Two additional One (1) yr term(s)**

The contract is amended to:
Modify the Contract, Appendix B, Clauses 1.20 and 12.1 "Termination Date" of May 31, 2010, to extend the Contract term through close of business on May 31, 2012. This Amendment shall be deemed effective and binding as of the date of last signature of the parties below.

Please provide the following contact information.

	Name	Phone Number	Email Address
General Contact	Mimi Nguyen	1 408 527 2627	mimguye@cisco.com
Sales Contact	Greg Semler	1.408.894.7116	gsemler@cisco.com
Quarterly Report Contact	Phyllis Brown	1.408.894.7856	phbrown@cisco.com

All other terms and conditions in the original contract remain the same.
IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

CONTRACTOR

STATE OF UTAH

Mark Coyle 2/2/10
Contractor's Signature Date

Kent D Beers 1/12/10
Kent D Beers, Director Date
State of Utah Division of Purchasing

Mark Coyle
Contractor's Name (Print)
VPGlobal Fin Ops
Title (Print)

Purchasing Agent	Phone #	e-mail	Fax #
Debbie Gundersen	(801) 538-3150	dgundersen@utah.gov	(801) 538-3882

10/27/2008



STATE OF UTAH COOPERATIVE CONTRACT AMENDMENT

AMENDMENT # **3**

CONTRACT # **AR233 - WESTERN STATES CONTRACTING ALLIANCE (WSCA)
CISCO NETWORKING COMMUNICATIONS & MAINTENANCE
MASTER AGREEMENT ("Contract")**

Original Starting Date: **10/01/07**

Amended Expiration Date : **05/31/2012**

TO BE ATTACHED AND MADE PART OF the specified Contract by and between the State of Utah Division of Purchasing and

CISCO SYSTEMS INC
(Referred to as CONTRACTOR)

BOTH PARTIES AGREE TO AMEND THE CONTRACT AS FOLLOWS:

Effective Date of Amendment: **Date of last signature of the Parties**

The contract is amended to:

Delete the Contract, Attachment B, Section 16 in its entirety and replace it for the purpose of modifying the due dates for quarterly contract usage reporting, and delete the reporting format at Attachment C, Exhibit D and replace it in its entirety. See Attached Changes.

Please provide the following contact information.

	Name	Phone Number	Email Address
General Contact	Mimi Nguyen	1 408 527 2627	mimnguye@cisco.com
Sales Contact	Greg Semler	1.408.894.7116	gsemler@cisco.com
Quarterly Report Contact	Phyllis Brown	1.408.894.7856	phbrown@cisco.com

All other terms and conditions in the original contract remain the same.
IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

<p style="text-align: center;">CONTRACTOR</p> <p><i>Dana Giampetrovi</i> <u>3/18/2010</u></p> <p>Contractor's Signature Date</p> <p>DANA GIAMPETROVI</p> <p>Contractor's Name (Print)</p> <p>DIRECTOR of FINANCE</p> <p>Title (Print)</p>	<p>STATE OF UTAH</p>	<p><i>Kent Beers</i> <u>3-22-10</u></p> <p>Kent Beers, Director Date</p> <p>State of Utah Division of Purchasing</p>
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Purchasing Agent	Phone #	e-mail	Fax #
Debbie Gundersen	(801) 538-3150	dgundersen@utah.gov	(801) 538- 3882

AMENDMENT # 3

To

**AR-233 - WESTERN STATES CONTRACTING ALLIANCE (WSCA)
CISCO NETWORKING COMMUNICATIONS & MAINTENANCE
MASTER AGREEMENT ("AR-233" or "Prime Contract")**

(Modifying the Quarterly Contract Usage Reporting Deadlines and modifying the Report Format)

This Amendment # 3 ("Amendment") is entered into between Cisco Systems, Inc. with its principal place of business at 170 Tasman Drive, San Jose, CA 95134 ("Cisco" or "Contractor") and the Division of Purchasing and General Services, an agency of the State of Utah ("State"), with its principal place of business at State Office Building, Capitol Hill, Salt Lake City, UT 84114-1061, and acting on its own behalf and as the lead state for the Prime Contract on behalf of the *Western States Contracting Alliance* ("WSCA"), (collectively, the "Parties"). This Amendment is effective as of the date of last signature of the Parties, below. ("Effective Date").

This Amendment modifies the reporting deadlines for submission of the Prime Contract quarterly contract usage report ("Report Deadlines") and the format for the quarterly contract usage report ("Report Form"), as follows:

1. **Report Deadlines.** The Prime Contract, Attachment B, Section 16 is deleted and replaced in its entirety with the following:

"16. **REPORTS:** Contractor shall submit quarterly reports to the WSCA Contract Manager showing the quantities and dollar volume of purchases of product and services by each Participating State [and its Purchasers]. Contractor shall also remit the WSCA Administration Fee at the time of submission of each quarterly contract usage report in accordance with Section D(3) in Attachment A of the WSCA Master Agreement. The due dates for the quarterly contract usage report along with the WSCA Administration Fees are as follows:

<u>CY Quarter</u>	<u>Activity Period</u>	<u>Due Dates (For Reports & Admin. Fees)</u>
Q1:	January 1 – March 31 st	May 31 st
Q2:	April 1 – June 30 th	August 31 st
Q3:	July 1 – September 30 th	November 30 th
Q4:	October 1– December 31 st	February 28 th

The State, as WSCA Contract Manager, represents and warrants to Contractor that it is authorized to collect data on purchases under this Agreement. The Purchaser recognizes that this data is public information. Cisco will use commercially reasonable efforts to provide the information set forth on Attachment C, Exhibit D (Form of Quarterly Report) and shall be fully indemnified by the State. Notwithstanding the foregoing, the Parties hereto agree that that the Form of the Quarterly Report may be updated from time to time subject to the mutual agreement between Contractor and the State as WSCA Contract Manager."

2. **Report Format.** The required format for the Quarterly Report as set forth in Prime Contract, Attachment C, Exhibit D, is deleted in its entirety and replaced with the updated reporting template attached in Appendix A to this document.

3. In all other respects, the Prime Contract remains unchanged.

This Amendment represents the entire understanding of the Parties and merges, supersedes and replaces any prior oral, electronic or other written communications or understandings with respect to the subject matter herein, and may only be modified by a written document executed by the Parties. Each Party warrants and represents that its respective signatory appearing below is, as of the date of signature, duly authorized to execute this Amendment on behalf of and with the intent to legally bind their respective principal first identified above.

[Affix signatures as required by State Statutes, Rules or Policies below.]

CISCO SYSTEMS, INC.

Signature: *Dana G. [Signature]*
Print Name: DANA GIBSON PERICHI
Title: DIRECTOR FINANCE
Date: 3/18/2010

STATE OF UTAH, ON ITS OWN BEHALF AND ON
BEHALF OF WSCA

Name: *Nancy Orton*
Signature: *Nancy Orton*
Print Name: Nancy Orton
Title: Assistant Director
Date: 3-22-10

APPENDIX A
FORM OF QUARTERLY REPORT
State Summary Sales Volume Report Template

WESTERN STATES CONTRACTING ALLIANCE (WSCA)
PARTNER REPORTED SALES, REVENUE AND FEE REMITTANCE TEMPLATE
FOR
STATE OF XXXXX

Quarterly Reporting Period Ending: XX-XX-20XX

WSCA	This Reporting Period
State	Name of State

Sum of Total Product Type	Partner Name			
	Partner A	Partner B	Partner C	Grand Total
Product	0	0	0	0
Service	0	0	0	0
Basic Install And Config Services	0	0	0	0
Grand Total	0	0	0	0
% of Sales In State	0%	0%	0%	0%

UT 0.5% Admin Fee PARTNER Fee Remittance	0	0	0	0
State Admin Fee PARTNER Fee Remittance (if Any)	0	0	0	0

		% of Total Sales
Reported Product Sales - Total:	\$0.00	0.00%
Reported Services Sales - Total:	\$0.00	0.00%
Basic Install And Config Services Sales - Total:	\$0.00	0.00%
Grand Total:	\$0.00	0.00%
WSCA-UT Administrative Fee - Grand Total:	\$0.00	0.00%
WSCA State Administrative Fee Remittances - Grand Total:	\$0.00	0.00%



STATE OF UTAH COOPERATIVE CONTRACT AMENDMENT

AMENDMENT # **4**

CONTRACT # **AR233 - WESTERN STATES CONTRACTING ALLIANCE (WSCA)
CISCO NETWORKING COMMUNICATIONS & MAINTENANCE
MASTER AGREEMENT ("Contract")**

Original Starting Date: **10/01/07**

Amended Expiration Date : **05/31/2012**

TO BE ATTACHED AND MADE PART OF the specified Contract by and between the State of Utah Division of Purchasing and

CISCO SYSTEMS INC
(Referred to as CONTRACTOR)

BOTH PARTIES AGREE TO AMEND THE CONTRACT AS FOLLOWS:

Effective Date of Amendment: **Date of last signature**

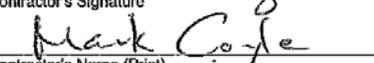
The contract is amended to:

Incorporate Cisco IronPort Systems Products and Services offerings, the sale of which is solely governed by the terms set forth in this Amendment # 4, attached hereto and incorporated by reference.

Please provide the following contact information.

	Name	Phone Number	Email Address
General Contact	Mimi Nguyen	1 408 527 2627	mimnguye@cisco.com
Sales Contact	Greg Semler	1.408.894.7116	gsemler@cisco.com
Quarterly Report Contact	Angeline Peril (Gigi)	1.408.424.0712	aferil@cisco.com

All other terms and conditions in the original contract remain the same.
IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

CONTRACTOR		STATE OF UTAH	
			
Contractor's Signature	Date 6/29/10	Kent Beers, Director	Date 7/6/10
		State of Utah Division of Purchasing	
Contractor's Name (Print) V.P Global Fin Ops			
Title (Print)			
Purchasing Agent	Phone #	e-mail	Fax #
Debbie Gundersen	(801) 538-3150	dgundersen@utah.gov	(801) 538-3882

AMENDMENT #4

TO

**AR-233 - WESTERN STATES CONTRACTING ALLIANCE (WSCA)
CISCO NETWORKING COMMUNICATIONS & MAINTENANCE
MASTER AGREEMENT ("AR-233" or "Prime Contract")**

IronPort Products and Services Add

This Amendment #4 ("Amendment") is entered into between Cisco Systems, Inc. with its principal place of business at 170 Tasman Drive, San Jose, CA 95134 ("Cisco" or "Contractor") and the Division of Purchasing and General Services, an agency of the State of Utah ("State"), acting for itself and as the lead state on behalf of the *Western States Contracting Alliance* ("WSCA"), with its principal place of business at 3150 State Office Building, Capitol Hill, Salt Lake City, UT 84114-1061 (collectively, the "Parties") and is effective as of the date of last signature below ("Effective Date").

1. Scope

The Parties hereby modify the scope and permitted offerings under the Prime Contract referenced above to incorporate Cisco IronPort Systems LLC. ("IP") U.S. Product and Services Offerings as listed in the Cisco IronPort *North American Price Book* ("IP Pricebook", and collectively "IP Products"). The sale of IP Products by Authorized Purchasers under AR-233 is governed solely by this Amendment.

2. Prime Contract Incorporation

The WSCA Prime Contract governs sales under this Amendment and supersedes any conflicting terms in the Exhibits, subject to the following additions, modifications and exclusions:

- a. All stated references in the Prime Contract scope of permissible product and services offerings is amended to add IP Products offered under the then-current IP Pricebook during the Prime Contract term. For Orders under this Amendment, all Prime Contract references to the "Cisco Global Price List" shall be deemed to refer solely to the IP Pricebook.
- b. Orders for IP Products may only be accepted by "Fulfillment Partners" who hold a specific manufacturer's authorization for resale of IP Products. For purposes of Orders placed under this Amendment, Prime Contract references to "Fulfillment Partners", shall be deemed to refer to only those resellers holding a specific manufacturer's authorization to resell IP Products.
- c. Attachment A, Section E, Paragraph 1 (a) (Discounts off Manufacturer's Price List): Price list and discounts are to be applied against the then-current IP Pricebook as further detailed in this Amendment, Exhibit #6.
- d. Attachment A, Section E, Paragraph 2 (Resolution of Customer Problems): Escalation contacts for IP Orders will be posted on the Cisco WSCA homepage.
- e. Attachment A, Section E, Paragraph 4 (Technical Services): The URL listed in this paragraph 4 applies only to Cisco Products.
- f. Attachment B, Section 15 (Conflict of Terms) is not applicable to IP Orders placed under this Amendment. In the event of any conflict, the order of precedence for IP Orders placed under this Amendment shall be resolved as follows:

1. WSCA *Participating Addendum* (for the State in which the Order is placed)
 2. Amendment #4 (Main body text of this document, and Exhibit #6)
 3. WSCA Prime Contract
 4. Amendment #4 (Exhibits)
- g. Attachment B, Section 20 (Shipping and Delivery - Products): Governs IP Orders under this Amendment, including Section 20.4 (shipping FOB destination).
- h. Attachment B, Section 21 (Limited Warranty – Hardware - Software): Governs IP Orders under this Amendment, except that the longer 1 year warranty period stated in Exhibit #1 supersedes the 90 day warranty set forth in the Prime Contract.
- i. Attachment C, Section 1 (Demonstration and Evaluation Equipment) is not applicable to IP Orders placed under this Amendment.
- j. Attachment C, Section 3.5 (Services): For Orders placed under this Amendment, Prime Contract references to service descriptions or offerings shall be deemed to solely refer to the IP terms of service offerings as set forth on www.ironport.com/products.
- k. Attachment C, Section 4 (Software License) is applicable to IP Orders placed under this Amendment. Additionally, each of IronPort's licensors shall be entitled to enforce the rights of IronPort under this Agreement and those rights under this Agreement that are for the benefit of such licensor as if such licensor was a party to this Agreement.
- l. Attachment C, Exhibit A (WSCA Master Agreement List & Discount) is not applicable to IP Orders placed under this Amendment.
- m. Attachment C, Exhibit B (Demo Depot and Try and Buy Terms) is not applicable to IP Orders placed under this Amendment.
- n. Attachment D (Cisco Master Services Agreement and Advanced Services Agreement) is not applicable to IP Orders placed under this Amendment.
- o. Attachment E (Cisco Redacted Bid Proposal) is not applicable to IP Orders placed under this Amendment.

3. IP Exhibits ("IP Agreements")

This Amendment expressly incorporates the following IronPort Exhibits and documentation ("IP Agreements") and govern Orders of IP Product under this Amendment:

Exhibit #1	Product & Services Sales Agreement (PSSA)
Exhibit #2	Hosted Email Master Services Agreement
Exhibit #3	Hybrid Email Master Services Agreement
Exhibit #4	Evaluation Agreement
Exhibit #5	User License Agreement (EULA)
Exhibit #6	Product/Services Offering and Price Schedule

References in the Exhibit to "Cisco IronPort LLC" or "IronPort" shall be deemed to refer to Contractor.

Order of Precedence with Prime Contract

Purchasers may be separately required to indicate their acceptance of applicable IP Agreements in substantially the form set forth in the Exhibits as a condition of access, e.g., via "click through accept" as part of key access code log-in activations, or via other electronic "click accept" tools. All Orders under this Amendment are subject to and governed by Purchaser's acceptance of the End User

License Agreement (EULA) set forth in Exhibit #5. Notwithstanding anything to the contrary in the Exhibits, the IP Agreements are subject to the order of precedence set forth in this Amendment, Section 2 (f), above.

(*All Section references, below, refer to the original Section number as shown on the marked-up document.)

Exhibit #1

Sections 2- 6, 10, 11 (b), 12-16, 18 and 19 are expressly superseded and deleted in their entirety pursuant to the order of precedence stated in Section 2 (f), above.

*Section 9 (Support and Maintenance Term): The reference to "Effective Date" shall be deemed to refer to the effective date of an individual Customer Order, and the reference to "current unit list price" shall be deemed to refer to the net discounted price payable after application of the IP U.S. List Price discount set forth in this Amendment.

Exhibit #2

Sections 3, 4, 6 (a) and (d), 7, 8, 14- 24 are expressly superseded and deleted in their entirety pursuant to the order of precedence stated in Section 2 (f), above.

Exhibit #3

Section Numbers: 3-5, 7 (a), (d) and (g), 8, 12-16, 18-23 are expressly superseded and deleted in their entirety pursuant to the order of precedence stated in this main document, Section 2 (f), above.

Exhibit #5

Section Number 8 is deleted in its entirety is expressly superseded and deleted in its entirety pursuant to the order of precedence stated in Section 2 (f), above. (*The preceding section references are to the original Section numbers that are shown as redline deletions in the attached Exhibit.)

4. Separation of Orders

IP Product Orders under this Amendment will be kept separate from Orders otherwise placed under the Prime Contract and separately submitted through IP authorized Resellers to Cisco IP Sales Operations in San Bruno, California. Rights and obligations under IP Orders shall not have any co-dependencies or contingencies, e.g., in acceptance, technical performance, payment or refund terms, for obligations otherwise under Cisco Systems, Inc. Product Orders under the Prime Contract.

5. Term

This Amendment term begins on the Effective date and ends co-terminously with the Prime Contract.

6. Definitions

Capitalized terms used in this Amendment not otherwise defined herein are defined in the Prime Contract.

[REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK]

This Amendment represents the entire understanding of the parties and supersedes any prior oral, electronic or other written communications or understandings with respect to the subject matter herein. This Amendment #4 may only be modified by a written document executed by both parties. Each party warrants and represents that its respective signatory whose signature appears below is, as of the date of signature, duly authorized to execute this Amendment #4 on behalf of and with the intent to legally bind their respective principal first identified above.

CISCO SYSTEMS, INC.

STATE OF UTAH ON ITS OWN BEHALF, AND AS
THE LEAD STATE ON BEHALF OF THE WESTERN
STATES CONTRACTING ALLIANCE

Signature: [Handwritten Signature]
Print Name: Mark Coyle
Title: VF Global Fin Ops
Date: 6/24/10

Name: Kent D Beers State Purchasing
Signature: [Handwritten Signature]
Print Name: Kent D Beers
Title: Director State Purchasing
Date: 7/6/10

Exhibit #1
IronPort Product & Services Sales Agreement (PSSA)

[Faint, illegible text, likely a signature or stamp]



PRODUCT AND SERVICES SALES AGREEMENT

This Product and Services Sales Agreement (this "Agreement") is entered into as the date of the last signature of the parties hereto set forth below (the "Effective Date") by and between Cisco IronPort Systems, LLC, a Delaware limited liability company with its principal place of business at 950 Elm Avenue, San Bruno, CA 94066 USA ("IronPort"), and _____, a _____ corporation, with its principal place of business at _____ ("Customer"). For good and valuable consideration, the parties hereby agree as follows:

PRODUCTS, PRICING & QUOTATION INFORMATION

Part Number	Quantity/ Seats	Description	Unit List Price	Discount	Total
Appliances					
Software Modules					
Spares & Accessories					
Support					
Professional Services					
Misc.					\$ -
IronPort Corporate Address Cisco IronPort Systems, LLC 950 Elm Ave. San Bruno, California 94066		IronPort Sales Representative Information Name: Phone: Fax: Email:		Subtotal: Freight: Pre-Sales Tax Total: \$ -	
Customer Shipping Address		Customer Technical Contact Information Name: Phone: Fax: Email: customer@customer.com		Customer Accounts Payable Information Name: Phone: Fax: Email: customer@customer.com	

Special Terms & Conditions

(To be specified for the individual transaction on approval of Customer and Contractor.)
Any provision set forth herein shall control in the event of a conflict with any term set forth in the General Terms & Conditions below.

General Terms & Conditions

1. **General.** The terms and conditions of this Agreement apply to the purchase of the products (the "Products") and services set forth above by Customer from IronPort. Customer acknowledges that any Product(s) listed above that were previously delivered for evaluation purposes, or that are spare units or demonstration units may be used and/or refurbished units, provided that the warranties set forth herein apply fully to such used and/or refurbished units. No terms, provisions or conditions of any purchase order, invoice or other business form or written authorization used by either party will have any effect on the rights, duties or obligations of the parties under, or otherwise modify, this Agreement, regardless of any failure of either party to object to such terms, provisions, or conditions. Notwithstanding anything to the contrary contained herein, Sections 3, 4, 5 and 9 of this Agreement shall not apply to any Products or services purchased by Customer directly from any party other than IronPort. The remaining sections of this Agreement shall apply to all Products and services purchased by Customer from authorized IronPort resellers.

2. **Embedded Software; Intellectual Property Rights.** IronPort hereby grants Customer a non-exclusive, non-transferable, non-sublicensable license to use the software contained on the Products (the "Software") in object code format solely for the internal business purposes of Customer. Except as otherwise agreed by the parties hereto in writing, Customer will not use the Software as a service provider or as part of a product or service offering to third parties without IronPort's prior written consent. Customer will not (i) transfer, assign, copy, modify or distribute the Software or (ii) attempt to, or authorize any third party to, decompile, reverse engineer or otherwise attempt to gain access to the Software source code or unbundle any software embedded within or contained on the Products. Customer will not remove any copyright or trademark notices on the Software. Except as provided in Section 16 below, Customer will not sell or transfer the Products containing Software to any third party. Customer acknowledges that IronPort and its licensors retain, at all times, all right, title and interest in and to the Software, including any improvements or modifications thereof and all copyright, patent, trade secret, trademark and other intellectual property rights embodied in the Products, and the user manuals and other written materials for the Products (the "Documentation"). Each of IronPort's licensors shall be entitled to enforce the rights of IronPort under this Agreement and those rights under this Agreement that are for the benefit of such licensor as if such licensor was a party to this Agreement. Notwithstanding anything herein to the contrary, all references in this Agreement to the "purchase" or "sale" of Software will mean, with respect to all parts of such Software, the acquiring or granting, respectively, of a license to use such parts, and to exercise any other rights pertaining to such parts which are expressly set forth herein.

3. **Additional Orders.** Unless otherwise mutually agreed in writing, the terms of this Agreement shall govern the purchase by Customer of additional Products and services after the Effective Date. To order additional Products and services, Customer shall submit a purchase order to IronPort containing substantially the same information required by the Products, Pricing and Quotation Information table above.

4. **Payment.** Customer agrees to purchase the Products and, if applicable, the Support and Maintenance (as defined in Section 7) for the prices set forth above, and such price quote shall remain valid for

a period of thirty (30) days from the receipt by Customer of this Agreement. All payments will be made in U.S. Dollars net thirty (30) days from the date of invoice. If payment is more than thirty (30) days late, IronPort may, without limiting any remedies available to IronPort, terminate this Agreement or suspend performance until payment is made current. All prices are exclusive of all sales, use, excise, value added, withholding and other taxes, and all customs duties and tariffs now or hereafter claimed or imposed by any governmental authority upon the sale of the Product, which will be invoiced to and paid by the Customer. For any renewal term, the terms of this Agreement will govern and all fees shall be payable within thirty (30) days of the invoice date and payable in advance of the applicable term.

5. **Title and Risk of Loss.** All sales are made F.O.B. point of shipment at IronPort's designated manufacturing facility, and IronPort's title to the Products and the risk of loss of or damage to the Products ordered by the Customer will pass to Customer at time of IronPort's delivery of Products to the carrier. The carrier shall be deemed Customer's agent, and any claims for damages in shipment must be filed with the carrier. IronPort is authorized to designate a carrier pursuant to IronPort's standard shipping practices unless otherwise specified in writing by Customer.

6. **Force Majeure.** Except for the obligation to pay monies due and owing, neither party shall be liable for any delay or failure in performance due to events outside the defaulting party's reasonable control, including, without limitation, acts of God, earthquakes, labor disputes, industry-wide shortages of supplies, actions of governmental entities, riots, war, terrorism, fire, epidemics, or delays of common carriers or other circumstances beyond its reasonable control. The obligations and rights of the defaulting party shall be extended for a period equal to the period during which such event prevented such party's performance.

7.2. **Support and Maintenance.** So long as Customer has paid in full all associated fees for IronPort's Platinum and/or Platinum Plus support programs, IronPort shall provide support and maintenance for the Products (the "Support and Maintenance"), as more fully set forth in Sections 7-9 and the *Support & Maintenance Table* set forth below. Support and Maintenance shall include (i) telephone and email support services for diagnosis of problems or performance deficiencies of the Software, and (ii) the use of commercially reasonable efforts to cure reported and reproducible Errors in the Software. An "Error" in the Software means a failure of the Software to perform materially in accordance with the Documentation. So long as Customer has met all of its obligations hereunder and has paid in full all associated fees for IronPort's Platinum and/or Platinum Plus support programs, IronPort will provide Customer with such patches, updates, releases and new versions of the Software that are commercially released by IronPort at no additional charge to IronPort's other customers receiving Support and Maintenance. All patches, updates, release and new versions provided hereunder will be considered part of the Software and subject to this Agreement. Notwithstanding anything herein to the contrary, the Support and Maintenance set forth herein, including patches, bug fixes and corrections, will be provided only for (i) the most current release version of the Software currently shipping to new customers, and (ii) any other versions of the Software released in the last year. From time to time, IronPort may provide to certain of its customers free of charge modifications or enhancements that represent a new product as an accommodation. Any such

accommodations shall not waive, diminish or abrogate IronPort's right to determine in its sole discretion whether or not an enhancement constitutes an update or a new product. Customer acknowledges that all reported Errors may not be corrected. IronPort shall have no obligation to provide Support and Maintenance if: (A) the Product was not used in accordance with IronPort's then current published specifications and such use caused the Error in the reasonable opinion of IronPort; (B) the Product or Software was altered, modified or corrected by Customer without IronPort's prior written consent; (C) Customer's computer(s) malfunctioned and the malfunction caused an error or defect in the Software; or (D) any other cause within the control of Customer that caused an error or defect in the Product or Software.

8.3. Customer Maintenance Obligations. Customer agrees to: (i) use reasonable efforts to resolve internally any support questions prior to requesting Support and Maintenance services; (ii) report Errors promptly in writing in English; (iii) provide sufficient information to IronPort for IronPort to duplicate the circumstances indicating a reported Software defect or Error; (iv) promptly incorporate the bug fixes, patches, updates, upgrades, releases and new versions provided hereunder; and (v) provide all reasonable cooperation access and full information to IronPort with respect to IronPort's furnishing of Support and Maintenance hereunder. During the term of this Agreement, IronPort may obtain information regarding Customer's email communication and web traffic and Customer agrees that, as a condition to entering into this Agreement and IronPort's commitment to providing Support and Maintenance, IronPort may use statistical data generated regarding Customer's email and web traffic so long as neither the source nor content of the information underlying the data is being disclosed. IronPort hereby reserves the right to deny any emergency on-site service requests if, in IronPort's good faith discretion, such emergency on-site service is not required to resolve Customer's technical problem or if Customer has violated any of its obligations hereunder.

9.4. Support and Maintenance Term. The initial term for the Support and Maintenance set forth herein ~~Order~~ will commence on the Order Effective Date and remain in effect for the time period set forth in the *Products, Pricing and Quotation Information* Section above. ~~Provided that the renewal date start occurs during the WSCA Master Agreement term and not on or after the termination/expiration date of the WSCA Master Agreement.~~ Support and Maintenance will automatically renew for additional one (1) year periods on each anniversary of the Effective Date, unless either party provides written notice of termination within thirty (30) days prior to such anniversary date. For each renewal term, Customer shall pay the current unit list price set forth above for the applicable Support and Maintenance program. Fees are payable within thirty (30) days of the invoice date and are payable in advance of the applicable term. ~~In the event that Customer desires to reinstate Support and Maintenance after allowing its Support and Maintenance to lapse, Customer will be required to pay IronPort's then current standard fee for reinstating lapsed Support and Maintenance. Support and Maintenance Fees are non-refundable unless IronPort has materially breached the maintenance terms and has failed to cure the breach after thirty (30) days written notice, in which case the prorated portion of any prepaid unused Support and Maintenance Fees are refundable.~~

10. Indemnity.

(a) ~~IronPort will have the obligation and right to defend any claim, action, suit or proceeding ("IPR Claim") brought against Customer so far as it is based on a claim that any Product supplied under this Agreement infringes Third Party IPR (as defined below). IronPort will indemnify Customer against any final judgment entered in respect of such an IPR Claim by a court of competent jurisdiction and against any settlements arising out of such an IPR Claim. IronPort's obligations to defend the IPR Claim and indemnify Customer are conditional upon: (i) Customer notifying IronPort promptly in writing of the IPR Claim or threat thereof; (ii) Customer giving IronPort full~~

~~and exclusive authority for the conduct of the defense and settlement of the IPR Claim and any subsequent appeal; and (iii) Customer giving IronPort all information and assistance reasonably requested by IronPort in connection with the conduct of the defense and settlement of the IPR Claim and any subsequent appeal.~~

~~(b) "Third Party IPR" means a United States copyright existing as at the Effective Date or a United States patent issued as at the Effective Date.~~

~~(c) If an IPR Claim has been made, or in IronPort's opinion is likely to be made, Customer agrees to permit IronPort, at IronPort's option and expense, either to: (i) procure for Customer the right to continue using the Product; (ii) replace or modify the Product so that there is no longer an infringement; or (iii) immediately terminate both parties' respective rights and obligations under this Agreement with regard to the Product, in which case Customer will promptly return the Product to IronPort and IronPort will refund to Customer the price originally paid by Customer to IronPort for the Product, as depreciated or amortized by an equal annual amount on a straight-line basis over three years from date of original shipment.~~

~~(d) Notwithstanding the foregoing, IronPort has no obligation or liability for, and Customer will defend and indemnify IronPort against, any IPR Claim arising from: (i) the combination, operation, or use of a Product supplied under this Agreement with any product, device, or software not supplied by IronPort; (ii) the amount or duration of use which Customer makes of the Product; revenue earned by Customer from services it provides that use the Product, or services offered by Customer to external or internal customers; (iii) the alteration or modification of any Product supplied under this Agreement; (iv) IronPort's compliance with Customer's designs, specifications, requests, or instructions; or (v) Customer's use of the Product after IronPort has recommended to Customer modifications or changes in or to the Product required to avoid such an IPR Claim.~~

~~(e) This Section 10 states the entire obligation of IronPort and its suppliers, and the exclusive remedy of Customer, in respect of any infringement or alleged infringement of any intellectual property rights or proprietary rights. This indemnity obligation and remedy are given to Customer solely for its benefit and in lieu of, and IronPort disclaims, all warranties, conditions and other terms of non-infringement or title with respect to any Product.~~

11.5. Warranty.

(a) **Warranty.** IronPort warrants that, for a period of one (1) year from the date of shipment of the Products (the "Warranty Period"), the Products sold hereunder will materially conform to IronPort's published specifications in effect as of the date of manufacture.

~~(b) The foregoing warranty will not apply if the Product (a) has been altered, except by IronPort, (b) has not been installed, operated, repaired, or maintained in accordance with instructions supplied by IronPort, (c) has been subjected to abnormal physical or electrical stress, misuse, negligence, or accident; or (d) is sold or in the case of Software, licensed, for beta, evaluation, testing or demonstration purposes for which IronPort does not receive a payment of purchase price or license fee.~~

~~(b) If during the Warranty Period: (i) IronPort is notified promptly in writing upon discovery of any defect in the Product, including a detailed description of such alleged defect, (ii) such Product is returned, transportation charges prepaid, to IronPort's designated manufacturing facility in accordance with IronPort's then-current return procedures, as set forth by IronPort from time to time, and (iii) IronPort's inspections and tests determine that the Product is indeed defective and has not been subjected to any of the conditions set forth in Section 11(b) above WSCA Master Agreement Attachment B Section 21.3, then, as Customer's sole remedy and IronPort's sole obligation under the foregoing warranty, IronPort will, at IronPort's option, repair or replace without charge the defective Product or~~

refund a pro-rata portion of the purchase price of the Product based on a three (3) year straight-line amortization. Any Product that has either been repaired or replaced under this warranty will have warranty coverage for the longer of ninety (90) days or the remaining warranty period. Replacement parts used in the repair of Product may be new or equivalent to new.

(d) EXCEPT AS SPECIFIED IN THIS WARRANTY, ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS, AND WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, SATISFACTORY QUALITY OR ARISING FROM A COURSE OF DEALING, LAW, USAGE, OR TRADE PRACTICE, ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW. TO THE EXTENT AN IMPLIED WARRANTY CANNOT BE EXCLUDED, SUCH WARRANTY IS LIMITED IN DURATION TO THE WARRANTY PERIOD. ALL SUPPORT AND MAINTENANCE IS PROVIDED "AS IS."

12. Limitation of Liability. IN NO EVENT SHALL IRONPORT OR ITS SUPPLIERS BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, LOST REVENUE, LOST PROFITS, OR LOST OR DAMAGED DATA, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EVEN IF IRONPORT OR ITS SUPPLIERS HAVE BEEN INFORMED OF THE POSSIBILITY THEREOF, NOTWITHSTANDING ANYTHING ELSE HEREIN, ALL LIABILITY OF IRONPORT AND ITS SUPPLIERS FOR CLAIMS ARISING UNDER THIS AGREEMENT OR OTHERWISE SHALL BE LIMITED TO THE MONEY PAID TO IRONPORT UNDER THIS AGREEMENT DURING THE SIX (6) MONTH PERIOD PRECEDING THE EVENT OR CIRCUMSTANCES GIVING RISE TO SUCH LIABILITY. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT.

13. Compliance with all Applicable Laws; Export Control. Customer shall obtain all licenses, permits and approvals required by any government and shall comply with all applicable laws, rules, policies and procedures including requirements applicable to the use of Products under the laws and regulations of any government where the Products are to be used (collectively "Applicable Laws"). Customer will indemnify and hold harmless IronPort, for any violation or alleged violation of any Applicable Laws. Customer hereby acknowledges that the Products and technology or direct products thereof ("Products and Technology"), supplied by IronPort under this Agreement are subject to export controls under the laws and regulations of the United States (U.S.). Customer shall comply with such laws and regulations governing use, export, re-export, and transfer of IronPort Products and Technology and will obtain all required U.S. and local authorizations, permits, or licenses. IronPort and Customer each agree to provide the other such information and assistance as may reasonably be required by the other in connection with securing such authorizations or licenses, and to take timely action to obtain all required support documents. Customer agrees to maintain full, true, and accurate records of exports, re-exports, and transfers of the Products and Technology, purchased and deployed or distributed, according to U.S. and local laws (minimum 5 years). Customer acknowledges that detailed information regarding compliance with U.S. use, export, re-export, and transfer laws may be found at:

<http://www.cisco.com/ww/export/compliance-provision.html>

14. Confidentiality.

Each party agrees to refrain from using the other party's Confidential Information (as defined below) except as contemplated herein and preserve and protect the confidentiality of the other party's

Confidential Information using the same measures that such party uses to protect its own confidential information, which in no event will be less than commercially reasonable measures. Customer shall not disclose to any third party the results of any evaluation or testing of the Product by Customer. Neither party shall disclose any of the terms of this Agreement to any third party without the prior written consent of the other party, provided that either party may disclose Confidential Information, and the terms or conditions of this Agreement, to such party's agents, attorneys and other representatives or any court of competent jurisdiction. "Confidential Information" means all non-public information that is either designated as proprietary and/or confidential, or by the nature of the circumstances surrounding disclosure, should reasonably be understood to be confidential.

15. Termination. If either party breaches a material provision of this Agreement and fails to cure such breach within thirty (30) days after receiving written notice of the breach, the non-breaching party will have the right to terminate this Agreement, including all licenses granted to Customer hereunder, at any time. Customer's breach of a payment obligation constitutes a default the date the payment is due and IronPort will have the right to terminate this Agreement immediately. The provisions of Sections 12, 13, 14, 15 and 16, and all accrued payment obligations, shall survive the termination of this Agreement.

16. Assignment; Entire Agreement; Modification. Neither party may assign or delegate its rights or obligations under this Agreement without the prior written consent of the other, such consent not to be unreasonably withheld or delayed, provided that any such assignment shall not relieve the assigning entity of any obligation to pay monies that were owed prior to the date of the assignment. Notwithstanding the foregoing, (i) either party may, without the other party's consent, assign or delegate its rights or obligations under this Agreement to its parent or majority-owned subsidiary company of sufficient net worth to meet any potential liability under this Agreement, and (ii) IronPort may, without Customer's consent, assign the right to receive any amount due. This Agreement supersedes all prior communications, transactions, and understandings, whether oral or written, and, together with any applicable click-through agreements for third party software contained on the Products, constitutes the sole and entire agreement between the parties pertaining to the referenced quotation or purchase order. No modification, addition or deletion, or waiver of any of the terms and conditions of this Agreement will be binding on either party unless made in a non-printed agreement clearly understood by both parties to be a modification or waiver, and signed by a duly authorized representative of each party.

17. U.S. Government Restricted Rights. The Software and Documentation are "commercial items", "commercial computer software" and "commercial computer software documentation," respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212, as applicable. Any use, modification, reproduction, release, performance, display or disclosure of the Software and Documentation by the United States Government shall be governed solely by the terms of this Agreement and shall be prohibited except to the extent expressly permitted by the terms of this Agreement.

18. Governing Law and Venue. This Agreement will be governed by the laws of the State of California, U.S.A., without regard to provisions on the conflicts of laws. The parties consent to the exclusive jurisdiction of, and venue in, the state and federal courts within Santa Clara County, California, U.S.A. THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS SHALL NOT APPLY TO THIS AGREEMENT.

19. Severability. If any portion of this Agreement is held invalid, the parties agree that such invalidity will not affect the validity of the remaining portions of this Agreement.

SUPPORT & MAINTENANCE TABLE (refer to online service description for then-current terms at time of order)

	IronPort Platinum Support	IronPort Platinum Plus Support *
Support Requests		
Phone, Email & Web	24/7	24/7
Technical Support		
Office hours (critical and non-critical issues)	M-F 6am-6pm PST (excluding US holidays)	M-F 6am-6pm PST (excluding US holidays)
Availability for critical issues	24/7	24/7
Response time	1 hr	Next Available Engineer / 1 hr
Hardware & Software Support		
Upgrade notifications	Yes	Yes
Field upgrades	Yes	Yes
Remote diagnostics	Yes	Yes
Hardware support **	Yes	Yes
Emergency on-site support ***	Best efforts next business day based on necessity on Hardware issues only	Best efforts next business day based on necessity on Hardware and Software issues
Online Resources		
Documentation	Yes	Yes
FAQ	Yes	Yes

* In addition, the following services are included in IronPort Platinum Plus Support: Two Designated Support Engineers; Major Software Release Reviews; and Periodic System Analysis and Appliance Monitoring.

** Shipments delivered to Customer's site the next business day by 10:30 am local time (second business day if shipped on Sunday or US holiday). This may vary for international shipments.

*** Emergency on-site support may vary or be limited for non-US customers.

Wherefore, the parties have caused this Product and Services Sales Agreement to be executed effective as of the Effective Date:

CISCO IRONPORT SYSTEMS, LLC	CUSTOMER
Signature: _____	Signature: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

Exhibit #2
IronPort Hosted Email Master Services Agreement

MASTER SERVICES AGREEMENT
Cisco IronPort Systems LLC

~~This Agreement is entered into between Cisco IronPort Systems LLC ("IronPort"), a Delaware limited liability company, having its principal place of business at 950 Elm Ave., San Bruno, California, 94066 and _____, a _____ corporation ("Customer") having its principal place of business at _____, United States, and is entered into as of the date of last signature below (the "Effective Date").~~

This Agreement consists of (i) this signature page, (ii) the Master Services Agreement Terms and Conditions (including the Exhibits) and (iii) the Product and Services Descriptions of the Products and/or Services Customer has elected to purchase, which are incorporated in this Agreement by this reference.

Customer may purchase the Services from an authorized IronPort Reseller. In the event that Customer purchases the Services from an authorized IronPort Reseller, Sections 2(a), 3, 4, 5, and 6 and 7(b) will not apply.

~~The parties have caused this Agreement to be duly executed. Each party warrants and represents that its respective signatories whose signatures appear below are on the date of signature authorized to execute this Agreement.~~

_____	Cisco IronPort Systems LLC
_____	_____
("Customer")	("IronPort")
_____	_____
Authorized Signatory	Authorized Signature
_____	_____
Print Name	Print Name
_____	_____
Title	Title
_____	_____
Date	Date

MASTER SERVICES AGREEMENT - TERMS AND CONDITIONS

1. **Definitions** are those set out in the Glossary of Terms at the end of the Agreement.

2. **2. Scope.** This Agreement describes the terms and conditions for (a) Purchases from IronPort by Customer of Services, and (b) delivery by IronPort of the Services according to the options ordered by Customer or otherwise provided by IronPort to Customer. IronPort will provide Services for Products and Customer will be entitled to receive Services for which (i) the applicable Services fees have been paid (ii) a valid Software license has been granted and (iii) Customer provides information reasonably requested by IronPort including, but not limited to, site location(s), contract number, and Product/Service requested.

3. **Orders.** Customer shall, upon and subject to credit approval by IronPort, purchase Services by issuing a Purchase Order. Each Purchase Order must be signed, if requested by IronPort, or (in the case of electronic transmission) sent, by an authorized representative, indicating the specific Services, quantity, price, total purchase price, bill to address, tax exempt certifications, if applicable, contract reference if any, and any other special instructions. No contingency contained on any Purchase Order shall be binding upon IronPort. The terms of this Agreement shall apply, regardless of any additional or conflicting terms on any Purchase Order or other correspondence or documentation submitted by Customer to IronPort, and any such additional or conflicting terms are deemed rejected by IronPort.

4. **Payment.** Upon and subject to credit approval by IronPort, payment terms shall be net thirty (30) days from the date of invoice. Unless otherwise agreed by IronPort, all payments shall be made in the currency used by the IronPort entity with which Customer has placed its Purchase Order. Any sum not paid by Customer when due shall bear interest from the due date until paid at a rate of (a) ten (10) per cent per annum, or (b) the maximum rate permitted by law, whichever is less.

5. **3. Invoicing.** Fees for Services, other than those for which a SOW is required, shall be invoiced in advance of delivery of Services. The timing of invoices for Services provided pursuant to a SOW shall be set forth in the respective SOW.

6. **4. Term and Termination.**

The term of this Agreement shall commence on the Effective Date and shall continue for a period of one year. Such term will be renewed automatically for successive one year terms unless either party notifies

the other of its intent to terminate at least sixty (60) days prior to the expiration of the then current one-year term.

(a) The term of the Services shall commence on the date set forth on the Purchase Order, which may be up to sixty (60) days following the date of Purchase Order acceptance by IronPort. Upon the expiration of the initial Services term, the Services shall be renewed automatically for successive one year terms provided that the starting date for the renewal term is on or before the termination or expiration of the WSCA Master Agreement, unless either party notifies the other of its intent to terminate at least sixty (60) days prior to the expiration of the then current one year term.

(b) The term of each SOW, if any, shall be stated in the SOW.

(d) This Agreement and the Services or SOW may be terminated immediately by either party upon written notice:

(i) if the other party breaches any of the material provisions of this Agreement and the breach is not capable of being cured or after providing thirty (30) days written notice to the breaching party if the breaching party fails to cure such breach within such period.

(ii) if: (a) the other party ceases to carry on business as a going concern; or (b) the other party becomes or may become the object of the institution of voluntary or involuntary proceedings in bankruptcy or liquidation; or (c) a receiver or similar officer is appointed with respect to the whole or a substantial part of the other party's assets; or (d) an event similar to any of the foregoing occurs under applicable law with respect to the other party.

(iii) if the other party assigns or transfers any of the rights or responsibilities granted under this Agreement or SOW in breach of Section

(ec) If Services undisputed fees are not paid when due and payment has not been received within thirty (30) days after notice from IronPort of such past due payment, IronPort may withhold the provision of Services until all amounts past due are paid in full, and/or terminate immediately this Agreement, the Services and SOW.

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(fd) IronPort reserves the right to make changes to the scope and content of the Services or part thereof, including terminating the availability of a given Service at any time upon ninety (90) days prior notice. Such changes will become effective upon renewal of the affected Services and SOWs. If Customer does not agree to a change of scope or content, Customer may terminate any Services or SOW by notifying IronPort at least sixty (60) days prior to the expiration of the then current one year term of the Services or SOW. In such case, IronPort shall continue to provide Services until the next expiration date (see Section 7(b), above) of the affected Services or SOW.

~~(e) (c) In the event that, following termination or expiration of this Agreement, Customer places Purchase Orders and IronPort accepts such Purchase Orders, then any such Purchase Orders shall be governed by the terms and conditions of this Agreement notwithstanding the earlier expiration or termination of this Agreement; provided, however, that acceptance by IronPort of any such Purchase Order will not be considered to be an extension of the term of the Agreement nor a renewal thereof. The Services and any SOW hereunder shall terminate immediately upon termination of the Agreement to the extent they remain executory as of the date of termination, unless otherwise agreed by IronPort.~~

(fh) Upon termination of the Agreement, any Services or SOWs, Customer shall pay IronPort for all work performed under the affected Purchase Order or SOWs up to the effective date of termination at the agreed upon prices, fees and expense reimbursement rates.

~~7. Confidentiality. Customer and IronPort agree that in connection with this Agreement and their relationship, they may obtain Confidential Information. The receiving party shall at all times keep in trust and confidence all such Confidential Information, and shall not use such Confidential Information other than as expressly authorized by the disclosing party under this Agreement, nor shall the receiving party disclose any such Confidential Information to third parties without the disclosing party's written consent. Notwithstanding the above, IronPort shall be authorized to disclose Customer's Confidential Information to contractors or employees of an IronPort entity or Affiliate who have a legitimate business need to have access to such information. The receiving party shall immediately return to the disclosing party all Confidential Information (including copies thereof) in the receiving party's possession, custody, or control upon termination or expiration at any time and for any reason of this Agreement. The obligations of confidentiality shall not apply to information which (a) has entered the~~

~~public domain, except where such entry is the result of the receiving party's breach of this Agreement; (b) prior to disclosure hereunder was already rightfully in the receiving party's possession; (c) subsequent to disclosure hereunder is obtained by the receiving party on a non-confidential basis from a third party who has the right to disclose such information to the receiving party. The receiving party will be authorized to disclose Confidential Information pursuant to a valid order issued by a court or government agency, provided that the receiving party provides (i) prior written notice to the disclosing party of such obligation and (ii) the opportunity to oppose such disclosure. For the purposes of this Section 8, an "Affiliate" is an entity controlling, controlled by or under common control with IronPort.~~

~~8. Neither party shall disclose, advertise, or publish the terms and conditions of this Agreement without the prior written consent of the other party. Any press release or publication regarding this Agreement is subject to prior review and written approval of the parties.~~

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~~95. Warranty.~~

~~95.1 ALL SERVICES PROVIDED HEREUNDER SHALL BE PERFORMED IN A WORKMANLIKE MANNER. EXCEPT AS SPECIFIED IN THIS SECTION, IRONPORT HEREBY DISCLAIMS AND CUSTOMER WAIVES ALL REPRESENTATIONS, CONDITIONS AND WARRANTIES (WHETHER EXPRESS, IMPLIED, OR STATUTORY), INCLUDING WITHOUT LIMITATION, ANY WARRANTY OR CONDITION (A) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, TITLE, SATISFACTORY QUALITY, QUIET ENJOYMENT, ACCURACY, (B) ARISING FROM ANY COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE IN THE INDUSTRY. TO THE EXTENT AN IMPLIED WARRANTY CANNOT BE DISCLAIMED, SUCH WARRANTY IS LIMITED IN DURATION TO THE APPLICABLE EXPRESS WARRANTY PERIOD. CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY SHALL BE, AT IRONPORT'S OPTION, RE-PERFORMANCE OF THE SERVICES; OR TERMINATION OF THIS AGREEMENT OR SOW AND RETURN OF THE PORTION OF THE SERVICE FEES PAID TO IRONPORT BY CUSTOMER FOR SUCH NON-CONFORMING SERVICES.~~

~~95.2 GENERAL DISCLAIMER FOR ALL SERVICES.~~

~~ANY WARRANTIES AND RELATED REMEDIES IN THIS SECTION 9 ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OR REMEDIES, EXPRESS, STATUTORY, OR IMPLIED, INCLUDING~~

WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE DISCLAIMERS AND EXCLUSIONS IN THIS SECTION 9 SHALL APPLY EVEN IF THE EXPRESS WARRANTIES AND LIMITED REMEDIES SET FORTH IN THIS SECTION 9 FAIL OF THEIR ESSENTIAL PURPOSE. IN ANY EVENT, THE WARRANTIES PROVIDED UNDER THIS AGREEMENT ARE SUBJECT TO THE LIMITATIONS OF LIABILITY SET FORTH IN THIS AGREEMENT.

95.3 BECAUSE OF THE CONTINUOUS EVOLUTION OF THE SOPHISTICATION OF NETWORK THREATS AND INFRASTRUCTURE TECHNOLOGIES, IRONPORT DOES NOT MAKE, AND IT IS ACKNOWLEDGED THAT IRONPORT CANNOT MAKE ANY WARRANTY OR REPRESENTATION THAT ANY SYSTEM ATTACK OR IMPACTING INCIDENT WILL BE DETECTED OR PREVENTED.

95.4 CUSTOMER ACKNOWLEDGES THAT THE SERVICES ARE NOT DESIGNED OR INTENDED BY IRONPORT FOR USE OR RESALE IN, OR FOR INCORPORATION INTO PRODUCTS OR SERVICES USED IN HIGH RISK ACTIVITIES. IRONPORT SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF ANY KIND WITH RESPECT TO THE USE OF THE SERVICES IN CONNECTION WITH ANY HIGH RISK ACTIVITY.

10: 6. Limitation of Liability and Consequential Damages Waiver.

ALL LIABILITY OF IRONPORT, ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND SUPPLIERS COLLECTIVELY FOR CLAIMS ARISING UNDER THIS AGREEMENT OR OTHERWISE HOWSOEVER ARISING SHALL BE LIMITED TO THE GREATER OF (I) THE MONEY PAID TO IRONPORT FOR SERVICES UNDER THIS AGREEMENT DURING THE SIX (6) MONTH PERIOD PRECEDING THE EVENT OR CIRCUMSTANCES FIRST GIVING RISE TO SUCH LIABILITY OR (II) THE AMOUNT OF FEES EQUAL TO THE UNEXPIRED REMAINDER OF THE PRE-PAID SERVICE TERM. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER-INCIDENT (I.E., THE EXISTENCE OF TWO OR MORE CLAIMS WILL NOT ENLARGE THIS LIMIT).

SUBJECT TO CUSTOMER'S BREACH OF SECTION (LICENSE), IN NO EVENT SHALL EITHER PARTY, ITS RESPECTIVE AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR SUPPLIERS BE LIABLE FOR ANY SPECIAL,

INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, OR LOST REVENUE, LOST PROFITS, OR LOST OR DAMAGED DATA, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN INFORMED OF THE POSSIBILITY THEREOF.

11: 7. Licenses. Subject to Customer's compliance with the terms of this Agreement, any applicable AS Service Description or SOW, and the End User Agreement, IronPort grants to Customer a worldwide, non-exclusive and non-transferable license to use, for Customer's internal business use only: (i) the Services; (ii) other Deliverables specified in an applicable AS Service Description or SOW, if any, and (iii) Data Collection Tools, if any (collectively and individually, the "Licensed Materials"). In addition, IronPort grants to Customer a right to modify and create derivative works of any Scripts provided by IronPort to Customer pursuant to this Agreement, solely for Customer's internal business use. These license grants do not include the right to sublicense; provided that Customer may permit its suppliers, subcontractors and other related third parties to use the Licensed Materials solely on Customer's behalf for Customer's benefit, provided that Customer ensures that any such use is subject to license restrictions and confidentiality obligations at least as protective of IronPort's rights in such Licensed Materials as are specified in this Agreement.

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Nothing in this Agreement, any AS Service Description or any SOW shall alter or affect the Intellectual Property rights and/or licenses provided with any IronPort Products. The terms and conditions provided with the Services ("End User Agreement"), are hereby incorporated into this Agreement by this reference. To the extent there is a conflict between the terms of the attached End User Agreement and the remainder of this Agreement, the terms of the End User Agreement shall apply, unless explicitly stated otherwise in this Agreement. The provisions in this Section apply only to those Services and Deliverables and other Intellectual Property provided by IronPort to Customer.

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Except as otherwise expressly set forth in this Agreement or an applicable SOW, Customer shall not (and shall not permit a third party to): make error corrections or derivative works of, or otherwise modify, decompile, decrypt, reverse engineer, disassemble or otherwise reduce all or any portion of any Deliverable, Data Collection Tool or the Services to human-readable form; or transfer, sublicense, rent, lease, distribute, or sell, any Services, Deliverables or Data Collection Tools. Customer agrees that it receives no implied licenses under this Agreement,

and all rights not expressly granted herein are reserved to IronPort.

Customer hereby grants to IronPort a perpetual, irrevocable, royalty free, worldwide right and license to all Intellectual Property in the Customer Feedback (as defined below) to use and incorporate Customer Feedback into any Services, Products, Deliverables, Data Collection Tools, Reports, Scripts or IronPort Pre-Existing Technology, and to use, make, have made, offer to sell, sell, copy, distribute and create derivative works of such Customer Feedback for any and all purposes whatsoever, and Customer acknowledges and agrees that it will obtain no rights in or to any Services, Products, Deliverables, Data Collection Tools, Reports, Scripts or IronPort Pre-Existing Technology as a result of IronPort's use of any such Customer Feedback. For purposes of this Agreement, "Customer Feedback" means all oral or written communications regarding improvements or changes to any Services, Products, Deliverables, Data Collection Tools, Reports, Scripts or IronPort Pre-Existing Technology that Customer provides to IronPort.

12. g. Customer Responsibilities.

In performing the Services, IronPort may instruct the Customer to perform certain tasks or checks relating to Customer's Network. Customer shall, at its expense, perform all such checks and tests. Customer will also provide IronPort, or its authorized representative, reasonable and free access to Customer's networking equipment. Customer shall not be required to furnish specialized equipment or know-how. Customer agrees to pay IronPort, at IronPort's then-current discounted contract rates, plus any reasonable actual out-of-pocket expenses, for any rework or additional work resulting from modification of the Services requested by Customer (and accepted by IronPort) or any act or omission of Customer, including providing inaccurate information to IronPort. IronPort shall seek Customer's approval in advance of incurring such costs if it knows costs will be incurred as a result of such act or omission of Customer.

Customer is responsible for obtaining all approvals required by any third parties in order for IronPort to perform any Service under this Agreement. IronPort shall not be in default of this Agreement to the extent it cannot perform the Services either because such approvals have not been obtained or any third party otherwise prevents IronPort from performing such Services.

Customer agrees that it shall not resell the Product and/or Services or create or offer derivative versions of the Services either directly or through a third party.

CUSTOMER ASSUMES FULL RESPONSIBILITY FOR THE CONTROL AND USE OF THE DATA

CONTAINED IN ANY REPORTS PROVIDED BY IRONPORT HEREUNDER. CUSTOMER ACKNOWLEDGES THE POTENTIAL PRIVACY AND OTHER ISSUES ASSOCIATED WITH THE COLLECTION AND USE OF THIS DATA.

CUSTOMER ASSUMES FULL RESPONSIBILITY TO BACK-UP AND/OR OTHERWISE PROTECT ALL DATA AGAINST LOSS, DAMAGE, OR DESTRUCTION. CUSTOMER ACKNOWLEDGES THAT IT HAS BEEN ADVISED TO BACK-UP AND/OR OTHERWISE PROTECT ALL DATA AGAINST LOSS, DAMAGE OR DESTRUCTION.

THE FAILURE OF CUSTOMER TO COMPLY WITH THIS SECTION 12.8 MAY BE DEEMED A MATERIAL BREACH OF THIS AGREEMENT.

13. g. Ownership. Each party will retain the exclusive ownership of all its pre-existing Intellectual Property, Confidential Information and materials, including, without limitation, proprietary ideas, sketches, diagrams, text, know-how, concepts, proofs of concepts, artwork, software, algorithms, methods, processes, identifier codes or other technology that are owned by a party prior to commencement of any Services hereunder, or that are otherwise developed by or for such party outside the scope of this Agreement ("Pre-Existing Technology").

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Except as otherwise expressly set forth in this Agreement or an applicable SOW, IronPort owns and will continue to own all right, title and interest in and to the Hardware, Services, Products, Deliverables, Data Collection Tools, Reports, Scripts, sketches, diagrams, text, know-how, concepts, proofs of concepts, artwork, software, algorithms, methods, processes, identifier codes or other technology provided or developed by IronPort (or a third party acting on IronPort's behalf) pursuant to this Agreement, including modifications, enhancements, improvements or derivative works of any of the foregoing, regardless of who first conceives or reduces to practice, and all Intellectual Property in any of the foregoing (collectively, "IronPort Intellectual Property").

As between Customer and IronPort, Customer shall at all times retain all right, title and interest in and to all of Customer's Pre-Existing Technology and all Intellectual Property that is developed by Customer or by a third party on Customer's behalf thereafter, other than IronPort Intellectual Property. Third Party Products shall at all times be owned by the applicable third party, and will be subject to any applicable third party license terms.

~~14. Force Majeure. Except for the obligation to pay monies due and owing, neither party shall be liable for any delay or failure in performance due to events outside the defaulting party's reasonable control, including without limitation acts of God, earthquake, labor disputes, industry wide shortages of supplies, actions of governmental entities, riots, war, terrorism, fire, epidemics, or delays of common carriers or other circumstances beyond its reasonable control. The obligations and rights of the defaulting party shall be extended for a period equal to the period during which such event prevented such party's performance.~~

~~15. Applicable Law and Jurisdiction. The validity, interpretation, and performance of this Agreement shall be controlled by and construed under the laws of the State of California, United States of America, as if performed wholly within the state and without giving effect to the principles of conflicts of law. The State and Federal Courts of California shall have exclusive jurisdiction over any claim arising under this Agreement. Notwithstanding the foregoing, either party may seek interim or temporary injunctive relief in any court of appropriate jurisdiction with respect to any alleged breach of such party's intellectual property or proprietary rights.~~

~~The parties specifically disclaim the application of the UN Convention on Contracts for the International Sale of Goods to the interpretation or enforcement of this Agreement.~~

~~16. Export Control. Customer shall comply with such laws and regulations governing use, export, re-export, and transfer of IronPort Products and technology and will obtain all required U.S. and local authorizations, permits, or licenses.~~

~~17. Assignment. Neither party may assign or delegate its rights or obligations under this Agreement without the prior written consent of the other, such consent not to be unreasonably withheld or delayed, provided that any such assignment shall not relieve the assigning entity of any obligation to pay monies that were owed prior to the date of the assignment. Notwithstanding the foregoing, (a) either party may, without the other party's consent, assign or delegate its rights or obligations under this Agreement to its parent or majority owned subsidiary company of sufficient net worth to meet any potential liability under this Agreement, and (b) IronPort may, without Customer's consent, assign the right to receive any amount due.~~

~~18.2. IronPort reserves the right to subcontract Services to a third party organization to provide Services to Customer. Any such subcontract shall not relieve~~

~~IronPort of any of its obligations under this Agreement.~~

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~~10. Inventory Review. From time-to-time, IronPort may perform an inventory review of Customer's infrastructure. IronPort will charge a Service fee if it finds that unauthorized Services are being provided. This Service fee includes amounts which should have been paid, interest, attorneys' and audit fees. IronPort requires that Customer take all necessary action (for example, disabling passwords) to ensure that any former employees and contractors do not access or use the Service.~~

~~19. Timewill be in writing and will be deemed given one day after deposit with a commercial express courier specifying next day delivery (or two (2) days for international courier packages specifying 2 day delivery), with written verification of receipt. All communications will be sent to the addresses set forth on the cover sheet of this Agreement or such other address as may be designated by a party by giving written notice to the other party pursuant to this paragraph. Notwithstanding the above, notices regarding general changes in pricing, policies or programs may also be by posting on IronPort.com or by e-mail or fax.~~

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~~20. Entire Agreement. This Agreement is the complete agreement between the parties concerning the subject matter of this Agreement and replaces any prior oral or written communications between the parties, except as agreed between the parties. There are no conditions, understandings, agreements, representations, or warranties expressed or implied, that are not specified herein. This Agreement may only be modified by a written document executed by the parties hereto.~~

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~~21. No Waiver. The waiver by either party of any right provided under this Agreement shall not constitute a subsequent or continuing waiver of such right or of any other right under this Agreement.~~

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~~22. Severability. In the event that one or more terms of this Agreement becomes or is declared to be illegal or otherwise unenforceable by any court of competent jurisdiction, each such term shall be null and void and shall be deemed deleted from this Agreement. All remaining terms of this Agreement shall remain in full force and effect. Notwithstanding the foregoing, if this paragraph is invoked and, as a result, the value of this Agreement is materially impaired for either party, as determined by such party in its sole discretion, then the affected party may terminate this Agreement by written notice with immediate effect to the other.~~

~~23. Attorneys' Fees. In any suit or proceeding relating to this Agreement the prevailing party will have the right to recover from the other its costs and reasonable~~

~~fees and expenses of attorneys, accountants, and other professionals incurred in connection with the suit or proceeding, including costs, fees and expenses upon appeal, separately from and in addition to any other amount included in such judgment. This provision is intended to be severable from the other provisions of this Agreement, and shall survive expiration or termination and shall not be merged into any such judgment.~~

~~24. **No Agency.** This Agreement does not create any agency, partnership, joint venture, or franchise relationship. No employee of either party shall be or become, or shall be deemed to be or become, an employee of the other party by virtue of the existence or implementation of this Agreement. Each party hereto is an independent contractor. Neither party shall assume or create any obligation of any nature whatsoever on behalf of the other party or bind the other party in any respect whatsoever.~~

~~25. **11. Counterparts.** This Agreement may be executed in two counterparts, each of which shall be deemed an original and together which shall constitute one and the same instrument. A validly executed counterpart that is delivered by one party to the other via electronic transmission (a "Counterpart Image") shall be valid and binding to the same extent as one delivered physically, provided that the valid signature is clearly visible in the Counterpart Image. In the event that a party delivers a Counterpart Image in place of an originally-executed counterpart, such party shall retain the originally-executed counterpart in its files for at least the duration of the Term hereof.~~

~~26. **12. Headings.** Headings of sections have been added solely for convenience of reference and shall not be deemed part of this Agreement.~~

~~27. **13. Survival.** Sections ~~Terms set forth or incorporated in this Exhibit, including:~~ (Payment), (Term and Termination), (Confidentiality), (Warranty), (Limitation of Liability and Consequential Damages Waiver), (License), 13-(Ownership), 14-(Force Majeure), 15-(Applicable Law and Jurisdiction), 16-(Export Control), 19-(Inventory Review), 20-(Notices), 21-(Entire Agreement), 22-(No Waiver), 23-(Severability), 24 (Attorneys' Fees), 25-(No Agency), 28-(Survival), the Glossary of Terms and the Services Not Covered exhibits shall survive the termination or expiration of this Agreement.~~

**EXHIBIT A
GLOSSARY OF TERMS**

Additional Services means installation of new Hardware, system additions, Hardware upgrades, dispatch of a field engineer, or non-mandatory engineering changes.

Advanced Services means the Services set forth in the AS Service Description(s) found at and/or SOW(s) selected by the Customer. Advanced Services does not include IronPort's core maintenance services, nor does it apply to the purchase, support or maintenance of any Products.

Advanced Services Engineer means the IronPort engineer appointed to be the main point of contact for a Customer purchasing Advanced Services.

AS Service Descriptions mean the description of the Advanced Services available from IronPort, which are attached hereto.

Authorized Channel means a system integrator, distributor or reseller authorized by IronPort to sell Services.

Business Days means the generally accepted days of operation per week within the relevant region where the Services shall be performed, excluding local holidays as observed by IronPort.

IronPort.com () is the IronPort Website for its suite of online services and information.

Confidential Information means proprietary and confidential Information received by IronPort or Customer from the other party in connection with this Agreement and their relationship. Such Confidential Information may include, but is not limited to, trade secrets, know how, inventions, techniques, processes, programs, schematics, software source documents, data, customer lists, financial information, and sales and marketing plans or information which the receiving party knows or has reason to know is confidential, proprietary or trade secret information of the disclosing party, as well as, in the case of IronPort, any information posted on IronPort.com.

Customer means the entity purchasing Services for its own internal use.

Data Collection Tools means Hardware and/or Software tools that support IronPort's ability to provide troubleshooting on cases, data analysis, and report generation capabilities as part of the Advanced Services.

Depot Time or Local Time means Central European Time for Services provided in Europe-Middle-East and Africa, Australia's Eastern Standard Time for Services provided in Australia, Japan's Standard Time for Services provided in Japan, and Pacific Standard Time for Services provided in all other locations.

Deliverable(s) means, with respect to each AS Service Description and/or SOW, the items to be delivered by IronPort to Customer as set forth in an applicable AS Service Description and/or SOW, including, without limitation, any Software, Reports, Data Collection Tools, and/or Scripts.

Direct Purchases means purchases of Services by Customer directly from IronPort.

Documentation means user manuals, training materials, Product descriptions and specifications, technical manuals, license agreements, supporting materials and other

information relating to Products or Services offered by IronPort, whether distributed in print, electronic, CD-ROM or video format.

Event means notification by Customer of its performance of a planned Network Hardware, Software, or configuration change.

Feature Set Upgrade means a separately licensed and priced Software release that contains an enhanced configuration or feature set.

Four-hour Response means:

- (i) For Advance Replacement Service, the four-hour time period commences upon the IronPort problem diagnosis and determination that a field replacement unit (FRU) is required and ends when the FRU is delivered onsite.
- (ii) For onsite service, the four-hour time period commences upon the IronPort problem diagnosis and determination that remedial onsite service is required and ends when IronPort personnel arrive onsite.

Hardware means tangible IronPort equipment, devices, or components made available to Customers.

Indirect Purchases means purchases of Services by Customer through an Authorized Channel.

Intellectual Property means any and all tangible and intangible: (i) rights associated with works of authorship throughout the world, including but not limited to copyrights, neighboring rights, moral rights, and mask works, and all derivative works thereof, (ii) trademark and trade name rights and similar rights, (iii) trade secret rights, (iv) patents, designs, algorithms and other industrial property rights, (v) all other intellectual and industrial property rights (of every kind and nature throughout the world and however designated) whether arising by operation of law, contract, license, or otherwise, and (vi) all registrations, initial applications, renewals, extensions, continuations, divisions or reissues thereof now or hereafter in force (including any rights in any of the foregoing).

Level 1 means support that is defined as having the necessary technical staff (IronPort or IronPort-authorized Reseller) with appropriate skill, perform installations, Remedial Hardware Maintenance, and basic Hardware and Software configuration on IronPort Products.

Level 2 means support that is defined as having the necessary technical staff with the appropriate skills to perform isolation, replication and diagnosis of internet-based problems on IronPort Product(s). Customer shall not report Software bugs to IronPort prior to attempting to identify the source of such bugs and testing in Customer's Network where appropriate. If the Customer cannot duplicate the bug in Customer's Network, Customer and IronPort shall cooperate in attempting to replicate and resolve related Software bugs in either Customer's or IronPort's test facility as mutually agreed. In all cases Customer will address-Software bugs on a best effort basis to replicate same in Customer's Network and document activity to IronPort before seeking further resolution with IronPort's participation.

Local Time means local time on Business Days.

Maintenance Release means an incremental Software release that provides maintenance fixes and may provide additional Software functions. IronPort designates Maintenance Releases as a change in the digits to the right of the tenths digit or of the hundredths digit of the Software version number [x.x.(x) or x.x.x.(x)].

Major Release means a release of Software that provides additional software functions. IronPort designates Major Releases as a change in the ones digit of the Software version number [(x).x.x].

Minor Release means an incremental release of Software that provides maintenance fixes and additional Software functions. IronPort designates Minor releases as a change in the tenths digit of the Software version number [x.(x).x].

Network means a set of interconnected and interworking IronPort supported Hardware and Software that is implemented, operated, and supported by Customer from a single security operations center (SOC).

Network Infrastructure means your core transport and aggregation Network technology (for example, metro optical, ATM/Frame Relay, IP core and IronPort security devices including, but not limited to, Firewall, IDS and VPN3000).

Price List means the price list for services applicable in the country where the Services are ordered or delivered.

Product means IronPort Hardware and Software products that are made generally available.

Purchase Order or P.O. means a written or electronic order from Customer to IronPort for the Services to be provided by IronPort under this Agreement.

Reports means reports, recommendations, network configuration diagrams, and related non-Software Deliverables provided by IronPort to Customer pursuant to this Agreement.

RMA means Return Material Authorization.

Scripts means software scripts, macros and batch files provided by IronPort to Customer pursuant to this Agreement.

Services means one or more of the services options selected by the Customer in its Purchase Order and described at:

Services Descriptions mean the detailed descriptions of the Services purchased by Customer which are incorporated in the MSA by reference.

Software means the software programs provided to Customer by IronPort, including any copies, Updates, upgrades, modifications, enhancements, and any derivative works thereof.

Standard Business Hours means (i) 8:00 AM to 5:00 PM, Depot time, on Business Days for replacement of failed Products and (ii) 8:00 AM to 5:00 PM, Local Time at location, on Business Days for case handling of calls.

Statement of Work or SOW means the documents agreed upon by the parties that define the Services and Deliverables, if any, to be provided by IronPort to Customer.

Technical Support Services means Services that provide both essential proactive and reactive operation and maintenance support Services identified as Technical Support Services at .

Technology Application means specific technologies including, but not limited to, content networking, broadband, and IP telephony that do not operate at the Network Infrastructure level.

Third Party Products means third party hardware and/or software, and all upgrades/updates thereto, that are designated by IronPort as required for:

- (i) The operation of Application Software in conformance with IronPort applicable Application Software Documentation; and
- (ii) IronPort support of the Application Software.

Transactional Advanced Services means the project related or consultancy Services sold under a Statement of Work.

Update means IronPort Software Maintenance Releases, Minor Releases and Major Releases containing the same configuration or feature set as originally acquired, unless the Customer has upgraded the applicable Hardware or Software to a configuration or feature set other than what was originally acquired, and the applicable license fee for that upgrade has been paid. Updates do not include Feature Set Upgrades.

Exhibit #3
IRONPORT HYBRID EMAIL MASTER SERVICES
AGREEMENT

Cisco IronPort Systems LLC

**MASTER SERVICES AGREEMENT
Cisco IronPort Systems LLC**

This Agreement is entered into between Cisco IronPort Systems LLC ("*IronPort*"), a Delaware limited liability company, having its principal place of business at 950 Elm Ave., San Bruno, California, 94066 and _____, a _____ corporation ("*Customer*") having its principal place of business at _____, United States, and is entered into as of the date of last signature below (the "*Effective Date*").

This Agreement consists of (i) this signature page, (ii) the Master Services Agreement Terms and Conditions (including the Exhibits) and (iii) the Product and Services Descriptions of the Products and/or Services Customer has elected to purchase, which are incorporated in this Agreement by this reference.

Customer may purchase the Services from an authorized IronPort Reseller. In the event that Customer purchases the Services from an authorized IronPort Reseller, Sections 2(a), 3, 4, 5, 6 and 7(b) will not apply.

The parties have caused this Agreement to be duly executed. Each party warrants and represents that its respective signatories whose signatures appear below are on the date of signature authorized to execute this Agreement.

_____	Cisco IronPort Systems LLC
("Customer")	("IronPort")
Authorized Signature	Authorized Signature
Print Name	Print Name
Title	Title
Date	Date

MASTER SERVICES AGREEMENT - TERMS AND CONDITIONS

1. **Definitions** are those set out in the Glossary of Terms at the end of the Agreement.

2. **Scope.** This Agreement describes the terms and conditions for (a) Purchases from IronPort by Customer of Services, and (b) delivery by IronPort of the Services according to the options ordered by Customer or otherwise provided by IronPort to Customer. IronPort will provide Services for Products and Customer will be entitled to receive Services for which (i) the applicable Services fees have been paid (ii) a valid Software license has been granted and (iii) Customer provides information reasonably requested by IronPort including, but not limited to, site location(s), contract number, and Product/Service requested.

3. **Orders.** Customer shall, upon and subject to credit approval by IronPort, purchase Services by issuing a Purchase Order. Each Purchase Order must be signed, if requested by IronPort, or (in the case of electronic transmission) sent, by an authorized representative, indicating the specific Services, quantity, price, total purchase price, bill-to address, tax exempt certifications, if applicable, contract reference if any, and any other special instructions. No contingency contained on any Purchase Order shall be binding upon IronPort. The terms of this Agreement shall apply, regardless of any additional or conflicting terms on any Purchase Order or other correspondence or documentation submitted by Customer to IronPort, and any such additional or conflicting terms are deemed rejected by IronPort.

4. **Pricing.** Prices for Services shall be (a) those specified in IronPort's then current Price List less any applicable then current discount at the time of acceptance of the Purchase Order by IronPort, or (b) those set forth in a written price quotation submitted by IronPort. All stated prices are exclusive of any taxes, fees and duties or other amounts. Any taxes related to Services purchased pursuant to this Agreement shall be paid by Customer or Customer shall present an exemption certificate acceptable to the taxing authorities. Applicable taxes shall be billed as a separate item on the invoice, to the extent possible. IronPort reserves the right to gross up any Service fee in the event a withholding prevents IronPort from receiving the amount of the Price List less the applicable discount.

5. **Payment.** Upon and subject to credit approval by IronPort, payment terms shall be not thirty (30) days from the date of invoice. Unless otherwise agreed by IronPort, all payments shall be made in the currency used by the IronPort entity with which Customer has placed its Purchase Order. Any sum not paid by Customer when due shall bear interest from the due date until paid at a rate of

(a) ten (10) per cent per annum, or (b) the maximum rate permitted by law, whichever is less.

6. **3. Invoicing.** Fees for Services, other than those for which a SOW is required, shall be invoiced in advance of delivery of Services. The timing of invoices for Services provided pursuant to a SOW shall be set forth in the respective SOW.

7. 4. Term and Termination.

(a) ~~The term of this Agreement shall commence on the Effective Date and shall continue for a period of one year. Such term will be renewed automatically for successive one year terms unless either party notifies the other of its intent to terminate at least sixty (60) days prior to the expiration of the then current one year term.~~

(b) (a) The term of the Services shall commence on the date set forth on the Purchase Order, which may be up to sixty (60) days following the date of Purchase Order acceptance by IronPort. Upon the expiration of the initial Services term, the Services shall be renewed automatically for successive one year terms provided that the start date for the renewal term occurs prior to the termination or expiration of the WSCA Master Agreement, unless either party notifies the other of its intent to terminate at least sixty (60) days prior to the expiration of the then current one year term.

(c)(b) The term of each SOW, if any, shall be stated in the SOW.

(d) This Agreement and the Services or SOW may be terminated immediately by either party upon written notice:

- (i) if the other party breaches any of the material provisions of this Agreement and the breach is not capable of being cured or after providing thirty (30) days written notice to the breaching party if the breaching party fails to cure such breach within such period.
- (ii) if (a) the other party ceases to carry on business as a going concern; or (b) the other party becomes or may become the object of the institution of voluntary or involuntary proceedings in bankruptcy or liquidation; or (c) a receiver or similar officer is appointed with respect to the whole or a substantial part of the other party's assets; or (d) an event similar to any of the foregoing occurs under

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~~applicable law with respect to the other party.~~

~~(iii) if the other party assigns or transfers any of the rights or responsibilities granted under this Agreement or SOW in breach of Section~~

(ec) If Services undisputed fees are not paid when due and payment has not been received within thirty (30) days after notice from IronPort of such past due payment, IronPort may withhold the provision of Services until all amounts past due are paid in full, and/or terminate immediately this Agreement, the Services and SOW.

(fd) IronPort reserves the right to make changes to the scope and content of the Services or part thereof, including terminating the availability of a given Service at any time upon ninety (90) days prior notice. Such changes will become effective upon renewal of the affected Services and SOWs. If Customer does not agree to a change of scope or content, Customer may terminate any Services or SOW by notifying IronPort at least sixty (60) days prior to the expiration of the then current one year term of the Services or SOW. In such case, IronPort shall continue to provide Services until the next expiration date (see Section 7(b), above) of the affected Services or SOW.

~~(c) (g) In the event that, following termination or expiration of this Agreement, Customer places Purchase Orders and IronPort accepts such Purchase Orders, then any such Purchase Orders shall be governed by the terms and conditions of this Agreement notwithstanding the earlier expiration or termination of this Agreement; provided, however, that acceptance by IronPort of any such Purchase Order will not be considered to be an extension of the term of the Agreement nor a renewal thereof. The Services and any SOW hereunder, to the extent the work performed is executory on the date of termination, shall terminate immediately upon termination of the Agreement, unless otherwise agreed by IronPort.~~

(ef) Upon termination of the Agreement, any Services or SOWs, Customer shall pay IronPort for all work performed under the affected Purchase Order or SOWs up to the effective date of termination at the agreed upon prices, fees and expense reimbursement rates.

~~8. Confidentiality. Customer~~

~~and IronPort agree that in connection with this Agreement and their relationship, they may obtain Confidential Information. The receiving party shall at all times keep in trust and confidence all such~~

~~Confidential Information, and shall not use such Confidential Information other than as expressly authorized by the disclosing party under this Agreement, nor shall the receiving party disclose any such Confidential Information to third parties without the disclosing party's written consent. Notwithstanding the above, IronPort shall be authorized to disclose Customer's Confidential Information to contractors or employees of an IronPort entity or Affiliate who have a legitimate business need to have access to such information. The receiving party shall immediately return to the disclosing party all Confidential Information (including copies thereof) in the receiving party's possession, custody, or control upon termination or expiration at any time and for any reason of this Agreement. The obligations of confidentiality shall not apply to information which (a) has entered the public domain, except where such entry is the result of the receiving party's breach of this Agreement; (b) prior to disclosure hereunder was already rightfully in the receiving party's possession; (c) subsequent to disclosure hereunder is obtained by the receiving party on a non-confidential basis from a third party who has the right to disclose such information to the receiving party. The receiving party will be authorized to disclose Confidential Information pursuant to a valid order issued by a court or government agency, provided that the receiving party provides (i) prior written notice to the disclosing party of such obligation and (ii) the opportunity to oppose such disclosure. For the purposes of this Section 8, an "Affiliate" is an entity controlling, controlled by or under common control with IronPort.~~

Neither party shall disclose, advertise, or publish the terms and conditions of this Agreement without the prior written consent of the other party. Any press release or publication regarding this Agreement is subject to prior review and written approval of the parties.

~~9. Warranty.~~

~~9.1 ALL SERVICES PROVIDED HEREBY SHALL BE PERFORMED IN A WORKMANLIKE MANNER. EXCEPT AS SPECIFIED IN THIS SECTION, IRONPORT HEREBY DISCLAIMS AND CUSTOMER WAIVES ALL REPRESENTATIONS, CONDITIONS AND WARRANTIES (WHETHER EXPRESS, IMPLIED, OR STATUTORY), INCLUDING WITHOUT LIMITATION, ANY WARRANTY OR CONDITION (A) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, SATISFACTORY QUALITY, QUIET ENJOYMENT, ACCURACY, (B) ARISING FROM ANY COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE IN THE~~

INDUSTRY. TO THE EXTENT AN IMPLIED WARRANTY CANNOT BE DISCLAIMED, SUCH WARRANTY IS LIMITED IN DURATION TO THE APPLICABLE EXPRESS WARRANTY PERIOD. CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY SHALL BE, AT IRONPORT'S OPTION, RE-PERFORMANCE OF THE SERVICES; OR TERMINATION OF THIS AGREEMENT OR SOW AND RETURN OF THE PORTION OF THE SERVICE FEES PAID TO IRONPORT BY CUSTOMER FOR SUCH NON-CONFORMING SERVICES.

95.2 GENERAL DISCLAIMER FOR ALL SERVICES.

ANY WARRANTIES AND RELATED REMEDIES IN THIS SECTION 9 ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OR REMEDIES, EXPRESS, STATUTORY, OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE DISCLAIMERS AND EXCLUSIONS IN THIS SECTION 9 SHALL APPLY EVEN IF THE EXPRESS WARRANTIES AND LIMITED REMEDIES SET FORTH IN THIS SECTION 9 FAIL OF THEIR ESSENTIAL PURPOSE. IN ANY EVENT, THE WARRANTIES PROVIDED UNDER THIS AGREEMENT ARE SUBJECT TO THE LIMITATIONS OF LIABILITY SET FORTH IN THIS AGREEMENT.

95.3 BECAUSE OF THE CONTINUOUS EVOLUTION OF THE SOPHISTICATION OF NETWORK THREATS AND INFRASTRUCTURE TECHNOLOGIES, IRONPORT DOES NOT MAKE, AND IT IS ACKNOWLEDGED THAT IRONPORT CANNOT MAKE ANY WARRANTY OR REPRESENTATION THAT ANY SYSTEM ATTACK OR IMPACTING INCIDENT WILL BE DETECTED OR PREVENTED.

95.4 CUSTOMER ACKNOWLEDGES THAT THE SERVICES ARE NOT DESIGNED OR INTENDED BY IRONPORT FOR USE OR RESALE IN, OR FOR INCORPORATION INTO PRODUCTS OR SERVICES USED IN HIGH RISK ACTIVITIES. IRONPORT SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF ANY KIND WITH RESPECT TO THE USE OF THE SERVICES IN CONNECTION WITH ANY HIGH RISK ACTIVITY.

8. 6.Limitation of Liability and Consequential Damages Waiver.

ALL LIABILITY OF IRONPORT, ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND SUPPLIERS COLLECTIVELY FOR CLAIMS ARISING UNDER THIS AGREEMENT OR OTHERWISE HOWSOEVER ARISING SHALL BE

LIMITED TO THE GREATER OF (I) THE MONEY PAID TO IRONPORT FOR SERVICES UNDER THIS AGREEMENT DURING THE SIX (6) MONTH PERIOD PRECEDING THE EVENT OR CIRCUMSTANCES FIRST GIVING RISE TO SUCH LIABILITY OR (II) THE AMOUNT OF FEES EQUAL TO THE UNEXPIRED REMAINDER OF THE PRE-PAID SERVICE TERM. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER-INCIDENT (I.E., THE EXISTENCE OF TWO OR MORE CLAIMS WILL NOT ENLARGE THIS LIMIT).

SUBJECT TO CUSTOMER'S BREACH OF SECTION (LICENSE), IN NO EVENT SHALL EITHER PARTY, ITS RESPECTIVE AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR SUPPLIERS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, OR LOST REVENUE, LOST PROFITS, OR LOST OR DAMAGED DATA, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN INFORMED OF THE POSSIBILITY THEREOF.

9. 7. Licenses. Subject to Customer's compliance with the terms of this Agreement, any applicable AS Service Description or SOW, and the End User Agreement, attached to this Agreement, IronPort grants to Customer a worldwide, non-exclusive and non-transferable license to use, for Customer's internal business use only: (i) the Services; (ii) other Deliverables specified in an applicable AS Service Description or SOW, if any, and (iii) Data Collection Tools, if any (collectively and individually, the "Licensed Materials"). In addition, IronPort grants to Customer a right to modify and create derivative works of any Scripts provided by IronPort to Customer pursuant to this Agreement, solely for Customer's internal business use. These license grants do not include the right to sublicense; provided that Customer may permit its suppliers, subcontractors and other related third parties to use the Licensed Materials solely on Customer's behalf for Customer's benefit, provided that Customer ensures that any such use is subject to license restrictions and confidentiality obligations at least as protective of IronPort's rights in such Licensed Materials as are specified in this Agreement.

Nothing in this Agreement, any AS Service Description or any SOW shall alter or affect the Intellectual Property rights and/or licenses provided with any IronPort Products. The terms and conditions provided with the Services ("End User Agreement"), are hereby incorporated into this Agreement by this reference. To the extent there is a conflict between the terms of the End User Agreement attached to this Agreement and the remaining body of this Agreement, the terms of the End User Agreement shall apply, unless explicitly stated otherwise in the remaining

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body of this Agreement. The provisions in this Section apply only to those Services and Deliverables and other Intellectual Property provided by IronPort to Customer.

Except as otherwise expressly set forth in this Agreement or an applicable SOW, Customer shall not (and shall not permit a third party to): make error corrections or derivative works of, or otherwise modify, decompile, decrypt, reverse engineer, disassemble or otherwise reduce all or any portion of any Deliverable, Data Collection Tool or the Services to human-readable form; or transfer, sublicense, rent, lease, distribute, or sell, any Services, Deliverables or Data Collection Tools. Customer agrees that it receives no implied licenses under this Agreement, and all rights not expressly granted herein are reserved to IronPort.

Customer hereby grants to IronPort a perpetual, irrevocable, royalty free, worldwide right and license to all Intellectual Property in the Customer Feedback (as defined below) to use and incorporate Customer Feedback into any Services, Products, Deliverables, Data Collection Tools, Reports, Scripts or IronPort Pre-Existing Technology, and to use, make, have made, offer to sell, sell, copy, distribute and create derivative works of such Customer Feedback for any and all purposes whatsoever, and Customer acknowledges and agrees that it will obtain no rights in or to any Services, Products, Deliverables, Data Collection Tools, Reports, Scripts or IronPort Pre-Existing Technology as a result of IronPort's use of any such Customer Feedback. For purposes of this Agreement, "Customer Feedback" means all oral or written communications regarding improvements or changes to any Services, Products, Deliverables, Data Collection Tools, Reports, Scripts or IronPort Pre-Existing Technology that Customer provides to IronPort.

10. 8. Customer Responsibilities.

In performing the Services, IronPort may instruct the Customer to perform certain tasks or checks relating to Customer's Network. Customer shall, at its expense, perform all such checks and tests. Customer will also provide IronPort, or its authorized representative, reasonable and free access to Customer's networking equipment. Customer shall not be required to furnish specialized equipment or know-how. Customer agrees to pay IronPort, at IronPort's then-current discounted contract rates, plus any reasonable actual out-of-pocket expenses, for any rework or additional work resulting from modification of the Services requested by Customer (and accepted by IronPort) or any act or omission of Customer, including providing inaccurate information to IronPort. IronPort shall seek Customer's approval in advance of incurring such costs if it knows costs will be incurred as a result of such act or omission of Customer.

Customer is responsible for obtaining all approvals required by any third parties in order for IronPort to

perform any Service under this Agreement. IronPort shall not be in default of this Agreement to the extent it cannot perform the Services either because such approvals have not been obtained or any third party otherwise prevents IronPort from performing such Services.

Customer agrees that it shall not resell the Product and/or Services or create or offer derivative versions of the Services either directly or through a third party.

CUSTOMER ASSUMES FULL RESPONSIBILITY FOR THE CONTROL AND USE OF THE DATA CONTAINED IN ANY REPORTS PROVIDED BY IRONPORT HEREUNDER. CUSTOMER ACKNOWLEDGES THE POTENTIAL PRIVACY AND OTHER ISSUES ASSOCIATED WITH THE COLLECTION AND USE OF THIS DATA.

CUSTOMER ASSUMES FULL RESPONSIBILITY TO BACK-UP AND/OR OTHERWISE PROTECT ALL DATA AGAINST LOSS, DAMAGE, OR DESTRUCTION. CUSTOMER ACKNOWLEDGES THAT IT HAS BEEN ADVISED TO BACK-UP AND/OR OTHERWISE PROTECT ALL DATA AGAINST LOSS, DAMAGE OR DESTRUCTION.

THE FAILURE OF CUSTOMER TO COMPLY WITH THIS SECTION 12-8 MAY BE DEEMED A MATERIAL BREACH OF THIS AGREEMENT.

11. 9. Ownership. Each party will retain the exclusive ownership of all its pre-existing Intellectual Property, Confidential Information and materials, including, without limitation, proprietary ideas, sketches, diagrams, text, know-how, concepts, proofs of concepts, artwork, software, algorithms, methods, processes, identifier codes or other technology that are owned by a party prior to commencement of any Services hereunder, or that are otherwise developed by or for such party outside the scope of this Agreement ("Pre-Existing Technology").

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Except as otherwise expressly set forth in this Agreement or an applicable SOW, IronPort owns and will continue to own all right, title and interest in and to the Hardware, Services, Products, Deliverables, Data Collection Tools, Reports, Scripts, sketches, diagrams, text, know-how, concepts, proofs of concepts, artwork, software, algorithms, methods, processes, identifier codes or other technology provided or developed by IronPort (or a third party acting on IronPort's behalf) pursuant to this Agreement, including modifications, enhancements, improvements or derivative works of any of the foregoing, regardless of who first conceives or reduces to practice, and all Intellectual Property in any of the foregoing (collectively, "IronPort Intellectual Property").

As between Customer and IronPort, Customer shall at all times retain all right, title and interest in and to all of Customer's Pre-Existing Technology and all Intellectual Property that is developed by Customer or by a third party on Customer's behalf thereafter, other than IronPort Intellectual Property. Third Party Products shall at all times be owned by the applicable third party, and will be subject to any applicable third party license terms.

~~12. Force Majeure. Except for the obligation to pay monies due and owing, neither party shall be liable for any delay or failure in performance due to events outside the defaulting party's reasonable control, including without limitation acts of God, earthquake, labor disputes, industry wide shortages of supplies, actions of governmental entities, riots, war, terrorism, fire, epidemics or delays of common carriers or other circumstances beyond its reasonable control. The obligations and rights of the defaulting party shall be extended for a period equal to the period during which such event prevented such party's performance.~~

~~13. Applicable Law and Jurisdiction. The validity, interpretation, and performance of this Agreement shall be controlled by and construed under the laws of the State of California, United States of America, as if performed wholly within the state and without giving effect to the principles of conflicts of law. The State and Federal Courts of California shall have exclusive jurisdiction over any claim arising under this Agreement. Notwithstanding the foregoing, either party may seek interim or temporary injunctive relief in any court of appropriate jurisdiction with respect to any alleged breach of such party's intellectual property or proprietary rights.~~

~~The parties specifically disclaim the application of the UN Convention on Contracts for the International Sale of Goods to the interpretation or enforcement of this Agreement.~~

~~14. Export Control. Customer shall comply with such laws and regulations governing use, export, re-export, and transfer of IronPort Products and technology and will obtain all required U.S. and local authorizations, permits, or licenses.~~

~~15. Assignment. Neither party may assign or delegate its rights or obligations under this Agreement without the prior written consent of the other, such consent not to be unreasonably withheld or delayed, provided that any such assignment shall not relieve the assigning entity of any obligation to pay monies that were owed prior to the date of the assignment. Notwithstanding the foregoing, (a) either party may, without the other party's consent, assign or delegate its rights or obligations under this Agreement to its parent or majority owned subsidiary company of sufficient net worth to meet any potential~~

~~liability under this Agreement, and (b) IronPort may, without Customer's consent, assign the right to receive any amount due.~~

~~16. Subcontracting. IronPort reserves the right to subcontract Services to a third party organization to provide Services to Customer. Any such subcontract shall not relieve IronPort of any of its obligations under this Agreement.~~

~~17. 10. Inventory Review. From time-to-time, IronPort may perform an inventory review of Customer's infrastructure. IronPort will charge a Service fee if it finds that unauthorized Services are being provided. This Service fee includes amounts which should have been paid, interest, attorneys' and audit fees. IronPort requires that Customer take all necessary action (for example, disabling passwords) to ensure that any former employees and contractors do not access or use the Service.~~

~~18. Notices. All notices required or permitted under this Agreement will be in writing and will be deemed given one day after deposit with a commercial express courier specifying next day delivery (or two (2) days for international courier packages specifying 2 day delivery), with written verification of receipt. All communications will be sent to the addresses set forth on the cover sheet of this Agreement or such other address as may be designated by a party by giving written notice to the other party pursuant to this paragraph. Notwithstanding the above, notices regarding general changes in pricing, policies or programs may also be by posting on IronPort.com or by e-mail or fax.~~

~~19. Entire Agreement. This Agreement is the complete agreement between the parties concerning the subject matter of this Agreement and replaces any prior oral or written communications between the parties, except as agreed between the parties. There are no conditions, understandings, agreements, representations, or warranties expressed or implied, that are not specified herein. This Agreement may only be modified by a written document executed by the parties hereto.~~

~~20. No Waiver. The waiver by either party of any right provided under this Agreement shall not constitute a subsequent or continuing waiver of such right or of any other right under this Agreement.~~

~~21. Severability. In the event that one or more terms of this Agreement becomes or is declared to be illegal or otherwise unenforceable by any court of competent jurisdiction, each such term shall be null and void and shall be deemed deleted from this Agreement. All remaining terms of this Agreement shall remain in full force and effect. Notwithstanding the foregoing, if this paragraph is invoked and, as a result, the value of this~~

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~~Agreement is materially impaired for either party, as determined by such party in its sole discretion, then the affected party may terminate this Agreement by written notice with immediate effect to the other.~~

~~22. Attorneys' Fees. In any suit or proceeding relating to this Agreement the prevailing party will have the right to recover from the other its costs and reasonable fees and expenses of attorneys, accountants, and other professionals incurred in connection with the suit or proceeding, including costs, fees and expenses upon appeal, separately from and in addition to any other amount included in such judgment. This provision is intended to be severable from the other provisions of this Agreement, and shall survive expiration or termination and shall not be merged into any such judgment.~~

~~23. No Agency. This Agreement does not create any agency, partnership, joint venture, or franchise relationship. No employee of either party shall be or become, or shall be deemed to be or become, an employee of the other party by virtue of the existence or implementation of this Agreement. Each party hereto is an independent contractor. Neither party shall assume or create any obligation of any nature whatsoever on behalf of the other party or bind the other party in any respect whatsoever.~~

24. 11. Counterparts. This Agreement may be executed in two counterparts, each of which shall be deemed an original and together which shall constitute one and the same instrument. A validly executed counterpart that is delivered by one party to the other via electronic transmission (a "Counterpart Image") shall be valid and binding to the same extent as one delivered physically, provided that the valid signature is clearly visible in the Counterpart Image. In the event that a party delivers a Counterpart Image in place of an originally-executed counterpart, such party shall retain the originally-executed counterpart in its files for at least the duration of the Term hereof.

25. 12. Headings. Headings of sections have been added solely for convenience of reference and shall not be deemed part of this Agreement.

26. 13. Survival. Sections set forth directly herein or incorporated from the WSCA Master Agreement, including: (Payment), (Term and Termination), (Confidentiality), (Warranty), (Limitation of Liability and Consequential Damages Waiver), (License), ~~13~~ (Ownership), ~~14~~-(Force Majeure), ~~15~~-(Applicable Law and Jurisdiction), ~~16~~-(Export Control), ~~19~~-(Inventory Review), ~~20~~-(Notices), ~~21~~-(Entire Agreement), ~~22~~-(No Waiver), ~~23~~ (Severability), ~~24~~-(Attorneys' Fees), ~~25~~-(No Agency), ~~28~~ (Survival), the Glossary of Terms and the Services-Not-

Covered exhibits shall survive the termination or expiration of this Agreement.

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EXHIBIT A
GLOSSARY OF TERMS

Additional Services means installation of new Hardware, system additions, Hardware upgrades, dispatch of a field engineer, or non-mandatory engineering changes.

Advanced Services means the Services set forth in the AS Service Description(s) found at and/or SOW(s) selected by the Customer. Advanced Services does not include IronPort's core maintenance services, nor does it apply to the purchase, support or maintenance of any Products.

Advanced Services Engineer means the IronPort engineer appointed to be the main point of contact for a Customer purchasing Advanced Services.

AS Service Descriptions mean the description of the Advanced Services available from IronPort, which are attached hereto.

Authorized Channel means a system integrator, distributor or reseller authorized by IronPort to sell Services.

Business Days means the generally accepted days of operation per week within the relevant region where the Services shall be performed, excluding local holidays as observed by IronPort.

IronPort.com () is the IronPort Website for its suite of online services and information.

Confidential Information means proprietary and confidential Information received by IronPort or Customer from the other party in connection with this Agreement and their relationship. Such Confidential Information may include, but is not limited to, trade secrets, know how, inventions, techniques, processes, programs, schematics, software source documents, data, customer lists, financial information, and sales and marketing plans or information which the receiving party knows or has reason to know is confidential, proprietary or trade secret information of the disclosing party, as well as, in the case of IronPort, any information posted on IronPort.com.

Customer means the entity purchasing Services for its own internal use.

Data Collection Tools means Hardware and/or Software tools that support IronPort's ability to provide troubleshooting on cases, data analysis, and report generation capabilities as part of the Advanced Services.

Depot Time or **Local Time** means Central European Time for Services provided in Europe-Middle-East and Africa, Australia's Eastern Standard Time for Services provided in Australia, Japan's Standard Time for Services provided in Japan, and Pacific Standard Time for Services provided in all other locations.

Deliverable(s) means, with respect to each AS Service Description and/or SOW, the items to be delivered by IronPort to Customer as set forth in an applicable AS Service Description and/or SOW, including, without limitation, any Software, Reports, Data Collection Tools, and/or Scripts.

Direct Purchases means purchases of Services by Customer directly from IronPort.

Documentation means user manuals, training materials, Product descriptions and specifications, technical manuals, license agreements, supporting materials and other information relating to Products or Services offered by IronPort, whether distributed in print, electronic, CD-ROM or video format.

Event means notification by Customer of its performance of a planned Network Hardware, Software, or configuration change.

Feature Set Upgrade means a separately licensed and priced Software release that contains an enhanced configuration or feature set.

Four-hour Response means:

- (i) For Advance Replacement Service, the four-hour time period commences upon the IronPort problem diagnosis and determination that a field replacement unit (FRU) is required and ends when the FRU is delivered onsite.

- (ii) For onsite service, the four-hour time period commences upon the IronPort problem diagnosis and determination that remedial onsite service is required and ends when IronPort personnel arrive onsite.

Hardware means tangible IronPort equipment, devices, or components made available to Customers.

Indirect Purchases means purchases of Services by Customer through an Authorized Channel.

Intellectual Property means any and all tangible and intangible: (i) rights associated with works of authorship throughout the world, including but not limited to copyrights, neighboring rights, moral rights, and mask works, and all derivative works thereof, (ii) trademark and trade name rights and similar rights, (iii) trade secret rights, (iv) patents, designs, algorithms and other industrial property rights, (v) all other intellectual and industrial property rights (of every kind and nature throughout the world and however designated) whether arising by operation of law, contract, license, or otherwise, and (vi) all registrations, initial applications, renewals, extensions, continuations, divisions or reissues thereof now or hereafter in force (including any rights in any of the foregoing).

Level 1 means support that is defined as having the necessary technical staff (IronPort or IronPort-authorized Reseller) with appropriate skill, perform installations, Remedial Hardware Maintenance, and basic Hardware and Software configuration on IronPort Products.

Level 2 means support that is defined as having the necessary technical staff with the appropriate skills to perform isolation, replication and diagnosis of internet-based problems on IronPort Product(s). Customer shall not report Software bugs to IronPort prior to attempting to identify the source of such bugs and testing in Customer's Network where appropriate. If the Customer cannot duplicate the bug in Customer's Network, Customer and IronPort shall cooperate in attempting to replicate and resolve related Software bugs in either Customer's or IronPort's test facility as mutually agreed. In all cases Customer will address Software bugs on a best effort basis to replicate same in Customer's Network and document activity to IronPort before seeking further resolution with IronPort's participation.

Local Time means local time on Business Days.

Maintenance Release means an incremental Software release that provides maintenance fixes and may provide additional Software functions. IronPort designates Maintenance Releases as a change in the digits to the right of the tenths digit or of the hundredths digit of the Software version number [x.x.(x) or x.x.x.(x)].

Major Release means a release of Software that provides additional software functions. IronPort designates Major Releases as a change in the ones digit of the Software version number [(x).x.x].

Minor Release means an incremental release of Software that provides maintenance fixes and additional Software functions. IronPort designates Minor releases as a change in the tenths digit of the Software version number [x.(x).x].

Network means a set of interconnected and interworking IronPort supported Hardware and Software that is implemented, operated, and supported by Customer from a single security operations center (SOC).

Network Infrastructure means your core transport and aggregation Network technology (for example, metro optical, ATM/Frame Relay, IP core and IronPort security devices including, but not limited to, Firewall, IDS and VPN3000).

Price List means the price list for services applicable in the country where the Services are ordered or delivered.

Product means IronPort Hardware and Software products that are made generally available.

Purchase Order or P.O. means a written or electronic order from Customer to IronPort for the Services to be provided by IronPort under this Agreement.

Reports means reports, recommendations, network configuration diagrams, and related non-Software Deliverables provided by IronPort to Customer pursuant to this Agreement.

RMA means Return Material Authorization.

Scripts means software scripts, macros and batch files provided by IronPort to Customer pursuant to this Agreement.

Services means one or more of the services options selected by the Customer in its Purchase Order and described at:

Services Descriptions mean the detailed descriptions of the Services purchased by Customer which are incorporated in the MSA by reference.

Software means the software programs provided to Customer by IronPort, including any copies, Updates, upgrades, modifications, enhancements, and any derivative works thereof.

Standard Business Hours means (i) 8:00 AM to 5:00 PM, Depot time, on Business Days for replacement of failed Products and (ii) 8:00 AM to 5:00 PM, Local Time at location, on Business Days for case handling of calls.

Statement of Work or SOW means the documents agreed upon by the parties that define the Services and Deliverables, if any, to be provided by IronPort to Customer.

Technical Support Services means Services that provide both essential proactive and reactive operation and maintenance support Services identified as Technical Support Services at .

Technology Application means specific technologies including, but not limited to, content networking, broadband, and IP telephony that do not operate at the Network Infrastructure level.

Third Party Products means third party hardware and/or software, and all upgrades/updates thereto, that are designated by IronPort as required for:

- (i) The operation of Application Software in conformance with IronPort applicable Application Software Documentation; and
- (ii) IronPort support of the Application Software.

Transactional Advanced Services means the project related or consultancy Services sold under a Statement of Work.

Update means IronPort Software Maintenance Releases, Minor Releases and Major Releases containing the same configuration or feature set as originally acquired, unless the Customer has upgraded the applicable Hardware or Software to a configuration or feature set other than what was originally acquired, and the applicable license fee for that upgrade has been paid. Updates do not include Feature Set Upgrades.

EXHIBIT B

CISCO IRONPORT SEVERITY AND ESCALATION GUIDELINES

Customer shall assign a severity to all problems submitted to IronPort.

Severity 1 means an existing Network is down or there is a critical impact to Customer's business operation. Customer and IronPort both will commit full-time resources to resolve the situation.

Severity 2 means operation of an existing Network is severely degraded or significant aspects of Customer's business operation are negatively impacted by unacceptable Network performance. Customer and IronPort both will commit full-time resources during Standard Business Hours to resolve the situation.

Severity 3 means operational performance of the Network is impaired, although most business operations remain functional. Customer and IronPort both are willing to commit resources during Standard Business Hours to restore service to satisfactory levels.

Severity 4 means information is required on Application Software capabilities, installation, or configuration. There is little or no impact to Customer's business operation. Customer and IronPort both are willing to provide resources during Standard Business Hours to provide information or assistance as requested.

If you do not believe that adequate progress is being made or that the quality of IronPort service is satisfactory, we encourage you to escalate the problem to the appropriate level of management by asking for the TAC duty manager.

Cisco IronPort Escalation Guideline

Elapsed Time*	Severity 1	Severity 2	Severity 3	Severity 4
1 hour	Customer Engineering Manager			
4 hours	Technical Support Director	Customer Engineering Manager		
24 hours	Vice President, Customer Advocacy	Technical Support Director		
48 hours	President/CEO	Vice President, Customer Advocacy		
72 hours			Customer Engineering Manager	
96 hours		President/CEO	Technical Support Director	Customer Engineering Manager

* Severity 1 escalation times are measured in calendar hours—24 hours per day, 7 days per week. Severity 2, 3, and 4 escalation times correspond with Standard Business Hours.

EXHIBIT C
SERVICES NOT COVERED

Services that are not expressly set forth in the applicable Service Description or Statement of Work document are not covered under such Service Description or Statement of Work, including, without limitation, the following:

1. Services are only provided for generally available Products and Software releases/versions, unless agreed otherwise.
2. Any customization of, or labor to install, Software and Hardware (including installation of Updates).
3. Furnishing of supplies, accessories or the replacement of expendable parts (e.g., cables, blower assemblies, power cords, and rack mounting kits).
4. Electrical or site work external to the Products.
5. Any expenses incurred to visit End User's location, except as required during escalation of problems by IronPort.
6. Services performed at domestic residences.
7. Support or replacement of Product that is altered, modified, mishandled, destroyed or damaged by one or more of the following: (a) natural causes; (b) environmental failures; (c) your failure to take any required actions; (d) a negligent or willful act or omission by you or use by you other than as specified in the applicable IronPort-supplied documentation; or (e) an act or omission of a third party.
8. Services or software to resolve Software or Hardware problems resulting from third party product or causes beyond IronPort's control or failure to perform your responsibilities set out in this document.
9. Services for non-IronPort Products used in connection with IronPort Products and/or Services.
10. Any Hardware or third party product upgrade required to run new or updated Software.
11. Erasure or other removal of any customer or third party data on Products (or parts thereof) returned, repaired or otherwise handled by IronPort.
12. Additional Services are provided at the then-current time and materials rates.
13. Except as otherwise agreed, Software entitlement, including media, documentation, binary code, source code or access in electronic or other form is not provided. In addition, except as otherwise provided, no right, use or license to our Software is granted and you acknowledge and agree that you obtain no such rights.

~~The non-entitlement policies posted at <http://www.IronPort.com/go/warranty> are hereby incorporated into this Agreement by this reference.~~

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Capitalized terms are defined in the Glossary of Terms, or may be as set forth in the applicable Service Description or Statement of Work.

Exhibit D
Product Description

Capitalized terms used in this Exhibit D, unless otherwise defined herein, have the meanings ascribed to them in the Agreement.

Products Table

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Description of Product and Services

Customer will receive the Cisco IronPort Hybrid Hosted Email Service for the number of users set forth on the Products Table set forth above.

Cisco IronPort Hybrid Hosted Email Security includes the following two components

- o Hosted Email Security - delivered through hardware and software deployed in Cisco data centers as set forth in Exhibit E
- o On-Premise Email Security – delivered through Cisco IronPort appliances and software deployed on-site at customer’s premises or in customer data center as set forth in Exhibit F

The Hosted Email Security component includes

1. Hardware infrastructure powered by Cisco IronPort technology
2. 24x7 Monitoring, Management and Support

The On-Premise Email Security component includes

1. Cisco IronPort email security appliances
2. 24x7 Support for the Cisco IronPort appliances and software

Customer may activate (provided applicable fees are paid) the Cisco IronPort software listed below:

1. IronPort Anti-Spam Software
2. IronPort Virus Outbreak Filters
3. Sophos Anti-Virus Software
4. McAfee Anti-Virus Software
5. IronPort PXE Encryption Software

Order and Fulfillment

Customer may purchase the Cisco IronPort Hybrid Hosted Email Service for its own internal use either directly or through an authorized reseller of Cisco IronPort products.

Customer Responsibilities

Customer:

1. is responsible for using reasonable efforts to resolve internally any support questions prior to contacting Cisco IronPort;
2. is responsible for reporting any and all Errors promptly in writing in English;
3. is responsible for providing sufficient information to Cisco IronPort to enable Cisco IronPort to duplicate the circumstances indicating a reported Software defect or Error;
4. is responsible for promptly incorporate the bug fixes, patches, updates, upgrades, releases and new versions provided hereunder (On-Premise Email Security component only);

5. is responsible for providing technical information as may be required by Cisco IronPort Systems Engineers or Cisco Security Analysts, including but not limited to IP addresses for Customer's existing solution;
6. is responsible for implementing and using strong passwords for accessing Cisco IronPort dedicated infrastructure and the Cisco IronPort Hybrid Hosted Email Security portal;

The following are common guidelines for choosing strong passwords. These are designed to make passwords less easily discovered by intelligent guessing:

- *Include numbers, symbols, upper and lowercase letters in passwords*
- *Password length should be around 12 to 14 characters*
- *Avoid any password based on repetition, dictionary words, letter or number sequences, usernames, relative or pet names, or biographical information (e.g., dates, ID numbers, ancestors names or dates...)*

7. is responsible for any catastrophic security events that result from any unauthorized configuration of the Cisco IronPort Hybrid Hosted Email Service components by the Customer's personnel. These include, but are not limited to, configuring the Hybrid Hosted Email Service components in a manner not prescribed in the Documentation, creating an open relay, changing the network configuration set by Cisco IronPort, shutting down the dedicated infrastructure, etc;

8. or Customer designated personnel must not change the password for Cisco IronPort support services or delete the Cisco support user ID;

9. must not use the Cisco IronPort Hybrid Hosted Email Service to send spam, viruses or mal-ware;

10. agrees and acknowledges that, during the term of this Agreement, Cisco IronPort may obtain information regarding Customer's email communication and Customer agrees that, as a condition to entering into this Agreement and Cisco IronPort's commitment to providing the Hybrid Hosted Email Service, Cisco IronPort may use statistical data generated regarding Customer's email, so long as the source or content of the emails are not being disclosed.

11. agrees and acknowledges that Cisco IronPort reserves the right to shut down the Cisco IronPort Hybrid Hosted Email Service in the event that the Customer materially breaches the Agreement or does not comply with Customer's obligations set forth in this section entitled, "Customer Obligations".

Ownership

Cisco IronPort and/or its parent company will retain ownership, as applicable, of the following hardware used as part of providing Cisco IronPort Hybrid Hosted Email Security service:

1. Hardware infrastructure used in the Cisco IronPort data center as part of the Hosted Email Security component of the Cisco IronPort Hybrid Hosted Email Security
2. Cisco IronPort appliances provided as part of the On-Premise Security component of the Cisco IronPort Hybrid Hosted Email Security
3. If Customer already possesses title to Cisco IronPort appliances, then it shall retain title to such existing Cisco IronPort appliances.

Product Support and Maintenance

As long as Customer is current on all applicable fees, Cisco IronPort will:

- (i) Provide the services set forth in the Service Description and the Support and Maintenance Description set forth in Exhibit E and Exhibit F, respectively.
- (ii) Provide all software patches, updates and releases commercially released by Cisco IronPort;
- (iii) Resolve technical problems identified within Cisco IronPort's products. Cisco IronPort does not provide technical support for any third-party hardware or software not purchased and/or authorized by Cisco IronPort;
- (iv) Provide remote diagnostics and analysis of your dedicated infrastructure;

- (v) Back-up the Customer's configuration. (Hosted Email Security Component Only) *
- (vi) Provide 24 x 7 access to all of our Documentation and our Knowledge Base; and
- (vii) Provide 24 x 7 access to Cisco Remote Management Services for Cisco IronPort Hybrid Hosted Email Service.

*Any passwords stored in the configuration will be stored in text format.

Capacity Assurance

A. As long as Customer is current on all applicable fees, Cisco IronPort will, in its sole and reasonable discretion, provide additional capacity to handle an increase in spam volumes and inbound email for _____ number of users. The capacity assurance spans both the Hosted Email Security component and on-premise component of the Cisco IronPort Hybrid Hosted Email Security.

a. Hosted Email Security component

Capacity assurance for the hosted component will include capacity to handle an increase in spam volumes and inbound email.

b. On-Premises component

Capacity assurance for the on-premise component will include capacity required to handle an increase in user generated outbound mail volume as well as legitimate inbound email volumes.

B. Exceptions that apply to both the hosted and on-premise components include

- o Capacity requirements placed on the system due to misconfigured, ill-formed or performance intensive activities that include but are not limited to body-scanning, content dictionaries, high number of TLS connections, etc.
- o Capacity needs placed on the system due to new requirements placed on the system due to a changing regulatory scheme or business environment.
- o Capacity needs placed on the system from non-users. This includes but is not limited to marketing communications, customer's customers, email generating program or entity, etc.
- o An increase in email volume from marketing campaigns and other events that are not part of the Customer's day-to-day operations.

Cisco IronPort will use its commercially reasonable efforts to provide capacity for events that were unforeseen by the Customer.

Scheduled Maintenance (Hosted Email Security Component Only)

From time-to-time, Cisco IronPort performs scheduled maintenance, to update the servers (Cisco IronPort and third-party servers at the datacenter(s)) and software that are part of the Cisco IronPort Hybrid Hosted Email Service. Cisco IronPort will make all reasonable attempts to: (i) notify Customer at least 48 hours in advance of any planned downtime or scheduled maintenance; and (ii) perform scheduled maintenance is performed 6:00 pm to 10:00 pm PST every Thursday. Notwithstanding the foregoing, Customer acknowledges that Cisco IronPort may, in certain situations, need to perform critical maintenance on less than 48 hour advance notice.

Exhibit E
Service Description

The Service Description is available at the following link:

http://www.cisco.com/legal/Cisco_IronPort_Hosted_Email_Security.pdf

Exhibit F
On-Premises Appliance Platinum Support Description

Cisco IronPort Hybrid Hosted Email Security

Platinum Support for On-Premise Appliances

OVERVIEW

The Platinum Support Program for Cisco IronPort Hybrid Hosted Email Security offers a comprehensive array of support services to assist customers with the administration and maintenance of their on-premise Cisco IronPort appliances. This program includes 24 x 7 access to Customer Support Engineers through the Cisco Remote Operations Services (ROS) Service Desk and access to our online ROS Web Portal complete with its expansive knowledge base, the latest product documentation, release notes, and ticket management tools. The Platinum Support Program for Hybrid Hosted Email Security provides the benefit of a 1 hour response time and a 4 hour mean time to complete (MTTC) for Priority 1 support requests.

HYBRID HOSTED ON-PREM SUPPORT FEATURES

SUPPORT REQUESTS	Phone	24 X 7
	US Toll Free	+1.800.234.9034
	ROS Web Portal	24 X 7
	URL	https://ros.cisco.com/portal

TECHNICAL SUPPORT FOR ON-PREMISE APPLIANCES

Response Times	1 Hour
Mean Time to Complete (MTTC)	Priority Level 1: <4 Hours
	Priority Level 2: 24 Hours
	Priority Level 3: 72 Hours

ON-PREMISE HARDWARE AND SOFTWARE SUPPORT

Software Upgrade Notifications We will notify you of periodic system modifications and software upgrades that apply to your specific on-premise systems.

Field Upgrades You can upgrade your on-premise appliances to the most recent software release at your convenience, by following the easy-to-use instructions in our upgrade notifications.*

Remote Diagnostics Upon your request your ticket could be escalated to a Cisco IronPort specialist who can perform remote diagnostics and analysis of your on-premise appliances.

Hardware Support In the unlikely event of an on-premise hardware malfunction, we will provide field hot-swappable replacement parts or units as well as installation instructions, as required by the nature of the issue.**

**Some restrictions may apply.*

***Our shipments are scheduled to arrive at your site the next business day by 10:30 AM local time. Delivery schedule may vary for international shipments.*

ONLINE RESOURCES

Documentation 24 X 7 access to documentation posted in our online ROS Web Portal allows you to become familiar with our products and support at your convenience. Documentation includes product information and manuals.

Knowledge Base 24 X 7 access to our knowledge base in our online ROS Web Portal allows you to research common technical issues at your convenience.

Ticket Management 24 X 7 access to support in our online ROS Web Portal allows you to open new service request tickets as well as update and view recent tickets.

DETAILS

GENERAL SUPPORT TERMS

- As long as customer is current on all applicable fees, Cisco IronPort Hybrid Hosted Email Security provides a subscription to software patches, updates, releases and new versions commercially released by Cisco IronPort at no charge that correspond to the currently shipped version of the on-premise products purchased.
- Ticket categorization, priority assignment, and escalation and tracking will be handled as all tickets received from customers with active support agreements are handled, which is consistent with Cisco ROS standard categorization, priority assignment, escalation and tracking procedures.

SCOPE OF SUPPORT

The Platinum Support Program for Cisco IronPort Hybrid Hosted Email Security specifically supports resolution of technical problems identified within Cisco IronPort's products at customer premises. This support program does not provide technical support for third-party hardware. This support program will, however, provide support for Sophos Anti-Virus software included with the Hybrid Hosted platform.

ON-PREMISE SUPPORT TICKET PROCESSES

Cisco IronPort is dedicated to providing a superior Customer Support experience. Our ticket and escalation processes enable us to deliver an unforgettable service experience to all of our customers through a systematic approach. We leverage ticket priority combined with Service Level Objectives (SLO) and escalation process to ensure effective problem resolution. These components are described below.

Ticket Priority Level Definitions

Ticket priority level definitions are used to assist in the prioritization of handling Customer Support tickets. Below is the guide on the various priority levels.

Priority Level	Application/ Application Status	Impact on Business Operations	Issue Description
Priority 1: Critical	Down	Severe	Operation Stopped
Priority 2: High	Up	Significant	Operation Restricted
Priority 3: Medium	Up	Minor	Workaround available

Service Level Objectives

Cisco IronPort Hybrid Hosted Email Security support team follows service level objectives according to the priority of your Service Request ticket for the appliances deployed on the customer premise. Our SLOs provide a basis for timely responses.

SLO Name	SLO Detail	SLO Targets
Response Time	Time to respond to customer*	Priority 1 <1 Hour Priority 2 <4 Hours Priority 3 <1 Day
Mean Time to Complete (MTTC)	Complete Customer-initiated Service Requests within X hours	Priority 1 <4 Hours Priority 2 <1 Day Priority 3 <3 Days

* Customer is contacted by e-mail, web, or phone to gather additional information about the ticket and determine the necessary steps to reproduce the issue.

Escalation Process

Cisco IronPort in collaboration with the Cisco ROS' Service Desk has a structured escalation process that ensures the appropriate support engineers are assigned to respond to tickets efficiently and effectively. Escalations will be primarily driven by elapsed time against Service Level Objectives (SLOs) ensuring effective routing of tickets to appropriate Cisco Security Operations Center (SOC) technical resources. Tickets will be escalated as needed by the Cisco SOC to Cisco IronPort Customer Support Engineers to ensure SLOs are met.

Exhibit G
Service Level Agreements



Uptime Service Level Agreement

As long as Customer has paid all applicable fees, Cisco IronPort will, in addition to the Service Level Objectives and Processes set forth in the Service Description, provide the following:

A. The Cisco IronPort Hosted Email Service will accept connections on Port 25 and process email at least 99.999% over a trailing one-year period. Uptime is determined by dividing the total number of minutes the Service was processing email divided by the number of minutes in a one year period or 525,600 minutes. Downtime must exceed 30 seconds per occurrence before it is an infraction. An infraction is limited to a single incident, whereby separate downtime occurrences cannot be aggregated. Uptime is determined and validated by an industry-recognized 3rd party monitoring service that performs service-level checks from various locations on the global internet.

B. Exceptions

- o Excludes downtime resulting from Planned Downtime activities which include
 1. Hardware upgrades
 2. Customer requested or Cisco/IronPort initiated software upgrades
 3. Any customer specific activity including moves, facility upgrades, etc.
 - **“Planned Downtime”** is defined as the downtime that results from a scheduled maintenance period that was announced in advance (for activities like upgrades, updates, etc.) Cisco IronPort will make all reasonable attempts to: (i) notify Customer at least 24 hours in advance of any Planned Downtime and (ii) perform scheduled maintenance is performed 6:00 pm to 10:00 pm PST every Thursday. Notwithstanding the foregoing, Customer acknowledges that Cisco IronPort may, in certain situations, need to perform critical maintenance on less than 24 hour advance notice.
- o Excludes downtime resulting from hardware, software or other data center equipment or services not in the control of Cisco IronPort or within the scope of the Cisco IronPort Hosted Email Service
- o Does not include uptime of other Services, including CASE updates, AV updates from IronPort partners and the SenderBase service
- o Excludes any downtime resulting from hardware or software configuration changes made by the Customer
- o Excludes downtime resulting from Denial of Service attacks on the installed appliances or ancillary services like SenderBase, etc.
- o Excludes downtime resulting from any event contemplated in Section 14 of the Agreement (Force Majeure Event)

C. Remedy

If Customer experiences a downtime infraction (subject to the provisions set forth in Section(B), and Customer has fulfilled all of its obligations under the Agreement (including the obligations set forth in this Exhibit), then the Customer will be entitled to the applicable rebate (as set forth in the table below) as its sole and exclusive remedy:

Mailbox Count:	1000+	2000+	5000+	10000+	20000+
Actual Uptime < 99.999%	\$125	\$200	\$300	\$500	\$1,000

Customer may only make a total of two (2) claims of a downtime occurrence within a rolling three hundred sixty-five (365) day period. If Customer experiences three (3) or more downtime occurrences within a rolling three hundred sixty-five (365) day period, Cisco IronPort and Customer will come to a written agreement, within thirty (30) days of Customer providing notice of such occurrence, on the next course of action. If Customer experiences a downtime infraction more than five (5) times a year for a service and IronPort fails to provide a reasonable written plan of

permanent corrective action to customer within a 30 day time frame after the fifth occurrence, then customer shall have the right to cancel service at no cost or obligation and financial responsibility for any future payments.

D. Customer Responsibilities

- o Customer must provide notice within thirty (30) days of the downtime occurrence
- o Customer must provide timeframe details of the downtime occurrence, any correlated Cisco ROS ticket numbers, and, if available, pings and trace routes showing that the device was not available on the network
- o Customer must provide confirmation, if possible, that there were:
 1. No network failures at the customer site either internal or external at the time of the occurrence
 2. No Customer implemented changes that adversely affected the system availability or made the system to cause delays (excepting any changes requested by Cisco IronPort)
 3. No material delay in responding to warnings raised by Cisco IronPort generally, or specifically related to the incidence of downtime

Failure to comply with this Section (D) will result in a forfeit of Customer's right to the remedy set forth in Section (C) above.



Anti-Spam Service Level Agreement

As long as Customer has paid all applicable fees, Cisco IronPort will, in addition to the Service Level Objectives and Processes set forth in the Service Description, provide the following:

A. The Cisco IronPort Hosted Email Service will detect and stop at least 99% of all inbound Spam that is routed through the Service. The **"Spam Catch Rate"** is determined by dividing Caught Spam by the sum of the Caught Spam and the number of Missed Spam, during a trailing thirty (30) day period.

B. Exceptions

- o Marketing emails with opt-out provisions will not be counted in the missed spam calculation.
- o Messages that include sexually explicit, pornographic or inappropriate content will not be counted in the missed spam calculation.

C. Remedy

If Customer experiences a Spam Catch Rate equal to less than the amount set forth in Section (A) and subject to Section (B), and Customer has fulfilled all of its obligations under the Agreement (including the obligations set forth in this Exhibit), then the Customer will be entitled to the applicable rebate (as set forth in the table below) as its sole and exclusive remedy:

Mailbox Count	1,000+	2,000+	5,000+	10,000+	20,000+
Anti-Spam	\$500	\$1,000	\$2,000	\$3,000	\$5,000

Within any given three hundred sixty-five (365) day period, Customer may only make a total of two (2) claims that the Anti-Spam Service Level Agreement is not being met. If Customer experiences three (3) or more occurrences within a rolling three hundred sixty-five (365) day period, that the Anti-Spam Service Level Agreement is not being met, Cisco IronPort and Customer will come to a written agreement, within thirty (30) days of Customer providing notice of such occurrence, on the next course of action.

D. Customer Responsibilities

- o Customer must provide notice within thirty (30) days of the date the claim arises.
- o Customer must have SenderBase reputation filters enabled at default levels (blocking from -10 to -3) or more aggressive.
- o Customer must have the reputation messages per connection multiplier set to the default value (3).
- o Customer must have IronPort Anti-Spam block settings at the default value (90) or more aggressive.
- o Customer must have IronPort Anti-Spam quarantine enabled with settings at default (50) or more aggressive.
- o Customer must have SenderBase Network Participation enabled.
- o Customer must be able to provide copies of missed spam to Cisco IronPort upon request.
- o Customer must provide the domains covered by the service, the number of mailboxes and the incoming mail report for the last 30 days.

Failure to comply with this Section (D) will result in a forfeit of Customer's right to the remedy set forth in Section (C) above.

E. Definitions

“Spam” is unsolicited or unauthorized bulk email (SMTP only) as mutually agreed upon by Customer and Cisco, and excludes unwanted marketing messages that include opt-out provisions.

“Caught Spam” is Spam either quarantined; or categorized as a “threat message” in the User Interface.

“Missed Spam” is Spam delivered to an end user’s inbox.



False Positive Rate Service Level Agreement

A. The Cisco IronPort Hosted Email Service will not categorize legitimate inbound email as Spam more than one time per one million messages processed. The *“False Positive Rate”* is determined by counting the number of non-Spam messages misclassified as Spam relative to the total attempted messages processed over a trailing thirty (30) day period, as set forth in the User Interface.

B. Exceptions

- o Email messages from legitimate senders whose IP addresses may be compromised due to an unforeseen event will not be counted towards the false positive rate. Cisco IronPort will make a determination in good faith based on its system logs, monitoring reports and configuration records for such email senders.
- o Marketing emails with opt-out provisions will not be counted towards the false positive rate.
- o Messages that include sexually explicit, pornographic or inappropriate content will not be counted towards the false positive rate.

C. Remedy

If Customer experiences a False Positive Rate greater than the rate set forth in Section (A) above and subject to Section (B) above, and Customer has fulfilled all of its obligations under the Agreement (including the obligations set forth in this Exhibit), then the Customer will be entitled to the applicable rebate (as set forth in the table below) as its sole and exclusive remedy:

Mailbox Count	1,000+	2,000+	5,000+	10,000+	20,000+
Anti-Spam	\$500	\$1,000	\$2,000	\$3,000	\$5,000

Within any given three hundred sixty-five (365) day period, Customer may only make a total of two (2) claims that the False Positive Rate Service Level Agreement is not being met. If Customer experiences three (3) or more occurrences within a rolling three hundred sixty-five (365) day period, that the False Positive Rate Service Level Agreement is not being met, Cisco IronPort and Customer will come to a written agreement, within thirty (30) days of Customer providing notice of such occurrence, on the next course of action.

D. Customer Responsibilities

- o Customer must provide notice within thirty (30) days of the date the claim arises.
- o Customer must have SenderBase reputation filters enabled at default levels (blocking from -10 to -3) or more conservative.
- o Customer must have the reputation messages per connection multiplier set to the default value (3).
- o Customer must have IronPort Anti-Spam block settings at the default value (90) or more conservative.
- o Customer must have IronPort Anti-Spam quarantine enabled with settings at default (50) or more conservative. Non-Spam that is quarantined counts as a false positive
- o Customer must have SenderBase Network Participation enabled.
- o Customer must provide copies of false positive messages to Cisco IronPort.
- o Customer must provide the domains covered by the service, the number of mailboxes and the incoming mail report for the last 30 days. Hybrid hosted customers must enable IronPort Anti-Spam at a minimum in the hosted layer and not on premise.

- Customers must only enable IronPort Anti-Spam for spam scanning to qualify.

E. Definitions

“Spam” is unsolicited or unauthorized bulk email (SMTP only) as mutually agreed upon by Customer and Cisco, and excludes unwanted marketing messages that include opt-out provisions.

“Caught Spam” is Spam either quarantined; or categorized as a “threat message” in the User Interface.

“Missed Spam” is Spam delivered to an end user’s inbox.



Virus Catch Rate Service Level Agreement

A. The Cisco IronPort Hosted Email Service will detect and stop 100% of all Known Viruses that are routed through the Service. A *“Known Virus”* is defined solely by the provider of anti-virus software that is used for a specific message. Known Viruses will be detected and stopped within 30 minutes of when the anti-virus provider releases a signature for the platform.

B. Exceptions

- o Messages that contain a URL to a website hosting malware are not included.

C. Remedy

If Customer experiences a Virus Catch Rate less than the rate set forth in Section (A) above and subject to Section (B) above, and Customer has fulfilled all of its obligations under the Agreement (including the obligations set forth in this Exhibit), then the Customer will be entitled to the applicable rebate (as set forth in the table below) as its sole and exclusive remedy:

Mailbox Count	1,000+	3,000+	5,000+	10,000+	20,000+
Anti-Virus	\$400	\$750	\$1,000	\$2,000	\$3,000

Within any given three hundred sixty-five (365) day period, Customer may only make a total of two (2) claims that this Virus Catch Rate Service Level Agreement is not being met. If Customer experiences three (3) or more occurrences within a rolling three hundred sixty-five (365) day period, that this Virus Catch Rate Service Level Agreement is not being met, Cisco IronPort and Customer will come to a written agreement, within thirty (30) days of Customer providing notice of such occurrence, on the next course of action.

D. Customer Responsibilities

- o Customer must provide notice within thirty (30) days of the date the claim arises.
- o Customer must have SenderBase reputation filters enabled at default levels (blocking from -10 to -3) or more aggressive.
- o Customer must have SenderBase Network Participation enabled.
- o Customer must provide copies of all missed Virus-positive messages to Cisco IronPort in a password-protected attachment.
- o Customer must ensure that the message was scanned by the anti-virus engine (e.g. message did not exceed the maximum scanning size limit).
- o Customer must provide the domains covered by the service, the number of mailboxes and the incoming mail report for the last 30 days.

E. Definitions

“Virus” is a binary or executable code whose purpose is to gather information from the infected host, change or destroy data on the infected host, use inordinate system resources in the form of memory,

disk space, CPU cycles or network bandwidth on the infected host, use the infected host to replicate itself to other hosts, or provide control or access to any of the infected host's system resources. A virus does not include: (1) text messages that use fraudulent claims to deceive the customer, and/or prompt the customer to action, (2) a binary or executable code installed or run by the end user that gathers information for sales or marketing purposes, (3) a virus that may be detected and cleaned by other virus scanning products, or (4) an ineffective or inactive virus fragment.

Exhibit #4
IronPort Evaluation Agreement

IRONPORT EVALUATION AGREEMENT

This IronPort Evaluation Agreement (this "Agreement") is entered into as of _____ (the "Effective Date") by and between Cisco IronPort Systems, LLC, a Delaware Limited Liability Company with its principal place of business at 950 Elm Avenue, San Bruno, CA 94066 ("IronPort") and _____, with its principal place of business at: _____ ("Customer").

1. Evaluation.

a. Customer may use the Product(s) for evaluation purposes for a period of thirty (30) days from the receipt of the Product(s) (the "Evaluation Period"). Customer and IronPort may, upon mutual written agreement (including via email), extend the Evaluation Period.

b. Software contained in any of the Product(s) or otherwise provided by IronPort hereunder (the "Software") is only licensed to Customer for the term of the Evaluation Period for use in conjunction with the hardware with which it is supplied for the purposes of Customer's testing and evaluation. All right, title, and interest in and to the Software, including ownership of all intellectual property rights therein and thereto, shall remain at all times in IronPort and its licensors. Customer shall not make any copies of the Software.

c. Customer shall not alter, modify, decompile or reverse engineer the Product(s) or the Software in any manner.

d. As used herein, "Product(s)" means the IronPort product(s) listed on Exhibit A attached hereto, which is supplied to Customer hereunder for the purposes set forth herein at the location identified in Exhibit A attached hereto. Customer acknowledges that Product(s) delivered for evaluation purposes may be used and/or refurbished units.

2. **Assistance.** IronPort shall provide reasonable assistance to Customer with respect to the installation and use of the Product(s) during the Evaluation Period.

3. **Ownership.** Unless purchased by Customer, the Product(s) shall remain the exclusive property of IronPort and its licensors. Under no circumstances shall Customer sell, license, sublicense, distribute, assign or otherwise transfer to a third party or encumber the Product(s) without IronPort's prior written consent. Customer shall be responsible for any damage to or loss of the Product(s), excluding ordinary wear and tear.

4. **Term and Termination.** This Agreement shall commence on the Effective Date and shall terminate at the end of the Evaluation Period, unless earlier terminated as set forth herein. IronPort may, at its option, terminate this Agreement immediately if Customer (i) fails to comply with any terms and conditions of this Agreement or (ii) uses the Product(s) other than as authorized herein. As soon as practicable following any termination or expiration of this Agreement (and in no event more than ten (10) business days thereafter), Customer agrees to return to IronPort the Product(s) and all related materials and documentation, including without limitation all Confidential Information of IronPort. Sections 1(b), 1(c) and 3-8 shall survive termination or expiration of this Agreement.

5. **No Warranty.** THE PRODUCT(S) ARE PROVIDED "AS IS", AND IRONPORT MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT THERETO, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

6. **Limitation of Liability.** IN NO EVENT SHALL IRONPORT BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR EXEMPLARY DAMAGES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT. IN NO EVENT SHALL IRONPORT'S TOTAL LIABILITY UNDER THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) STRICT LIABILITY OR OTHER LEGAL THEORY, EXCEED THE GREATER OF THE AMOUNT PAID BY CUSTOMER HEREUNDER OR FIVE HUNDRED DOLLARS (\$500). THE FOREGOING LIMITATIONS SHALL APPLY EVEN IF IRONPORT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

7. **Confidential Information.** IronPort and Customer each agree to retain in confidence all information disclosed by a party to the other party pursuant to this Agreement which is either designated as proprietary and/or confidential, or by the nature of the circumstances surrounding disclosure, should reasonably be understood to be confidential (the "Confidential Information"). Customer acknowledges and agrees that the Product(s) and all information provided to Customer in

accordance with this Agreement shall be IronPort's Confidential Information without the need for any marking. Each party agrees to: (a) strictly preserve and protect the confidentiality of the other party's Confidential Information; and (b) refrain from using the other party's Confidential Information except as contemplated herein. The provisions of this Section 7 shall survive the termination or expiration of this Agreement for a period of two (2) years.

~~8. **Miscellaneous.** The parties are independent contractors, and nothing in this Agreement is intended to or shall create any agency, partnership or joint venture relationship between them. This Agreement shall be governed by the laws of the State of California without reference to conflicts of laws principles. Customer may not assign this Agreement, or any of its rights or obligations hereunder, by operation of law or otherwise, without IronPort's prior written consent. The failure of either party to exercise any right granted herein or to require any performance of any term of this Agreement or the waiver by either party of any breach of this Agreement shall not be deemed a waiver of any subsequent breach of, the same or any other term of this Agreement. This Agreement constitutes the entire Agreement between IronPort and Customer with respect to the subject matter hereof and supersedes any and all other written or oral agreements existing between the parties hereto regarding the subject matter of this Agreement. This Agreement may not be modified without the prior written consent of both parties.~~

Wherefore, the parties have caused this Product and Services Sales Agreement to be executed effective as of the Effective Date.

CISCO IRONPORT SYSTEMS, LLC	CUSTOMER
Signature: _____	Signature: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

EXHIBIT A

Type of Product: _____

Evaluation Unit Shipping Address:

Company Name:	_____
Care Of:	_____
Address 1:	_____
Address 2:	_____
City, State:	_____
Zip Code:	_____
Country:	_____
Fax:	_____

Technical Contact (Required)	
Evaluator Name:	_____
E-mail Address:	_____
Phone number:	_____

Rapid Rails: Yes / No (Circle One)

If Yes, please specify type of Rack:

- 4-Post Square Hole
- 4-Post Round Hole
- 2-Post Round Hole
- Versa Rails

If No, is a Shelf Unit Required: Yes / No

When complete, please fax to:
Cisco IronPort Systems, LLC
Sales Operations
650-989-7112

Exhibit #5

IronPort End User License Agreement (EULA)

CISCO IRONPORT SYSTEMS, LLC SOFTWARE LICENSE AGREEMENT

NOTICE TO ALL USERS: CAREFULLY READ THE FOLLOWING LEGAL AGREEMENT ("AGREEMENT") FOR THE LICENSE OF THE SOFTWARE (AS DEFINED BELOW). BY CLICKING THE ACCEPT BUTTON OR ENTERING "Y" WHEN PROMPTED, YOU (EITHER AN INDIVIDUAL OR A SINGLE ENTITY, COLLECTIVELY, THE "COMPANY") CONSENT TO BE BOUND BY AND BECOME A PARTY TO THE FOLLOWING AGREEMENT BETWEEN CISCO IRONPORT SYSTEMS LLC, A DELAWARE LIMITED LIABILITY COMPANY ("IRONPORT") AND COMPANY (COLLECTIVELY, THE "PARTIES"). BY CLICKING THE ACCEPT BUTTON OR ENTERING "Y" WHEN PROMPTED, YOU REPRESENT THAT (A) YOU ARE DULY AUTHORIZED TO REPRESENT YOUR COMPANY AND (B) YOU ACCEPT THE TERMS AND CONDITIONS OF THIS AGREEMENT ON BEHALF OF YOUR COMPANY, AND AS SUCH, AN AGREEMENT IS THEN FORMED. IF YOU OR THE COMPANY YOU REPRESENT DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, CLICK THE CANCEL BUTTON OR ENTER "N" WHEN PROMPTED AND PROMPTLY (BUT NO LATER THAT THIRTY (30) DAYS OF THE DELIVERY DATE, AS DEFINED BELOW) NOTIFY IRONPORT, OR THE RESELLER FROM WHOM YOU RECEIVED THE SOFTWARE, FOR A FULL REFUND OF THE PRICE PAID FOR THE SOFTWARE.

1. DEFINITIONS

1.1 "Company Service" means the Company's email or internet services provided to End Users for the purposes of conducting Company's internal business.

1.2 "Documentation" means IronPort's standard end user guide documentation for the IronPort hardware containing the Software.

1.3 "Delivery Date" means the date the IronPort hardware containing the Software is delivered to Company.

1.4 "End User" means the employee, contractor or other agent authorized by Company to access to the Internet or use email services via the Company Service.

1.5 "Ordering Document" means the purchase agreement, evaluation agreement, beta, pre-release agreement or similar agreement between the Company and IronPort or the Company and an IronPort reseller, or the valid terms of any purchase order accepted by IronPort in connection therewith, containing the purchase terms for the Software license granted by this Agreement.

1.6 "Service(s)" means (i) the provision of the Software functionality, including Updates and Upgrades, and (ii) the provision of support by IronPort or its reseller, as the case may be.

1.7 "Software" means: (i) IronPort's proprietary software licensed by IronPort to Company along with IronPort's hardware products; (ii) any software provided by IronPort's third-party licensors that is licensed to Company or sublicensed by IronPort to Company to be implemented for use with IronPort's hardware products; (iii) any other IronPort software module(s) licensed by IronPort to Company along with IronPort's hardware products; and (iv) any and all Updates and Upgrades thereto.

1.8 "Updates" means minor updates, error corrections and bug fixes that do not add significant new functions to the Software, and that are released by IronPort or its third party licensors. Updates are designated by an increase to the Software's release number to the right of the decimal point (e.g., Software 1.0 to Software 1.1). The term Updates specifically excludes Upgrades or new software versions marketed and licensed by IronPort or its third party licensors as a separate product.

1.9 "Upgrade(s)" means revisions to the Software, which add new enhancements to existing functionality, if and when it is released by IronPort or its third party licensors, in their sole discretion. Upgrades are designated by an increase in the Software's release number, located to the left of the decimal point (e.g., Software 1.x to Software 2.0). In no event shall Upgrades include any new versions of the Software marketed and licensed by IronPort or its third party licensors as a separate product.

2. LICENSE GRANTS AND CONSENT TO TERMS OF DATA COLLECTION

2.1 License of Software. By using the Software and the Documentation, Company agrees to be bound by the terms of this Agreement, and so long as Company is in compliance with this Agreement, IronPort hereby grants

to Company a non-exclusive, non-sublicensable, non-transferable, worldwide license during the Term to use the Software only on IronPort's hardware products, solely in connection with the provision of the Company Service to End Users. The duration and scope of this license(s) is further defined in the Ordering Document. Except for the license rights granted herein, no right, title or interest in any Software is granted to the Company by IronPort, IronPort's resellers or their respective licensors. This license and any Services are co-terminus.

2.2 Consent and License to Use Data. Subject to Section 3 hereof, and subject to the IronPort Privacy Statement at <http://www.ironport.com/privacy.html>, as the same may be amended from time to time by IronPort with notice to Company, Company hereby consents and grants to IronPort a license to collect and use the data from the Company as described in the Documentation, as the same may be updated from time to time by IronPort ("Data"). To the extent that reports or statistics are generated using the Data, they shall be disclosed only in the aggregate and no End User identifying information may be surmised from the Data, including without limitation, user names, phone numbers, unobfuscated file names, email addresses, physical addresses and file content. Notwithstanding the foregoing, Company may terminate IronPort's right to collect and use Data at any time upon prior written or electronic notification, provided that the Software or components of the Software may not be available to Company if such right is terminated.

3. CONFIDENTIALITY. Each party agrees to hold in confidence all Confidential Information of the other party to the same extent that it protects its own similar Confidential Information (and in no event using less than a reasonable degree of care) and to use such Confidential Information only as permitted under this Agreement. For purposes of this Agreement "Confidential Information" means information of a party marked "Confidential" or information reasonably considered by the disclosing party to be of a proprietary or confidential nature; provided that the Data, the Software, information disclosed in design reviews and any pre-production releases of the Software provided by IronPort are expressly designated Confidential Information whether or not marked as such.

4. PROPRIETARY RIGHTS; OWNERSHIP. Title to and ownership of the Software and other materials and all associated Intellectual Property Rights (as defined below) related to the foregoing provided by IronPort or its reseller to Company will remain the exclusive property of IronPort and/or its superior licensors. Company and its employees and agents will not remove or alter any trademarks, or other proprietary notices, legends, symbols, or labels appearing on or in copies of the Software or other materials delivered to Company by IronPort or its reseller. Company will not modify, transfer, resell for profit, distribute, copy, enhance, adapt, translate, decompile, reverse engineer, disassemble, or otherwise determine, or attempt to derive source code for any Software or any internal data files generated by the Software or to create any derivative works based on the Software or the Documentation, and agrees not to permit or authorize anyone else to do so. Unless otherwise agreed in writing, any programs, inventions, concepts, documentation, specifications or other written or graphical materials and media created or developed by IronPort or its superior licensors during the course of its performance of this Agreement, or any related consulting or professional service agreements,

including all copyrights, database rights, patents, trade secrets, trademark, moral rights, or other intellectual property rights ("Intellectual Property Right(s)") associated with the performance of such work shall belong exclusively to IronPort or its superior licensors and shall, in no way be considered a work made for hire for Company within the meaning of Title 17 of the United States Code (Copyright Act of 1976).

5. LIMITED WARRANTY AND WARRANTY DISCLAIMERS

5.1 Limited Warranty. IronPort warrants to Company that the Software, when properly installed and properly used, will substantially conform to the specifications in the Documentation for a period of ninety (90) days

from the Delivery Date or the period set forth in the Ordering Document, whichever is longer ("Warranty Period"). FOR ANY BREACH OF THE WARRANTY CONTAINED IN THIS SECTION, COMPANY'S EXCLUSIVE REMEDY AND IRONPORT'S ENTIRE LIABILITY, WILL BE PROMPT CORRECTION OF ANY ERROR OR NONCONFORMITY, PROVIDED THAT THE NONCONFORMITY HAS BEEN REPORTED TO IRONPORT AND/OR ITS RESELLER BY COMPANY WITHIN THE WARRANTY PERIOD. THIS WARRANTY IS MADE SOLELY TO COMPANY AND IS NOT TRANSFERABLE TO ANY END USER OR OTHER THIRD PARTY. IronPort shall have no liability for breach of warranty under this Section or otherwise for breach of this Agreement if such breach arises directly or indirectly out of or in connection with the following: (i) any unauthorized, improper, incomplete or inadequate maintenance or calibration of the Software by Company or any third party; (ii) any third party hardware software, services or system(s); (iii) any unauthorized modification or alteration of the Software or Services; (iv) any unauthorized or improper use or operation of the Software or Company's failure to comply with any applicable environmental specification; or (v) a failure to install and/or use Updates, Upgrades, fixes or revisions provided by IronPort or its resellers from time to time.

5.2 WARRANTY DISCLAIMER. THE EXPRESS WARRANTIES SET FORTH IN SECTION 5.1 OF THIS AGREEMENT CONSTITUTE THE ONLY PERFORMANCE WARRANTIES WITH RESPECT TO THE SOFTWARE OR SERVICES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IRONPORT LICENSES THE SOFTWARE AND SERVICES HEREUNDER ON AN "AS IS" BASIS. EXCEPT AS SPECIFICALLY SET FORTH HEREIN, IRONPORT AND ITS SUPERIOR LICENSORS MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY (EITHER IN FACT OR BY OPERATION OF LAW), AND EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NEITHER IRONPORT NOR ITS THIRD PARTY LICENSORS WARRANT THAT THE SOFTWARE OR SERVICES (1) IS FREE FROM DEFECTS, ERRORS OR BUGS, (2) THAT OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED, OR (3) THAT ANY RESULTS OR INFORMATION THAT IS OR MAY BE DERIVED FROM THE USE OF THE SOFTWARE WILL BE ACCURATE, COMPLETE, RELIABLE AND/OR SECURE.

6. LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY LOSS OF PROFITS, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, LOSS OF BUSINESS, LOSS OF USE OR DATA, INTERRUPTION OF BUSINESS, OR FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, EVEN IF SUCH PARTY RECEIVED ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL THE LIABILITY OF IRONPORT ARISING UNDER ANY PROVISION OF THIS AGREEMENT, REGARDLESS OF WHETHER THE CLAIM FOR SUCH DAMAGES IS BASED IN CONTRACT, TORT, OR OTHER LEGAL THEORY, EXCEED THE TOTAL AMOUNT PAID TO IRONPORT FOR THE SOFTWARE OR SERVICES DURING THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO SUCH LIABILITY.

7. **TERM AND TERMINATION.** The term of this Agreement shall be as set forth in the Ordering Document (the "Term"). If IronPort defaults in the performance of any material provision of this Agreement, then Company may terminate this Agreement upon thirty (30) days written notice if the default is not cured during such thirty (30) day period. If Company defaults in the performance of any material provision of this Agreement, IronPort may terminate this Agreement upon thirty (30) days written notice if the default is not cured during such thirty (30) day notice and without a refund. This Agreement may be terminated by one party immediately at any time, without notice, upon (i) the institution by or against the other party of insolvency, receivership or bankruptcy proceedings or any other proceedings for the settlement of such party's debts, (ii) such other party making a general assignment for the benefit of creditors, or (iii) such other party's dissolution. The license granted in Section 2 will immediately terminate upon this Agreement's termination or expiration. Within thirty (30) calendar days after termination or expiration of this Agreement, Company will deliver to IronPort or its reseller or destroy all copies of the Software and any other materials or documentation provided to Company by IronPort or its reseller under this Agreement.

8. **U.S. GOVERNMENT RESTRICTED RIGHTS; EXPORT CONTROL.** The Software and accompanying Documentation are deemed to be "commercial computer software" and "commercial computer software documentation," respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212, as applicable. Any use, modification, reproduction, release, performance, display or disclosure of the Software and accompanying Documentation by the United States Government shall be governed solely by the terms of this Agreement and shall be prohibited except to the extent expressly permitted by the terms of this Agreement. Company acknowledges that the Software and Documentation must be exported in accordance with U.S. Export Administration Regulations and diversion contrary to U.S. laws is prohibited. Company represents that neither the United States Bureau of Export Administration nor any other federal agency has suspended, revoked or denied Company export privileges. Company represents that Company will not use or transfer the Software for end use relating to any nuclear, chemical or biological weapons, or missile technology unless authorized by the U.S. Government by regulation or specific license. Company acknowledges it is Company's ultimate responsibility to comply with any and all import and export restrictions, and other applicable laws, in the U.S. or elsewhere, and that IronPort or its reseller has no further responsibility after the initial sale to Company within the original country of sale.

9. **MISCELLANEOUS.** ~~This Agreement is governed by the laws of the United States and the State of California, without reference to conflict of laws principles. The application of the United Nations Convention of Contracts for the International Sale of Goods is expressly excluded. Nothing contained herein shall be construed as creating any agency, partnership, or other form of joint enterprise between the parties. Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder (except for the payment of money) on account of (i) any provision of any present or future law or regulation of the United States or any applicable law that applies to the subject hereof, and (ii) interruptions in the electrical supply, failure of the Internet, strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, terrorism, governmental action, labor conditions, earthquakes, or any other cause which is beyond the reasonable control of such party. This Agreement and the Ordering Document set forth all rights for the user of the Software and is the entire agreement between the parties and supersedes any other communications with respect to the Software and Documentation. This Agreement may not be modified except by a written addendum issued by a duly authorized representative of IronPort, except that IronPort may modify the IronPort Privacy Statement at any time, in its discretion, via notification to Company of such modification that will be posted at <http://www.ironport.com/privacy.html>. No provision hereof shall be deemed waived unless such waiver shall be in writing and signed by IronPort or a duly authorized representative of IronPort. If any provision of this Agreement is held invalid, the remainder of this Agreement shall continue in full force and effect. The parties confirm that it is their wish that this Agreement has been written in the English language only.~~

10. IRONPORT CONTACT INFORMATION. If Company wants to contact IronPort for any reason, please write to CISCO IRONPORT SYSTEMS LLC, 950 Elm Avenue, San Bruno, California 94066, or call or fax us at tel: 650.989.6500 and fax:650.989.6543.

Exhibit #6

IronPort Product/Services Offering & Price Schedule

WSCA MASTER AGREEMENT
Amendment #4
IronPort List Price & WSCA Discount

IronPort List Price

IronPort Products and Services sold under the WSCA Master Agreement, Amendment #4 are subject to the then-current list price for Government and Public Sector Academic customers set forth in the Cisco IronPort *North American Price Book* in effect at time of Order. ("IP List Price") Contractor shall maintain the IP Pricebook on Contractor's WSCA website during the Prime Contract term.

WSCA Government Purchasers

Public sector purchasers other than public sector k-12 or higher education academic users purchase at the IP list price for "Government" users.

WSCA Academic Purchasers

Public sector k-12 or higher education academic customers purchase at the IP list price for "Academic Users."

IronPort Discount-off-List

IP Orders under this Amendment #4 are subject to the following minimum price discounts off the applicable IP Price book list price applicable to the Customer (e.g., Government or Academic):

<u>IP OFFERING</u>	<u>DISCOUNT OFF LIST:</u>
<u>Product</u>	35%
o Bundles	
o Software	
o Security Services	
o Individual H/W & Accessories	
o Support	
<u>Training & ProServe</u>	10%



STATE OF UTAH COOPERATIVE CONTRACT AMENDMENT			
AMENDMENT #	5		
CONTRACT #	AR233 - WESTERN STATES CONTRACTING ALLIANCE (WSCA) CISCO NETWORKING COMMUNICATIONS & MAINTENANCE MASTER AGREEMENT ("Contract" or "WSCA Master Agreement")		
Original Starting Date:	10/01/07		
Amended Expiration Date :	05/31/2012		
TO BE ATTACHED AND MADE PART OF the specified Contract by and between the State of Utah Division of Purchasing and			
CISCO SYSTEMS, INC (Referred to as CONTRACTOR)			
BOTH PARTIES AGREE TO AMEND THE CONTRACT AS FOLLOWS:			
Effective Date of Amendment:	Date of last signature of the Parties		
The contract is amended to:			
This Amendment #5 only applies to purchases made in the State of Utah. The purpose of this Amendment #5 is to add an administration state fee for the State of Utah that was not originally provided in the WSCA Master Agreement.			
Please provide the following contact information.			
	Name	Phone Number	Email Address
General Contact	Mimi Nguyen	1 408.527.2627	mimnguye@cisco.com
Sales Contact	Greg Semler	1.408.894.7116	gsemler@cisco.com
Quarterly Report Contact	Angelene (Gigi) Feril	1.408.424.0712	aferil@cisco.com
All other terms and conditions in the original contract remain the same. IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.			
CONTRACTOR		STATE OF UTAH	
<i>Dana Gundersen</i>	<i>8/17/10</i>	<i>Kent D. Beers</i>	<i>8/23/10</i>
Contractor's Signature	Date	Kent Beers, Director	Date
DANA GUNDERSEN		State of Utah Division of Purchasing	
Contractor's Name (Print)			
DIRECTOR FINANCE			
Title (Print)			
Purchasing Agent	Phone #	e-mail	Fax #
Debbie Gundersen	(801) 538-3150	dgundersen@utah.gov	(801) 538-3882

AMENDMENT # 5

To

**AR-233 - WESTERN STATES CONTRACTING ALLIANCE (WSCA)
CISCO NETWORKING COMMUNICATIONS & MAINTENANCE
MASTER AGREEMENT ("Contract" or "WSCA Master Agreement")**

(Adding an administration state fee for purchases in the State of Utah only)

This Amendment # 5 is entered into between Cisco Systems, Inc. with its principal place of business at 170 Tasman Drive, San Jose, CA 95134 ("Cisco" or "Contractor") and the Division of Purchasing and General Services, an agency of the State of Utah ("State"), with its principal place of business at State Office Building, Capitol Hill, Salt Lake City, UT 84114-1061, and acting on its own behalf and as the lead state for the WSCA Master Agreement on behalf of the *Western States Contracting Alliance* ("WSCA"), (collectively, the "Parties"). This Amendment #5 is effective as of the date of last signature of the Parties below ("Effective Date"). Capitalized terms used herein and not so defined shall have the same meaning as set forth in the WSCA Master Agreement.

WHEREAS, the State of Utah did not sign a separate Participating Addendum to the WSCA Master Agreement. Since the State of Utah is the contract administrator for the WSCA Master Agreement, it was deemed that the State of Utah executed a Participating Addendum upon execution of the WSCA Master Agreement as set forth in Attachment B, Section 1.8 of the WSCA Master Agreement.

WHEREAS, the purpose of this Amendment #5 is to provide an administration state fee for the State of Utah (in addition to the WSCA Administration Fee) that was not originally provided in the WSCA Master Agreement. This Amendment #5 shall apply only to the State of Utah and all purchases made by State of Utah's authorized Customers under the WSCA Master Agreement.

NOW THEREFORE, the Parties agree to amend the WSCA Master Agreement as follows:

1. State of Utah Administration Fees. Add the following provisions to the WSCA Master Agreement, Attachment B, Section 18:

"A. STATE OF UTAH REPORTS AND FEES ONLY: The Contractor agrees to provide a quarterly administration fee to the State of Utah ("State of Utah Administration Fee") in the form of a Check or EFT payment as set forth hereunder. The State of Utah Administration Fee is in addition to the WSCA Administration Fee, but only applies to purchases made by authorized Customers in the State of Utah. The State of Utah Administration Fee will be payable to the "State of Utah Division of Purchasing" for an amount equal to one percent (1%) of the Net Purchase Price paid by the State of Utah's authorized Customer. The Contractor's WSCA pricing to the Customers in the State of Utah may be adjusted to offset for the equivalent fee amount. Contractor also agrees to provide quarterly sales volume reports in accordance with Amendment #3 to the WSCA Master Agreement and the following schedule:

<u>CY Quarter</u>	<u>Activity Period</u>	<u>Due Dates (Reports & UT Fees)</u>
Q1:	January 1 – March 31 st	May 31 st
Q2:	April 1 – June 30 th	August 31 st
Q3:	July 1 – September 30 th	November 30 th
Q4:	October 1 – December 31 st	February 28 th

The State of Utah Administration Fee will be effective and applied on all purchases made starting Q4 CY2010 or October 1, 2010.

B. STATE OF UTAH TAXES ONLY: Bid/proposal prices will be exclusive of state sales, use and federal excise taxes. The State of Utah's sales and use tax exemption number is 11736850-010-STC, located at [http://purchasing.utah.gov/contract/documents/salestaxexemptionforms\(gned\).pdf](http://purchasing.utah.gov/contract/documents/salestaxexemptionforms(gned).pdf). The tangible personal property or services being purchased are being paid from STATE funds and used in

the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract, or contract orders. The State of Utah's Federal excise exemption number is 87-780019K.

- 2. In all other respects, the WSCA Master Agreement remains unchanged.

This Amendment #5 represents the entire understanding of the Parties and merges, supersedes and replaces any prior oral, electronic or other written communications or understandings with respect to the subject matter herein, and may only be modified by a written document executed by the Parties. Each Party warrants and represents that its respective signatory appearing below is, as of the date of signature, duly authorized to execute this Amendment #5 on behalf of and with the intent to legally bind their respective principal first identified above.

[Affix signatures as required by State Statutes, Rules or Policies below.]

CISCO SYSTEMS, INC.

STATE OF UTAH, ON ITS OWN BEHALF AND ON BEHALF OF WSCA

Signature: [Handwritten Signature]
Print Name: Dana Guinipetroni
Title: DIRECTOR FINANCE
Date: 8/17/10

Signature: [Handwritten Signature]
Print Name: Kent D Boers
Title: Director, Purchasing
Date: 8/23/10



STATE OF UTAH COOPERATIVE CONTRACT AMENDMENT

AMENDMENT # **6**
CONTRACT # **AR233 - WESTERN STATES CONTRACTING ALLIANCE (WSPA)
CISCO NETWORKING COMMUNICATIONS & MAINTENANCE
MASTER AGREEMENT ("Contract")**
Original Starting Date: **10/01/07**
Amended Expiration Date : **05/31/2012**

TO BE ATTACHED AND MADE PART OF the specified Contract by and between the State of Utah Division of Purchasing and

CISCO SYSTEMS, INC
(Referred to as CONTRACTOR)

BOTH PARTIES AGREE TO AMEND THE CONTRACT AS FOLLOWS:

Effective Date of Amendment: Date of last signature, below.

The contract is amended to:

Incorporate Cisco WebEx Products and Services offerings, the sale of which is solely governed by the terms set forth in this Amendment # 6, which is attached hereto and expressly incorporated by reference.

Please provide the following contact information.

	Name	Phone Number	Email Address
General Contact	Mimi Nguyen	1 408 527 2627	mimnguye@cisco.com
Sales Contact	Greg Semler	1.408.894.7116	gsemler@cisco.com
Quarterly Report Contact	Angelene Feril	1.408.894.7856	aferil@cisco.com

All other terms and conditions in the original contract remain the same.
IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

CONTRACTOR

STATE OF UTAH

Contractor's Signature _____ Date 2/10/2011
George Li
Kent .Beers, Director
State of Utah Division of Purchasing

Contractor's Name (Print) _____
GEORGE LI

Title (Print) _____
SR DIRECTOR, FINANCE

Purchasing Agent	Phone #	e-mail	Fax #
Debbie Gundersen	(801) 538-3150	dgundersen@utah.gov	(801) 538- 3882

AMENDMENT #6

TO

**AR-233 - WESTERN STATES CONTRACTING ALLIANCE (WSCA)
CISCO NETWORKING COMMUNICATIONS & MAINTENANCE
MASTER AGREEMENT ("AR-233" or "Prime Contract")**

WebEx Products and Services Add

This Amendment #6 ("Amendment") to AR-233 is entered into by and between Cisco Systems, Inc. with its principal place of business at 170 Tasman Drive, San Jose, CA 95134 ("Cisco" or "Contractor") and the Division of Purchasing and General Services, an agency of the State of Utah ("State"), acting for itself and as the lead state on behalf of the *Western States Contracting Alliance* ("WSCA"), with its principal place of business at 3150 State Office Building, Capitol Hill, Salt Lake City, UT 84114-1061 (collectively, the "Parties") for good and valuable consideration, the mutual receipt of which is hereby acknowledged by the Parties. Capitalized terms shall have the meanings as defined in this Amendment, or if none, then as defined in the Prime Contract.

1. Scope

The scope of the Prime Contract (also referred to as the "WSCA Master Agreement") is amended to add the service offerings of Cisco WebEx LLC, a wholly owned subsidiary of Cisco Systems, Inc. ("WE" or "WebEx") as listed and priced in the attached Exhibit #A, entitled "WE List Price & WSCA Discount" ("WE Pricebook" and, as to services, the "WE Services," or "WebEx Services").

2. Prime Contract Incorporation

WE Services sold under AR-233 are exclusively governed by the terms set forth in this Amendment. The Prime Contract Attachments A, B and C (as amended) are incorporated by reference into this Amendment and apply to the sale of WE Services, subject to the following additions, modifications and exclusions:

AR-233 - Attachment A

A. Section E.1 is modified to include the following discount:

<u>WE Services</u>	5% off WE List Price
--------------------	----------------------

B. Sections E.2 through E.4 are deleted and replaced with the support provisions set forth in Exhibit B, for purposes of support services available with the purchase of WE Services.

AR-233 - Attachment B

A. Section 1.2 is deleted in its entirety and replaced with the following:

i. "Contractor" shall mean Cisco WebEx LLC, a wholly owned subsidiary of Cisco Systems, Inc.

B. Section 1.5 is deleted as inapplicable.

C. Section 1.11 is deleted as inapplicable.

D. Section 1.14 is deleted in its entirety and replaced with the following:

"Services" shall mean those services within the scope of <http://contractdocuments.webex.com/WVBS.html> and WebEx professional and/or consulting services ("WE Professional Services"). WE Professional Services are subject to the terms of service set forth in Attachment D of the Prime Contract.

E. Section 1.16 is deleted as inapplicable.

F. Section 5 is deleted as inapplicable.

G. Section 12.1 is deleted in its entirety and replaced with the following:

- i. Term of Purchase Orders. During the Prime Contract term, the "Initial Term" of a Purchase Order will be for the number of months set forth on the Purchase Order, commencing on the date the Service is available for use by Purchaser. Each "Renewal Term" will automatically begin at the end of the preceding (Initial or Renewal) Term and continue for the number of months set forth on the Purchase Order; provided however that no Renewal Term may commence after the expiration or termination date of the Prime Contract.
- ii. Termination of Purchase Orders. Either party may terminate any Purchase Order at the end of any (Initial or Renewal) Term by providing the other party written notice of termination at least thirty (30) days prior to the end of such term.
- iii. Term of Amendment. This Amendment will commence on the Effective Date and shall continue for a period ending on the Termination Date of the Prime Contract.

H. Section 12.2 is deleted in its entirety and replaced with the following:

- i. Either party may terminate any Purchase Order at the end of any (Initial or Renewal) Term by providing the other party written notice of termination at least thirty (30) days prior to the end of such term, unless such Purchase Order has previously expired due to termination or expiration of the Prime Contract. Upon termination of the Prime Contract, Purchaser must cease use of the Services and return any associate software in its possession and control.

I. Section 15 (Conflict of Terms) is not applicable to WE Purchase Orders placed under this Amendment. In the event of any conflict, the order of precedence for WE Purchase Orders placed under this Amendment shall be resolved as follows:

- a. WSCA Participating Addendum (for the State in which the Purchase Order is placed);
- b. This Amendment; and
- c. The Prime Contract.

J. Section 20 is deleted in its entirety.

K. Sections 21.1 and 21.2 are both deleted in their entirety and replaced with the following:

a. CONTRACTOR WARRANTS THAT THE SERVICES WILL PERFORM SUBSTANTIALLY IN ACCORDANCE WITH THE APPLICABLE SERVICE DESCRIPTION. IN THE EVENT OF A BREACH OF THE FOREGOING WARRANTY, CONTRACTOR'S SOLE AND EXCLUSIVE OBLIGATION AND LIABILITY AND A PARTICIPATING STATE'S SOLE AND EXCLUSIVE REMEDY WILL BE FOR CONTRACTOR TO MAKE COMMERCIALY REASONABLE EFFORTS TO CORRECT ANY NON-CONFORMANCE OR, IF CONTRACTOR IS UNABLE TO DO SO WITHIN A REASONABLE TIME, TO PROVIDE THE PARTICIPATING STATE A REFUND FOR ANY FEES PAID FOR SERVICES FROM WHICH THE PARTICIPATING STATE DID NOT RECEIVE BENEFICIAL USE BECAUSE THE SERVICES FAILED TO COMPLY WITH THIS WARRANTY. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, WEBEX'S SERVICES, AND ANY CONTRACTOR SOFTWARE, ARE PROVIDED "AS IS" AND "AS AVAILABLE." CONTRACTOR EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND,

Page |

EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. CONTRACTOR MAKES NO OTHER WARRANTY OR REPRESENTATION REGARDING CONTRACTOR'S SERVICES, ANY INFORMATION, MATERIALS, GOODS OR SERVICES OBTAINED THROUGH CONTRACTOR'S SERVICES OR WEBSITE, OR THAT CONTRACTOR'S SERVICES WILL MEET ANY USER REQUIREMENTS, OR BE UNINTERRUPTED, TIMELY, SECURE OR ERROR FREE. USE OF CONTRACTOR'S SERVICES AND WEBSITE ARE AT USER'S SOLE RISK. THE PARTICIPATING STATE WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO THE PARTICIPATING STATE OR ITS USERS RESULTING FROM THE USE OF SUCH SERVICES OR WEBSITE.

- L. Section 26 is deleted in its entirety as inapplicable.

AR-233 - Attachment C

- A. Section 1 is deleted in its entirety as inapplicable.
- B. Section 2.1 is deleted in its entirety and replaced with the following:

"Prices for Services are those specified in WE's then-current Global Price List, less the applicable discounts ("Price Discounts") are specified in this Attachment 6, Exhibit A."

- C. Section 2.3 is deleted in its entirety and replaced with the following:

"WE may change its U.S. List Prices for the Services at any time and shall announce such price changes by issuance of a revised Price List (including via electronic posting) or other announcement of price change. Purchase Orders received before the date of price change announcement(s) to WE's Global Price List and those received within thirty (30) days thereafter, will be invoiced to Purchaser without regard to the price change, provided however, price decreases will be effective for all Purchase Orders accepted by WE after the date of issuance or announcement of revised prices."

- D. Section 3.4 is deleted in its entirety as inapplicable.
- E. Section 3.5 is revised such that the noted URL is replaced with the following:
<http://contractdocuments.webex.com/VVBS.html>
- F. Section 4 is deleted in its entirety as inapplicable.

3. Additional Requirements

The following additional requirements are specific to the Services.

- A. **Purchaser Site Set Up.** Initially, Contractor will set up a web site that does not include the Purchaser's corporate logos, page headers or colors ("General Site"). Contractor then will set-up a site for use by Purchaser that incorporates Purchaser's corporate logos, page headers and colors (the "Purchaser Site"). The General Site will be available until Purchaser and Contractor have completed their obligations to create the Purchaser Site. Purchaser will supply the links and branding information and materials necessary for Contractor to create the Purchaser Site. Contractor expects that the Purchaser Site will be available by the Anticipated Start Date set forth on the Purchase Order, provided Purchaser has provided materials in a timely fashion. Contractor will make minor changes to the Purchaser Site, such as fixing and changing links, at no additional cost. A fee, set forth in the Purchase Order, will be charged for more extensive changes.
- B. **Fee Adjustments.** Contractor may, upon at least forty five (45) days prior written notice and effective at the end of the then-current (Initial or Renewal) Term (defined below), adjust the fees paid by Purchaser for the Services, provided that Purchaser shall have the option, within thirty (30) days of receiving such notice from Contractor, to either (i) modify the quantity or type of Services utilized by Purchaser by a mutual written amendment between the parties, or (ii) terminate the affected Orders upon written notice, either of which will become effective at the beginning of the next Renewal Term.

C. Use of Purchaser Name.

i. Purchaser's Name and Logo. Purchaser agrees that Contractor may use Purchaser's name and logo on the Purchaser Site, in order to satisfy Contractor's responsibilities under Section 3 of this Agreement.

D. Purchaser's Responsibilities.

i. Account Number/Password. Purchaser is responsible for all uses of the General and Purchaser Site. Purchaser is responsible for maintaining the confidentiality of Purchaser's account number and passwords. Purchaser agrees to immediately notify Contractor of any unauthorized use of Purchaser's account of which Purchaser becomes aware.

ii. Content of Communications on Purchaser's Account. Purchaser agrees that Purchaser is solely responsible for the content of all visual, written or audible communications using Purchaser's account. Purchaser agrees that Purchaser will not use the Services to send unsolicited email outside Purchaser's company or organization in violation of applicable law. Purchaser further agrees not to use the Services to communicate any message or material that is harassing, libelous, threatening, obscene, would violate the intellectual property rights of any party or is otherwise unlawful, that would give rise to civil liability, or that constitutes or encourages conduct that could constitute a criminal offense, under any applicable law or regulation. Although Contractor is not responsible for any such communications, Contractor may suspend any such communications of which Contractor is made aware of, at any time upon prompt notice to Purchaser. Purchaser agrees to indemnify, defend and hold harmless Contractor from any and all third party claims, liability, damages and/or costs (including, but not limited to, attorneys' fees) arising from Purchaser's violation of this section. Notwithstanding the foregoing, Purchaser's acceptance of this section does not, in and of itself, constitute a waiver of any statutory immunity available at law.

iii. No Commercial Use. Other than using the Services for conferences or meetings in which Purchaser is an active participant, and as permitted under the terms of the Agreement, the Services may be used for internal business purposes only. Purchaser may not resell, distribute, or make any commercial use of, use on a timeshare or service bureau basis, or use to operate a Web-site or otherwise generate income from the Services or use the Services for the development, production, or marketing of a service or product substantially similar to the Services. Purchaser shall not use the Services in any manner that could damage, disable, overburden, impair, or otherwise interfere with or disrupt the websites, Services, or any network or networks connected to the Services or security systems. The Services may not be exported, re-exported, diverted, transferred or disclosed in violation of any export law or regulation.

iv. Use of AOL Screen Names or Networks. If applicable, a user's use of a user identification or screen name issued by America Online or its affiliates ("AOL") or your use of the AOL network is governed by the AOL Network Registered User Terms of Service located at http://about.aol.com/aolnetwork/terms_use.

- E. All stated references in the Prime Contract scope of permissible product and services offerings is amended to add WE Services offered under the then-current WE Pricebook during the Prime Contract term. For Purchase Orders under this Amendment, all Prime Contract references to the "Cisco Global Price List" shall be deemed to refer solely to the WE Pricebook.
- F. Purchase Orders for WE Services may only be accepted by "Fulfillment Partners" who are specifically authorized to resell the WE Services. For purposes of Purchase Orders placed under this Amendment, Prime Contract references to "Fulfillment Partners" shall be deemed to refer to only those resellers holding a specific authorization to resell WE Services.
- G. The WE offerings and price discounts are to be applied against the then-current WE Pricebook as further detailed in this Amendment, Exhibit A.
- H. This Amendment shall end co-terminously with the Prime Contract (as amended).
- I. Attachment C, Exhibit A (WSCA Master Agreement List & Discount) is not applicable to WE Purchase Orders placed under this Amendment.

- J. Attachment C, Exhibit B (Demo Depot and Try and Buy Terms) is not applicable to WE Purchase Orders placed under this Amendment.
- K. Attachment D (Cisco Master Services Agreement and Advanced Services Agreement) is not applicable to WE Purchase Orders placed under this Amendment.
- L. Attachment E (Cisco Redacted Bid Proposal) is not applicable to WE Purchase Orders placed under this Amendment.

4. **WE Exhibits**

This Amendment expressly incorporates the following WE Exhibits and documentation ("WE Agreements") and governs Purchase Orders of WE Services under this Amendment:

- Exhibit A: WEBEX SERVICES OFFERING & DISCOUNT**
- Exhibit B: PREMIUM SUPPORT SERVICES**

5. **Separation of Orders**

WE Orders under this Amendment will be kept separate from Purchase Orders otherwise placed under the Prime Contract for non-WE products or services. Rights and obligations under WE Orders shall not have any co-dependencies or contingencies, e.g., in acceptance, technical performance, payment or refund terms, for obligations otherwise under Cisco Systems, Inc. Product Orders under the Prime Contract. Without diminishing WSCA, the Participating States' and Purchaser's rights against Cisco for all non-WE Product orders, including but not limited pricing, payment terms, and/or warranties, all claims and liabilities relating to WE Purchase Orders shall be exclusively noticed to and made against Cisco WebEx LLC as follows:

General Counsel
Cisco Systems, Inc.
170 West Tasman Drive
San Jose, CA 95134

This Amendment will provide the terms under which members of the WSCA may purchase WE Services. WSCA agrees to look only to WE for performance of the WE Services, and to not seek from WebEx performance under the terms of the Prime Contract. Similarly, WSCA agrees to look only to Cisco for performance under the terms of Prime Contract, and not seek from Cisco performance of the WE Services. WSCA also understands and agrees that the purpose of this Amendment is solely to purchase WE Services and any deviations from the existing Prime Contract will not affect its rights and obligations under the terms of the Prime Contract as those rights and obligations pertain to non-WebEx Services products or services, including but not limited to any deviations in pricing, payment terms, payment dependencies, and/or technical and/or functional dependencies.

This Amendment represents the entire understanding of the parties and supersedes any prior oral, electronic or other written communications or understandings with respect to the subject matter herein. This Amendment may only be modified by a written document executed by both parties. Each party warrants and represents that its respective signatory whose signature appears on page 1 is, as of the date of signature, duly authorized to execute this Amendment on behalf of and with the intent to legally bind their respective principal first identified above.

Exhibit A

WebEx Services Offering & Discount

WE List Price

WE Services sold under the WSCA Master Agreement, Amendment #6 are subject to the WE List Price in effect at time of Order. Contractor shall maintain the WE Pricebook on Contractor's WSCA website during the Prime Contract term.

WE Discount-off-List

Five percent (5%) off WE List Price in effect at time of Order for WE Services.

Exhibit B

Premium Support Services

1. Issue Severity Levels

Issue Severity is determined by objective examination of the incident. The following outlines Contractor criteria for each category:

Severity Levels			
Severity Level	Definition	Examples	
		Service	Condition
Severity 1	Core Service functionality unavailable	Meetings	Unable to start/join
		Telephony	unable to start/join Telephony: dead air or fast busy
		Connect	unable to IM, access DMS.
		Cisco Mail	unable to send/receive mail
Severity 2	Secondary services unavailable.	Meetings	Meeting recording unavailable, Meeting report unavailable, RA function not working
		Telephony	Toll number does not work, but toll free works and vice versa
		Connect	Unable to download new client
		Cisco Mail	Unable to access old mails/archive
Severity 3	Intermittent or partial failure of secondary services. Branding Issues. Admin Features.	Meetings	Intermittent error while accessing site, start meeting, joining meeting
		Telephony	Intermittent error while start/join teleconference
		Connect	Connect admin functions
		Cisco Mail	Cisco Mail admin functions
Severity 4	Single point of failure condition.	All services	A cluster has been failed over to the backup infrastructure and may remain there until the next maintenance window before being failed back to primary.
Severity 5	Informational, tracking of non-standard operational condition, non-impacting service reboots	All services.	Customer network connectivity issues, problem with the customers ISP, computer, or software, etc.

2. Response/Resolution Time

Below indicates the response/resolution times for each Severity Issue. All times indicated are worst case scenarios.

Severity Level Response/Resolution Time			
Severity Level	TTR Goal	Response or Action plan	Higher Level Escalation if no ETR (Estimated Time of Resolution) after:
Severity 1	0 minutes	20 minutes	1 hour
Severity 2	0 minutes	20 minutes	1 hour
Severity 3	0 minutes	1 hour	4 hours
Severity 4	Managed to SLA - at mgmt discretion - restore N+1 service at next maintenance window, or ASAP without customer impact	4 hours	NA
Severity 5	NA	24 hours	NA

a. Response time is the elapsed time for Contractor to acknowledge a problem of a given severity. In the instance where the problem cannot be resolved in the response time interval, Contractor will provide a status and an action plan for resolution.

b. Escalations are to be utilized in the event that acceptable status and/or resolution have not been accomplished by the Contractor Customer Support Team in the time frames indicated.

c. WSCA, the Participating State or Purchaser, as applicable, agree to work with Contractor and will make available qualified persons to aid in reproducing and/or isolating problems should there be an incompatibility between Contractor and the end user's environment. In the event that such individual cannot be made available, these resolution times may be extended.

3. Notifications

a. Contractor performs standard customer maintenance activities during regular minor and major change windows. These windows are currently conducted between 9pm and 12am PST weekdays, and 7pm and 12am PST Saturdays.

b. Contractor will provide notification of any unscheduled maintenance activities 7 days in advance of the change. In the event that there is an unscheduled urgent change required which must be accomplished inside that window, Contractor will make reasonable commercial efforts to provide as much notice as possible to WSCA, Participating State or Purchaser, as applicable.

c. All notifications are made to a designated customer-maintained email-alias that the WSCA agrees to provide to Contractor.

4. Summary of Change Notifications

Type of change	Notification Interval
Minor update	Based on customer impact. 7 day notification via email if change affects service features or repairs key service issues
Major update	14 days notification via email
Scheduled maintenance	2 days, notification via email
Unscheduled maintenance	Varies, as much notice as possible, via email.

Definitions:

a. A Minor update (service patch) is a change to the service, which addresses specific issues that may impact some, but not all customers. Cosmetic changes, or minimal updates to the user

interface, or updates which aid in the overall operation of the service but which are not visible to the customer experience are included in this change level.

b. A Major update is a significant change to the service, and will impact the user experience. This may result in changes to the user interface or service features which differ from the current service release. This category of change may also require a new client to be downloaded.

c. Scheduled maintenance refers to changes made to the Contractor service infrastructure. Purchaser is notified if the changes will impact the availability of the service.

d. Unscheduled maintenance refers to emergency service procedures required to maintain the availability of the service, and require service interruption to the customer to complete.

5. Support

a. Contractor provides 24 x 7 x 365 technical support in English. In addition, Contractor provides limited support in other languages at its discretion. These numbers will be accessible to the customer so long as this SLA is in effect and this location:

<http://support.Contractor.com/support/phone-numbers.html>

b. To access training:

1. Go to: <http://university.Contractor.com>
2. Enter Contractor account information (Username, password, Contractor URL)
3. Choose a service and expand the list of course offerings.
4. Enroll in an Instructor-Led class or go through Self-Paced training

c. 85% of calls to Contractor support will be answered within 120 seconds.

d. The Contractor e-mail response commitment to inquiries submitted via the MyResources Support portal (<http://support.Contractor.com>) will be 24 hours or less.

6. Escalation Contacts

Should the need arise, the following Technical and Business Escalation Contacts can be utilized:

a. Technical Escalations

Contact	Name	Phone Number	Email
Contractor Technical Support		+1.408.435.4088 866.229.3239	http://support.Contractor.com/support/submit-ticket.html
Technical Support Manager			
Technical Support Manager			
Technical Support Manager			
Director, Customer Operations			

b. Business Escalations

Contact	Name	Phone Number	Email
Client Services Manager			
Client Services Supervisor			
Manager, Client Services			
Director, Customer Care			

7. Updates to Support Services Exhibit

This Support Services Exhibit will be periodically reviewed, and updates accepted, subject to the mutual agreement of Contractor and WSCA management.



STATE OF UTAH COOPERATIVE CONTRACT AMENDMENT

AMENDMENT # 7

CONTRACT # AR233

Original Starting Date: 10/01/07

Expiration Date : 05/31/12

TO BE ATTACHED AND MADE PART OF the specified contract by and between the State of Utah Division of Purchasing and

CISCO SYSTEMS, INC.

(Referred to as CONTRACTOR)

BOTH PARTIES AGREE TO AMEND THE CONTRACT AS FOLLOWS:

Amended Expiration Date: 05/31/2014

Effective Date of Amendment:
05/31/12

Potential Renewal Options Remaining:

The contract is amended to:

Please provide the following contact information.

	Name	Phone Number	Email Address
General Contact	Mimi Nguyen	Office: 408.527.2627 Cell: 650.303.4483	mimnguye@cisco.com
Sales Contact	Greg Semler	Office: 408.894.7114 Cell: 360.951.8086	gsemler@cisco.com
Quarterly Report Contact	Angelene Feril	Office: 408.424.0712 Cell: 408.318.3163	aferil@cisco.com

All other terms and conditions in the original contract remain the same.

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

CONTRACTOR

STATE OF UTAH

Brian Fukuhara 1/20/12
Contractor's Signature Date

Kent Beers 1/24/12
Kent Beers, Director Date
State of Utah Division of Purchasing

Brian Fukuhara
Contractor's Name (Print)
Vice President Finance

Title (Print)

APPROVED BY LEGAL

Purchasing Agent	Phone #	e-mail	Fax #
Debbie Gundersen	801-538-3150	dgundersen@utah.gov	801-538-3882

10/27/2008

LEGAL COMPANY NAME AND PRIMARY BUSINESS ADDRESS	CUSTOMER ORDER CONTACT	CUSTOMER SERVICE CONTACT	REMITTANCE ADDRESS	FEDERAL ID #	DISCOUNT OFFERED BY PARTNER
	(Customer Sales and Order Inquiries)	(Partner Contact for Escalations and Disputes)	(For Customer Payment Purposes)		(Includes Additional Incremental Discount)
AT&T Corp 208 South Akard Street Dallas, TX 75202 Phone: 210-821-4105 Fax: 210-821-4105 www.att.com	Mike Lederle ISR 2000 W. AT&T Center Dr. Hoffman Estates, IL 60192 Phone: 847-248-6573 Fax: 847-513-0671 ml9536@att.com	Mike Lederle ISR 2000 W. AT&T Center Dr. Hoffman Estates, IL 60192 Phone: 847-248-6573 Fax: 847-513-0671 ml9536@att.com	AT&T P.O. Box 8104 Aurora, IL 60507-8104 Toll Free: 888-299-0126		Product: 37% SMARTnet: 1 year: 14% 3 year: 17% PROF SVS/ AS / TRAINING: 10% Education: Product: 37% SMARTnet: 1 year: 14% 3 year: 17% PROF SVS/ AS / TRAINING: 10% Basic Install & Config Services (hourly labor rate): Tier 1: \$100/hr, OT: \$150/hr Tier 2: \$125/hr, OT: \$187.50/hr
CDW Government LLC 230 N. Milwaukee Ave. Vernon Hills, IL 60061 Phone: 800-808-4239 Toll Free: 800-808-4239 Fax: 847-419-6200 www.cdwg.com	Tom Stien Sales Manager 230 N. Milwaukee Avenue Vernon Hills, IL 60061-9740 Phone: 312-705-6229 Toll Free: 866-537-4635 Fax: 847-968-1548 tomstie@cdwg.com	Tom Stien Sales Manager 230 N. Milwaukee Avenue Vernon Hills, IL 60061-9740 Phone: 312-705-6229 Toll Free: 866-537-4635 Fax: 847-968-1548 tomstie@cdwg.com	Tom Stien Sales Manager 75 Remittance Drive, Suite 1515 Chicago, IL 60675-1515 Phone: 312-705-6229 Toll Free: 866-537-4635 Fax: 312-705-6229 tomstie@cdwg.com		Product: 35% SMARTnet: 1 year: 10% 3 year: 17% PROF SVS/ AS / TRAINING: 10% Education: Product: 35% SMARTnet: 1 year: 10% 3 year: 17% PROF SVS/ AS / TRAINING: 10% Basic Install & Config Services (hourly labor rate): Tier 1: \$180/hr, OT: \$270/hr Tier 2: \$190/hr, OT: \$285/hr
Data Strategy, LLC 4020 East Beltline Ave. NE, Suite 201 Grand Rapids, MI 49525 Phone: 616-281-5566 Fax: 616-656-2029 www.data-strategy.com	Dave Panebianco Account Executive 5455 Corporate Dr., Suite 100 Troy, MI 48098 Phone: 248-247-3613 Fax: 248-265-6799 dpanebianco@data-strategy.com	Martha McKeiver Order Management 4020 East Beltline Ave. NE, Suite 201 Grand Rapids, MI 49525 Phone: 616-281-5566 Fax: 616-656-2029 mmckiever@data-strategy.com	Adam Weaver Controller 4020 East Beltline Ave. NE, Suite 201 Grand Rapids, MI 49525 Phone: 616-281-5566 Fax: 616-656-2029 aweaver@data-strategy.com		Product: 38% SMARTnet: 1 year: 15% 3 year: 20% PROF SVS/ AS / TRAINING: 10% Education: Product: 38% SMARTnet: 1 year: 15% 3 year: 20% PROF SVS/ AS / TRAINING: 10% Basic Install & Config Services (hourly labor rate): Tier 1: \$150/hr, OT: \$225/hr Tier 2: \$180/hr, OT: \$270/hr
Inacomp Technical Services Group LLC 17250 W 12 Mile Road, Suite 200 Southfield, MI 48076 Phone: 248-559-5700 Fax: 248-559-5782 www.inacomp.net	Jamie Ogden VP of Sales 17250 W 12 Mile Road, Suite 200 Southfield, MI 48076 Phone: 248-286-9003 Fax: 248-559-5782 jamie.ogden@inacompstg.com	Brittney Kanan Customer Service 17250 W 12 Mile Road, Suite 200 Southfield, MI 48076 Phone: 248-286-9011 Fax: 248-559-5782 brittney.kanan@inacompstg.com	Tracy Brady VP of Finance 17250 W 12 Mile Road, Suite 200 Southfield, MI 48076 Phone: 248-559-5700 Fax: 248-559-5782 tracy.brday@inacompstg.com		Product: 39% SMARTnet: 1 year: 15% 3 year: 22% PROF SVS/ AS / TRAINING: 15% Education: Product: 35% SMARTnet: 1 year: 33% 3 year: 33% PROF SVS/ AS / TRAINING: 10% Basic Install & Config Services (hourly labor rate): Tier 1: \$75/hr, OT: \$95/hr Tier 2: \$110/hr, OT: \$140/hr
Information Systems Intelligence, LLC 5975 Crossroads Commerce Pkwy SW Wyoming, MI 49519 Phone: 616-656-2200 Fax: 616-773-6116 www.isigr.com	Jen Nobach Executive Sales Assistant 5975 Crossroads Commerce Pkwy SW Wyoming, MI 49519 Phone: 616-940-5113 Fax: 616-773-6116 sales@isigr.com	Chad Orduis Sales Manager 5975 Crossroads Commerce Pkwy SW Wyoming, MI 49519 Phone: 616-940-5115 Fax: 616-773-6116 sales@isigr.com	Michelle LaBlance Operations Manager 5975 Crossroads Commerce Pkwy SW Wyoming, MI 49519 Phone: 616-940-5151 Fax: 616-773-6116 ops@isigr.com		Product: 41.10% SMARTnet: 1 year: 13.10% 3 year: 20.10% PROF SVS/ AS / TRAINING: 10% Education: Product: 41.10% SMARTnet: 1 year: 31.10% 3 year: 38.10% PROF SVS/ AS / TRAINING: 10% Basic Install & Config Services (hourly labor rate): Tier 1: \$95/hr, OT: \$142.50/hr Tier 2: \$115/hr, OT: \$172.50/hr
IP Consulting, Inc. 3935 29th St. SE Kentwood, MI 49512 Phone: 616-828-4416 Fax: 616-726-2499 www.ipconsultinginc.com	Reagan VanAntwerp Administrative Assistant 3935 29th St. SE Kentwood, MI 49512 Phone: 616-828-4416 Fax: 616-726-2499 reagan.vanantwerp@ipconsultinginc.com	Milton Moore President 3935 29th St. SE Kentwood, MI 49512 Phone: 616-828-4416 Fax: 616-726-2499 milton.moore@ipconsultinginc.com	Reagan VanAntwerp Administrative Assistant 3935 29th St. SE Kentwood, MI 49512 Phone: 616-828-4416 Fax: 616-726-2499 reagan.vanantwerp@ipconsultinginc.com		Product: 36% SMARTnet: 1 year: 11% 3 year: 18% PROF SVS/ AS / TRAINING: 11% Education: Product: 36% SMARTnet: 1 year: 11% 3 year: 18% PROF SVS/ AS / TRAINING: 11% Basic Install & Config Services (hourly labor rate): Tier 1: \$135/hr, OT: \$135/hr Tier 2: \$160/hr, OT: \$160/hr
IT Resource, Inc. 701 W. Randall St. Suite C	Carrie Borchers Director of Sales 701 W. Randall St. Suite C	Hans Van Baal Technical Services Manager 701 W. Randall St. Suite C	Gayla Lutz Accounting Manager 701 W. Randall St. Suite C		Product: 36% SMARTnet: 1 year: 15%

Coopersville, MI 49404 Phone: 616-837-6930	Coopersville, MI 49404 Phone: 616-837-6930	Coopersville, MI 49404 Phone: 616-837-6930	Coopersville, MI 49404 Phone: 616-837-6930	3 year: 19% PROF SVS/ AS / TRAINING: 10%
Fax: 616-837-6936 www.itrw.net	Fax: 616-837-6936 carrieb@itrw.net	Fax: 616-837-6936 hansvb@itrw.net	Fax: 616-837-6936 gaylal@itrw.net	Education: Product: 36% SMARTnet: 1 year 15% 3 year: 19% PROF SVS/ AS / TRAINING: 10%
Basic Install & Config Services (hourly labor rate): Tier 1: \$125/hr, OT: \$170/hr Tier 2: \$140/hr, OT: \$185/hr				

Logicalis, Inc.	Barry Hintz Senior Account Executive 34505 W Twelve Mile Rd, Suite 210 Farmington Hills, MI 48831 Phone: 248-957-5600	Barry Hintz Senior Account Executive 2469 Woodlake Circle, Suite 100 Okemos, MI 48864 Phone: 517-318-0187	Barry Hintz Senior Account Executive 2469 Woodlake Circle, Suite 100 Okemos, MI 48864 Phone: 517-318-0187	Department #172301 P.O. Box 67000 Detroit, MI 48267-1723 Phone: 248-957-5600 Toll Free: 866-456-4422	Product: 37.5% SMARTnet: 1 year 15% 3 year: 22% PROF SVS/ AS / TRAINING: 10%
Fax: 248-957-5601 www.us.logicalis.com	Fax: 248-232-5401 barry.hintz@us.logicalis.com	Fax: 248-232-5401 barry.hintz@us.logicalis.com	Fax: 248-957-5601	Education: Product: 35% SMARTnet: 1 year 20% 3 year: 17% PROF SVS/ AS / TRAINING: 10%	
Basic Install & Config Services (hourly labor rate): Tier 1: \$135/hr, OT: \$185/hr Tier 2: \$175/hr, OT: \$225/hr					

MCPc Inc.	Andrew Shannon Regional Vice President 4717 Broadmoor Ave SE, Suite A Grand Rapids, MI 49512 Phone: 616-554-9501 Toll Free: 800-777-7178 Fax: 440-876-2083 www.mcpc.com	Michael Montisano Regional President 21555 Drake Road Cleveland, OH 44149 Phone: 445-268-3233 Toll Free: 800-777-7178 Fax: 440-876-2083 michael.montisano@mcpc.com	Jeff Raycher Credit Manager P.O. Box 643283 Pittsburgh, PA 15264-3283 Phone: 440-268-4364 Toll Free: 800-777-7178 Fax: 440-268-4622 jeff.raycher@mcpc.com	Product: 36% SMARTnet: 1 year 11% 3 year: 18% PROF SVS/ AS / TRAINING: 10%
				Education: Product: 36% SMARTnet: 1 year 20% 3 year: 27% PROF SVS/ AS / TRAINING: 10%
Basic Install & Config Services (hourly labor rate): Tier 1: \$100/hr, OT: \$150/hr Tier 2: \$140/hr, OT: \$210/hr				

Midstate Security Company, LLC	Jim Salzwedel Director of Sales 3495 Viaduct SW Grandville, MI 49418 Phone: 616-257-1100	Steve Premo CFO 3495 Viaduct SW Grandville, MI 49418 Phone: 616-257-1124	Sue Priest Account Receivable Manager 3495 Viaduct SW Grandville, MI 49418 Phone: 616-257-1148	Product: 35% SMARTnet: 1 year 10% 3 year: 17% PROF SVS/ AS / TRAINING: 10%
Fax: 616-257-1101 Midstatesecurity.com	Fax: 616-257-1101 jsalzwedel@midstatesecurity.com	Fax: 616-257-1101 spremo@midstatesecurity.com	Fax: 616-257-1101 spriest@midstatesecurity.com	Education: Product: 35% SMARTnet: 1 year 10% 3 year: 17% PROF SVS/ AS / TRAINING: 10%
Basic Install & Config Services (hourly labor rate): Tier 1: \$85/hr, OT: \$115/hr Tier 2: \$105/hr, OT: \$145/hr				

Netech Corporation	Todd Steichen Inside Sales Representative 26800 Meadowbrook Road, Suite 119 Novi, MI 48377 Phone: 248-468-0711 Toll Free: 888-481-6555 Fax: 248-468-0713 tsteichen@netechcorp.com	Todd Steichen Inside Sales Representative 26800 Meadowbrook Road, Suite 119 Novi, MI 48377 Phone: 248-468-0711 Toll Free: 888-481-6555 Fax: 248-468-0713 tsteichen@netechcorp.com	Roxann Thompson Account Receivable Coordinator 4595 Broadmoor SE, Suite 190 Grand Rapids, MI 49512 Phone: 616-281-2035 Toll Free: 888-481-6555 Fax: 616-281-8594 rthompson@netechcorp.com	Product: 40.5% SMARTnet: 1 year 20% 3 year: 22% PROF SVS/ AS / TRAINING: 20%
				Education: Product: 40.50% SMARTnet: 1 year 25% 3 year: 22% PROF SVS/ AS / TRAINING: 20%
Basic Install & Config Services (hourly labor rate): Tier 1: \$135/hr, OT: \$202.50/hr Tier 2: \$155/hr, OT: \$232.50/hr				

NetSource One, Inc	Andy Skrzypczak President 5410 Hampton Place Saginaw, MI 48604 Phone: 989-498-4534 Toll Free: 800-410-2872 Fax: 989-498-4554 www.nsoit.com	Andy Skrzypczak President 5410 Hampton Place Saginaw, MI 48604 Phone: 989-498-4534 Toll Free: 800-410-2872 Fax: 989-498-1082 andy@nsoit.com	Laura Shrum Office Administrator 5410 Hampton Place Saginaw, MI 48604 Phone: 989-498-4536 Toll Free: 800-410-2872 Fax: 989-498-4542 laura@nsoit.com	Product: 35% SMARTnet: 1 year 10% 3 year: 17% PROF SVS/ AS / TRAINING: 10%
				Education: Product: 35% SMARTnet: 1 year 10% 3 year: 17% PROF SVS/ AS / TRAINING: 10%
Basic Install & Config Services (hourly labor rate): Tier 1: \$120/hr, OT: \$180/hr Tier 2: \$150/hr, OT: \$225/hr				

NuWave Technology Partners, LLC	Chad R. Paalman Managing Partner 6539 Westland Way, Suite 19 Lansing, MI 48917 Phone: 517-322-2200 Toll Free: 877-342-4401	Jeff Bowes Operations Manger 6539 Westland Way, Suite 19 Lansing, MI 48917 Phone: 517-322-2200 Toll Free: 877-342-4401	Mark Woodin Controller 5268 Azo Ct. Kalamazoo, MI 49048 Phone: 269-342-4400 Toll Free: 877-342-4401	Product: 35% SMARTnet: 1 year 10% 3 year: 17% PROF SVS/ AS / TRAINING: 10%
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Fax: 269-342-4499
http://nuwavepartners.com

Fax: 517-322-2272
chad.paalman@NuWavePartners.com

Fax: 517-322-2272
jeff.bowes@NuWavePartners.com

Fax: 269-342-4499
mark.woodin@NuWavePartners.com

Education:
Product: 35%
SMARTnet:
1 year 10%
3 year: 17%
PROF SVS/ AS / TRAINING: 10%

Basic Install & Config Services (hourly labor rate) :
Tier 1: \$145/hr, OT: \$217.50/hr
Tier 2: \$165/hr, OT: \$247.50/hr

Open Systems Technologies, Inc.

Tracy Vandenack Lead Sales & Internal Operations Specialist			
605 Seward Ave. NW, Suite 101 Grand Rapids, MI 49504 Phone: 616-574-3500	605 Seward Ave. NW, Suite 101 Grand Rapids, MI 49504 Phone: 616-574-3513	605 Seward Ave. NW, Suite 101 Grand Rapids, MI 49504 Phone: 616-574-3513	605 Seward Ave. NW, Suite 101 Grand Rapids, MI 49504 Phone: 616-574-3513
Fax: 616-574-3520 www.ostusa.com	Fax: 616-574-3520 tvandenack@ostusa.com	Fax: 616-574-3520 tvandenack@ostusa.com	Fax: 616-574-3520 tvandenack@ostusa.com

Product: 37%
SMARTnet:
1 year 12%
3 year: 19%
PROF SVS/ AS / TRAINING: 12%
Education:
Product: 37%
SMARTnet:
1 year 12%
3 year: 19%
PROF SVS/ AS / TRAINING: 12%

Basic Install & Config Services (hourly labor rate) :
Tier 1: \$180/hr, OT: \$270/hr
Tier 2: \$200/hr, OT: \$300/hr

Sentinel Technologies, Inc.

Mike Truesdale Purchasing Manager	Paddy Doogan Customer Service Manager	Dino Depasquale A/R	
4220 Varsity Drive, Suite F Ann Arbor, MI 48108 Phone: 734-794-5700	2550 Warrenville Road Downers Grove, IL 60515 Phone: 630-769-4300	2550 Warrenville Road Downers Grove, IL 60515 Phone: 630-769-4300	
Fax: 734-794-5701 www.sentinel.com	Fax: 630-769-1399 mtruesdale@sentinel.com	Fax: 630-769-1399 pdoogan@sentinel.com	Fax: 630-769-1399 ddepasqu@sentinel.com

Product: 40%
SMARTnet:
1 year 21%
3 year: 26%
PROF SVS/ AS / TRAINING: 10%
Education:
Product: 40%
SMARTnet:
1 year 32%
3 year: 36%
PROF SVS/ AS / TRAINING: 10%

Basic Install & Config Services (hourly labor rate) :
Tier 1: \$115/hr, OT: \$165/hr
Tier 2: \$150/hr, OT: \$225/hr

Software Services Group

Bob Powers Purchasing and Inside Sales Support	Charles Warner President	Susan Korinek Controller
6395 Technology Avenue, Suite A Kalamazoo, MI 49009 Phone: 269-375-8996 Toll Free: 800-875-4222 Fax: 269-375-4222 www.secantcorp.com	6395 Technology Avenue, Suite A Kalamazoo, MI 49009 Phone: 269-375-8996 x 8054 Toll Free: 800-875-4222 Fax: 269-375-4222 cwarner@secantcorp.com	6395 Technology Avenue, Suite A Kalamazoo, MI 49009 Phone: 269-375-8996 Toll Free: 800-875-4222 Fax: 269-375-4222 ap@secantcorp.com

Product: 40%
SMARTnet:
1 year 15%
3 year: 22%
PROF SVS/ AS / TRAINING: 10%
Education:
Product: 40%
SMARTnet:
1 year 30%
3 year: 32%
PROF SVS/ AS / TRAINING: 10%

Basic Install & Config Services (hourly labor rate) :
Tier 1: \$110/hr, OT: \$125/hr
Tier 2: \$135/hr, OT: \$150/hr

Wyant Inc

Victor Geha VP of Sales	Victor Geha VP of Sales	Janice Wyant General Manager
415 Munson Avenue Suite 104 Traverse City, MI 49686 Phone: 231-946-5969	415 Munson Avenue Suite 104 Traverse City, MI 49686 Phone: 231-946-5969	415 Munson Avenue Suite 104 Traverse City, MI 49686 Phone: 231-946-5969
Fax: 231-946-5767 www.gowyant.com	Fax: 231-946-5767 vic@gowyant.com	Fax: 231-946-5767 janice@gowyant.com

Product: 35%
SMARTnet:
1 year 10%
3 year: 17%
PROF SVS/ AS / TRAINING: 10%
Education:
Product: 35%
SMARTnet:
1 year 10%
3 year: 17%
PROF SVS/ AS / TRAINING: 10%

Basic Install & Config Services (hourly labor rate) :
Tier 1: \$115/hr, OT: \$115/hr
Tier 2: \$140/hr, OT: \$210/hr