

To: The Honorable Mayor and City Council

From: Ricardo Castillo, IT Director *Ricardo Castillo*

Date: December 13<sup>th</sup>, 2016

RE: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AUTHORIZING THE CITY MANAGER TO DO ALL THINGS NECESSARY AND TO EXECUTE ALL DOCUMENTS REQUIRED FOR A LEASE-TO-PURCHASE AGREEMENT PIGGYBACKING THE STATE OF UTAH – STATE COOPERATIVE CONTRACT NO. AR 233 THROUGH THE STATE OF FLORIDA PARTICIPATING ADDENDUM DATA COMMUNICATIONS PRODUCTS AND SERVICES MASTER AGREEMENT NO. AR 233 BETWEEN THE STATE OF FLORIDA AND CISCO SYSTEMS, INC. AVAILABLE TO PARTICIPATING MEMBERS OF THE WESTERN STATES CONTRACTING ALLIANCE AND NATIONAL ASSOCIATION OF STATE PROCUREMENT OFFICIALS (WSCA-NASPO), TO PROVIDE THE CITY WITH NEEDED DATA COMMUNICATIONS SERVICES AND EQUIPMENT FOR A TERM OF FOUR (4) YEARS AT A COST OF TWO HUNDRED TWENTY SIX THOUSAND FOUR HUNDRED SIXTY SEVEN DOLLARS AND EIGHTY CENTS (\$226,467.80), PAYABLE IN FOUR (4) EQUAL YEARLY INSTALLMENTS IN THE AMOUNT OF FIFTY SIX THOUSAND SIX HUNDRED SIXTEEN AND NINETY-FIVE CENTS (\$56,616.95), IN ACCORDANCE WITH THE STATE AND LOCAL GOVERNMENT LEASE-PURCHASE AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE AND FOR ALL OTHER PURPOSES.

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**RECOMMENDATION**

Staff is recommending that the Mayor and Council authorize the City Manager to execute a piggy back of State of Utah Cooperative Contract AR 233, of which the State of Florida participates thru State Contract 43220000-WSCA-14-ACS for a 0% lease purchase of a new Cisco Phone System for City Hall and other facilities.

**BACKGROUND**

In 2011 Mayor and Council passed a resolution R-2011-154 approving the piggy back of National Joint Powers Alliance contract for a 48-month lease of a Mitel Business Phone

System. That lease contract has since expired on September 30, 2016 and the City is now looking to move to a different solution. On 2014, the City procured a Cisco Phone System for the Police Department and now is seeking to move forward with a similar system for all other facilities in order to remain uniform and consistent with the technology solution. With the new system the City will gain features currently not available in our existing phone system such as: Redundancy, Reliability, Ownership at the end of the interest free lease to own agreement, and features otherwise not available currently like Interactive Voice Response System and Contact Center.

**Attachments**

Resolution

Contracts

Statement of Work

Quote

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AUTHORIZING THE CITY MANAGER TO DO ALL THINGS NECESSARY AND TO EXECUTE ALL DOCUMENTS REQUIRED FOR A LEASE-TO-PURCHASE AGREEMENT PIGGYBACKING THE STATE OF UTAH – STATE COOPERATIVE CONTRACT NO. AR233 THROUGH THE STATE OF FLORIDA PARTICIPATING ADDENDUM DATA COMMUNICATIONS PRODUCTS AND SERVICES MASTER AGREEMENT NO. AR233 BETWEEN THE STATE OF FLORIDA AND CISCO SYSTEMS, INC., IN SUBSTANTIALLY THE ATTACHED FORM, AVAILABLE TO PARTICIPATING MEMBERS OF THE WESTERN STATES CONTRACTING ALLIANCE AND NATIONAL ASSOCIATION OF STATE PROCUREMENT OFFICIALS (WSCA-NASPO), TO PROVIDE THE CITY WITH NEEDED DATA COMMUNICATIONS SERVICES AND EQUIPMENT FOR A TERM OF FOUR (4) YEARS AT A COST OF TWO HUNDRED TWENTY-SIX THOUSAND FOUR HUNDRED SIXTY-SEVEN DOLLARS AND EIGHTY CENTS (\$226,467.80), PAYABLE IN FOUR (4) EQUAL YEARLY INSTALLMENTS IN THE AMOUNT OF FIFTY-SIX THOUSAND SIX HUNDRED SIXTEEN AND NINETY-FIVE CENTS (\$56,616.95), IN ACCORDANCE WITH THE STATE AND LOCAL GOVERNMENT LEASE-PURCHASE AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE AND FOR ALL OTHER PURPOSES.**

**WHEREAS**, the State of Utah requested proposals and bids on behalf of participating members of the National Association of State Procurement Officials, members of the Western States Contracting Alliance and other authorized purchasing entities (“WSCA-NASPO”), to obtain master agreements from qualified manufacturers and providers of computer hardware and software, with the directive and commitment to offer cooperative procurement services to cities, counties, governmental agencies, public and private educational agencies and non-profit organizations in all fifty (50) states; and

**WHEREAS**, on March 20, 2014, the Division of Purchasing and General Services of the State of Utah competitively selected Cisco Systems, Inc. (“Cisco”), for the provision of data

communications equipment and sales, under the State Cooperative Contract No. AR233, for the period commencing June 1, 2014 through May 31, 2019 (“Master Agreement”); and

**WHEREAS**, on September 17, 2014, the Department of Management Services of the State of Florida executed a Participating Addendum to the Master Agreement (State of Florida Alternate Contract Source Number 43220000-WSCA-14-ACS), allowing Florida state agencies and local governments to procure Services from the Master Agreement (“State Contract”); and

**WHEREAS**, the City of North Miami (“City”) is in need of data communications services, equipment and maintenance (“Services”) to, among other things: 1) increase efficiency and redundancy by connecting all City facilities with an unified data management system to centrally manage users, devices, and voicemail boxes, 2) establish a contact center and Interactive Voice Response system to improve customer/caller experience by managing the flow of departmental responses to calls, 3) provide software upgrades and hardware replacement under a warranty, and 4) allow the City ownership to a system that can be upgraded and maintained when needed with newer features; and

**WHEREAS**, to procure Services in the most cost effective manner, the City desires to piggyback the State Contract for a term of four (4) years (commencing January 1, 2017) at a cost of Two Hundred Twenty-Six Thousand Four Hundred Sixty-Seven Dollars and Eighty Cents (\$226,467.80), payable in four (4) equal yearly installments in the amount of Fifty-Six Thousand Six Hundred Sixteen and Ninety-Five Cents (\$56,616.95), in accordance with the State and Local Government Lease-Purchase Agreement with De Lage Landen Public Finance LLC (in substantially the attached form), at zero (0) percent interest to the City; and

**WHEREAS**, the planning, implementation, installation and configuration of Services on behalf of Cisco, will be conducted by CDW Government LLC at no additional cost to the City; and

**WHEREAS**, on October 23, 2007, the Mayor and City Council of the City of North Miami adopted Ordinance No. 1244, authorizing the City Manager to approve the purchase of supplies, goods and/or services from current contracts of other governmental entities and cooperatives (“Piggyback”), such as the State of Florida and the WSCA-NASPO; and

**WHEREAS**, in accordance with Ordinance No. 1244, the City administration respectfully requests that the Mayor and City Council authorize the City Manager to do all things necessary and to execute all documents required to procure Services under the State Contract and thereby greatly increasing the City's purchasing value.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:**

**Section 1. Authority of City Manager.** The Mayor and City Council of the City of North Miami, Florida, hereby authorize the City Manager to do all things necessary and to execute all documents required for a lease-to-purchase agreement piggybacking the State of Utah – State Cooperative Contract No. AR233 through the State of Florida Participating Addendum Data Communications Products and Services Master Agreement No. AR233 between the State of Florida and Cisco Systems, Inc., in substantially the attached form, available to participating members of the Western States Contracting Alliance and National Association of State Procurement Officials (WSCA-NASPO), to provide the City with needed data communications services and equipment for a term of four (4) years at a cost of Two Hundred Twenty-Six Thousand Four Hundred Sixty-Seven Dollars and Eighty Cents (\$226,467.80), payable in four (4) equal yearly installments in the amount of Fifty-Six Thousand Six Hundred Sixteen and Ninety-Five Cents (\$56,616.95), in accordance with the State and Local Government Lease-Purchase Agreement.

**Section 2. Effective Date.** This Resolution shall become effective upon adoption.

**PASSED AND ADOPTED** by a \_\_\_\_\_ vote of the Mayor and City Council of the City of North Miami, Florida, this \_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
DR. SMITH JOSEPH  
MAYOR

ATTEST:

\_\_\_\_\_  
MICHAEL A. ETIENNE, ESQ.  
CITY CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

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JEFF P. H. CAZEAU, ESQ.  
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

**Vote:**

Mayor Smith Joseph, D.O., Pharm. D.  
Vice Mayor Alix Desulme  
Councilman Scott Galvin  
Councilwoman Carol Keys, Esq.  
Councilman Philippe Bien-Aime

\_\_\_\_\_ (Yes) \_\_\_\_\_ (No)  
\_\_\_\_\_ (Yes) \_\_\_\_\_ (No)  
\_\_\_\_\_ (Yes) \_\_\_\_\_ (No)  
\_\_\_\_\_ (Yes) \_\_\_\_\_ (No)  
\_\_\_\_\_ (Yes) \_\_\_\_\_ (No)

# DOCUMENTATION INSTRUCTIONS FOR LEASE NUMBER PUB 16353

The instructions listed below should be followed when completing the enclosed documentation. Documentation completed improperly will delay funding. If you have any questions regarding the instructions or the documentation, please call us.

## I. STATE AND GOVERNMENT LEASE-PURCHASE AGREEMENT

### 1. Bank Qualification Section

- Read and check box if appropriate

### 2. Lessee Signature

- Print name, title, sign and date (must be authorized officer)

## II. ATTACHMENT 1 — LEASE PAYMENT SCHEDULE

- Print name, title, sign and date

## III. ATTACHMENT 2 — EQUIPMENT DESCRIPTION — (WHEN PROVIDED)

- Print name, title, sign and date

## IV. STATE SPECIFIC ADDENDA

Required for: AR, AZ, CO, FL, GA, KS, LA, MI, MN, NC, NJ, NY, OH, OK, & TX

- Print name, title, sign, date and attest when required

## V. ACCEPTANCE CERTIFICATE – PLEASE RETAIN UNTIL ALL EQUIPMENT HAS BEEN RECEIVED AND IS IN FULL WORKING ORDER

- Print name, title, sign and date

## VI. 8038 OR GC — IRS FORM

The enclosed form is a SAMPLE only. The actual 8038G or GC will be completed and sent to you for your signature after closing, with instructions to return the original to us at your earliest convenience. This is being done in accordance with the Internal Revenue Service regulations.

## VII. ADDITIONAL DOCUMENTATION THAT MUST BE SENT PRIOR TO FUNDING — (WHEN APPLICABLE) :

- Insurance Certificate for Property – List De Lage Landen Public Finance LLC and/or Its Assigns as “loss payee” to the address listed below. The certificate must also show the physical address where the equipment is located or the phrase “throughout jurisdiction” may be used. Must also list amount being financed.
- Insurance Certificate for Liability – List De Lage Landen Public Finance LLC and/or Its Assigns as “additional insured.”
- Vendor invoice listing customer as both bill to and ship to party (to be provided by vendor)
- Completed Billing Information form
- Advance payment check made payable to De Lage Landen Public Finance LLC
- State sales tax exemption certificate
- Escrow Agreement - Initial Page 1, then sign page 2
- Incumbency - Have Escrow Signer sign in the middle, SEPERATE PERSON must sign at bottom
- \_\_\_\_\_

## ALL DOCUMENTATION SHOULD BE RETURNED VIA FAX OR EMAIL AS FOLLOWS:

Attention: Jimmy King

Email: jimmking@cisco.com

Or Fax number: (800) 700-4643

Lease Processing Center  
1111 Old Eagle School Road  
Wayne, PA 19087

# De Lage Landen Public Finance LLC

1111 Old Eagle School Road  
Wayne, PA 19087

# State and Local Government Lease-Purchase Agreement

PHONE: (800) 736-0220  
FACSIMILE: (800) 700-4643

|               |   |                                   |
|---------------|---|-----------------------------------|
| <b>LESSEE</b> | Full Legal Name<br><b>CITY OF NORTH MIAMI</b> | Phone Number                      |
|               | DBA Name (if any)                             | Purchase Order Requisition Number |
|               | Billing Address<br><b>776 NE 125ST</b>        | City<br><b>NORTH MIAMI</b>        |
|               |   | Zip<br><b>33161</b>               |
|               |   | Send Invoice to Attention of:     |

|                              |   |           |               |   |
|------------------------------|---|-----------|---------------|---|
| <b>EQUIPMENT INFORMATION</b> | Equipment Make                            | Model No. | Serial Number | Description (Attach Separate Schedule If Necessary) |
|                              |   |           |               | Please see Attachment 2 for equipment description   |
|                              |   |           |               |   |
|                              |   |           |               |   |
|                              |   |           |               |   |
|                              | Equipment Location (if not same as above) | City      | State         | Zip   |

|                            |  |  |
|----------------------------|--|--|
| <b>PAYMENT INFORMATION</b> | Number of Lease Payments<br><b>4</b>     | Lease Payments:<br>See Lease Payment Schedule Attached as Attachment 1   |
|                            | Full Lease Term (in Months)<br><b>48</b> | Payment Frequency<br><input type="checkbox"/> Monthly<br><input type="checkbox"/> Quarterly<br><input type="checkbox"/> Semiannually<br><input checked="" type="checkbox"/> Annually<br><input type="checkbox"/> Other _____ |
|                            |  | End of Lease Option: \$1   |
|                            |  |  |

|                           |   |
|---------------------------|---|
| <b>BANK QUALIFICATION</b> | By checking the box below, YOU hereby designate this Lease as a "qualified tax-exempt obligation" as defined in Section 265(c)(3)(B) of the Internal Revenue Code and represent that the aggregate face amount of all tax-exempt obligations (excluding private activity bonds other than qualified 501 (c)(3) bonds) issued or to be issued by YOU and YOUR subordinate entities during the calendar year in which WE fund this Lease is not reasonably expected to exceed \$10,000,000. |
|                           | <input type="checkbox"/> Bank Qualification Elected   |

### TERMS AND CONDITIONS

Please read YOUR copy of this State and Local Government Lease-Purchase Agreement ("Lease") carefully and free to ask US any questions YOU may have about it. Words "YOU" and "YOUR" refer to the "Lessee" and the words "WE," "US" and "OUR" refer to De Lage Landen Public Finance LLC, its successors and assigns, as the "Lessor" of the Equipment.

- LEASE.** WE agree to lease to YOU and YOU agree to lease from US, the equipment listed above (and on any attached schedule) including all replacement parts, repairs, additions and accessories ("Equipment") on the terms and conditions of this Lease and on any attached schedule.
- TERM.** This Lease is effective on the date when the term of this Lease and YOUR obligation to pay rent commence, which date shall be the date that funds are advanced by US to YOU, the vendor of the Equipment or an escrow agent for the purpose of paying or reimbursing all or a portion of the cost of the Equipment (the "Commencement Date") and continues thereafter for an original term ("Original Term") ending at the end of YOUR budget year in effect on the Commencement Date and may be continued by YOU for additional one-year renewal terms ("Renewal Terms") coinciding with YOUR budget year up to the total number of months indicated above as the Full Lease Term; provided, however, that at the end of the Original Term and at the end of each Renewal Term until the Full Lease Term has been completed, YOU shall be deemed to have continued this Lease for the next Renewal Term unless YOU shall have terminated this Lease pursuant to Section 5 or Section 17. Lease Payments will be due as set forth on Attachment 1 until the balance of the Lease Payments and any additional Lease Payments or expenses chargeable to YOU under this Lease are paid in full. As set forth in the Lease Payment Schedule, a portion of each Lease Payment is paid as, and represents payment of, interest. YOUR obligation to pay the Lease Payments and YOUR other Lease obligations are absolute and unconditional and are not subject to cancellation, reduction, setoff or counterclaim except as provided in Section 5. **THIS LEASE IS NON-CANCELABLE EXCEPT AS PROVIDED IN SECTION 5.**
- LATE CHARGES.** If a Lease Payment is not made on the date when due, YOU will pay US a late charge at the rate of 18% per annum or the maximum amount permitted by law, whichever is less, from such date.
- CONTINUATION OF LEASE TERM.** YOU currently intend, subject to Section 5, to continue this Lease through the Full Lease Term and to pay the Lease Payments hereunder. YOU reasonably believe that legally available funds in an amount sufficient to make all Lease Payments during the Full Lease Term can be obtained. YOUR responsible financial officer shall do all things lawfully within his or her power to obtain and maintain funds from which the Lease Payments may be made, including making provision for the Lease Payments to the extent necessary in each proposed annual budget submitted for approval in accordance with YOUR applicable procedures and to exhaust all available reviews and appeals if that portion of the budget is not approved. Notwithstanding the foregoing, the decision whether to budget or appropriate funds and to extend this Lease for any Renewal Term is solely within the discretion of YOUR governing body.
- NONAPPROPRIATION.** YOU are obligated only to pay such Lease Payments under this Lease as may lawfully be made from funds budgeted and appropriated for that purpose during YOUR then current budget year. If YOU fail to appropriate or otherwise make available funds to pay the Lease Payments required to be paid in the next occurring Renewal Term, this Lease shall be deemed terminated at the end of the then current Original Term or Renewal Term. YOU agree to deliver written notice to US of such termination at least 90 days prior to the end of the then current Original Term or Renewal Term, but failure to give such notice shall not extend the term of this Lease beyond the then current Original Term or Renewal Term. If this Lease is terminated in accordance with this Section, YOU agree, at YOUR cost and expense, to peacefully deliver the Equipment to US at the location or locations specified by US.
- WARRANTIES.** WE are leasing the Equipment to YOU "AS-IS" and WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. WE transfer to YOU, without recourse, for the term of this Lease all warranties, if any, made by the manufacturer. YOU ALSO ACKNOWLEDGE THAT NO ONE IS AUTHORIZED TO WAIVE OR CHANGE ANY TERM, PROVISION OR CONDITION OF THIS LEASE AND, EXCEPT FOR THE MANUFACTURER WARRANTIES, MAKE ANY REPRESENTATION OR WARRANTY ABOUT THIS LEASE OR THE EQUIPMENT. WE SHALL NOT BE LIABLE FOR SPECIAL, RESULTING OR CONSEQUENTIAL DAMAGES OR LOSS OF PROFIT OCCASIONED BY ANY BREACH OF WARRANTY OR REPRESENTATION OR RESULTING FROM THE USE OR PERFORMANCE OF THE EQUIPMENT. YOUR OBLIGATION TO PAY IN FULL ANY AMOUNT DUE UNDER THE LEASE WILL NOT BE AFFECTED BY ANY DISPUTE, CLAIM, COUNTERCLAIM, DEFENSE OR OTHER RIGHT WHICH YOU MAY HAVE OR ASSERT AGAINST THE SUPPLIER OR THE EQUIPMENT MANUFACTURER.
- DELIVERY AND ACCEPTANCE.** YOU ARE RESPONSIBLE, AT YOUR OWN COST, TO ARRANGE FOR THE DELIVERY AND INSTALLATION OF THE EQUIPMENT (UNLESS THOSE COSTS ARE INCLUDED IN THE COSTS OF THE EQUIPMENT TO US). IF REQUESTED, YOU WILL SIGN A SEPARATE EQUIPMENT DELIVERY AND ACCEPTANCE CERTIFICATE. WE MAY AT OUR DISCRETION CONFIRM BY TELEPHONE THAT YOU HAVE ACCEPTED THE EQUIPMENT AND THAT TELEPHONE VERIFICATION OF YOUR ACCEPTANCE OF THE EQUIPMENT SHALL HAVE THE SAME EFFECT AS A SIGNED DELIVERY AND ACCEPTANCE CERTIFICATE.

(Terms and Conditions continued on the reverse side of this Lease.)

|                         |   |
|-------------------------|---|
| <b>LESSEE SIGNATURE</b> | YOU agree to all of the Terms and Conditions contained in both sides of this Lease, and in any attachments to same (all of which are included by reference) and become part of this Lease. YOU acknowledge to have read and agreed to all the Terms and Conditions. |
|                         | You agree that this is a non-cancelable lease. The Equipment is: <input checked="" type="checkbox"/> NEW <input type="checkbox"/> USED  |
|                         | Signature _____ Date _____  |
|                         | Title _____   |
|                         | Print Name _____  |
|                         | Legal Name of Corporation<br><b>CITY OF NORTH MIAMI</b><br>(LEASE MUST BE SIGNED BY AUTHORIZED OFFICIAL OF LESSEE)  |

|               |   |
|---------------|---|
| <b>LESSOR</b> | Lessor Signature _____ Date _____               |
|               | Print Name _____                                |
|               | Title _____                                     |
|               | For<br><b>DE LAGE LANDEN PUBLIC FINANCE LLC</b> |
|               | Lease Number<br><b>PUB 16353</b>                |
|               | Lease Date<br><b>November 2, 2016</b>           |
|               | Vendor I.D. Number<br><b>D8275</b>              |
|               |   |

**8. TITLE, PERSONAL PROPERTY, LOCATION, INSPECTION, NO MODIFICATIONS OR ALTERATIONS.** YOU have title to the Equipment; provided that title to the Equipment will immediately and without any action by YOU vest in US, and YOU shall immediately surrender possession of the Equipment to US, (a) upon any termination of this Lease other than termination pursuant to Section 17 or (b) if YOU are in default of this Lease. It is the intent of the parties hereto that any transfer of title to US pursuant to this Section shall occur automatically without the necessity of any bill of sale, certificate of title or other instrument of conveyance. YOU shall, nevertheless, execute and deliver any such instruments as WE may request to evidence such transfer. As security for YOUR obligations hereunder, WE retain a security interest in the Equipment and all proceeds thereof. YOU have the right to use the Equipment during the term of this Lease, except as otherwise expressly set forth in this Lease. Although the Equipment may become attached to real estate, it remains personal property. YOU agree not to alter or modify the Equipment or permit a lien to be placed upon the Equipment or to remove the Equipment without OUR prior written consent. If WE feel it is necessary, YOU agree to provide US with waivers of interest or liens from anyone claiming any interest in the real estate on which any items of Equipment is located. WE also have the right, at reasonable times, to inspect the Equipment.

**9. MAINTENANCE.** YOU are required, at YOUR own cost and expense, to keep the Equipment in good repair, condition and working order, except for ordinary wear and tear, and YOU will supply all parts and servicing required. All replacement parts used or installed and repairs made to the Equipment will become OUR property.

YOU ACKNOWLEDGE THAT WE ARE NOT RESPONSIBLE FOR PROVIDING ANY REQUIRED MAINTENANCE AND/OR SERVICE FOR THE EQUIPMENT. YOU WILL MAKE ALL CLAIMS FOR SERVICE AND/OR MAINTENANCE SOLELY TO THE SUPPLIER AND/OR MANUFACTURER AND SUCH CLAIMS WILL NOT AFFECT YOUR OBLIGATION TO MAKE ALL REQUIRED LEASE PAYMENTS.

**10. ASSIGNMENT.** YOU AGREE NOT TO TRANSFER, SELL, SUBLEASE, ASSIGN, PLEDGE OR ENCUMBER EITHER THE EQUIPMENT OR ANY RIGHTS UNDER THIS LEASE WITHOUT OUR PRIOR WRITTEN CONSENT. YOU agree that WE may sell, assign or transfer this Lease and, if WE do, the new owner will have the same rights and benefits that WE now have and will not have to perform any of OUR obligations and the rights of the new owner will not be subject to any claims, counterclaims, defenses or set-offs that YOU may have against US. YOU hereby appoint Municipal Registrar Services (the "Registrar") as YOUR agent for the purpose of maintaining a written record of each assignment in form necessary to comply with Section 149(a) of the Internal Revenue Code of 1986, as amended. No such assignment shall be binding on YOU until the Registrar has received written notice from the assignor of the name and address of the assignee.

**11. LOSS OR DAMAGE.** YOU are responsible for the risk of loss or destruction of, or damage to the Equipment. No such loss or damage relieves YOU from any obligation under this Lease. If any of the Equipment is damaged by fire or other casualty or title to, or the temporary use of, any of the Equipment is taken under the exercise of the power of eminent domain, the net proceeds ("Net Proceeds") of any insurance claim or condemnation award will be applied to the prompt replacement, repair, restoration, modification or improvement of that Equipment, unless YOU have exercised YOUR option to purchase the Equipment pursuant to Section 17. Any balance of the Net Proceeds remaining after such work has been completed shall be paid to YOU.

**12. INDEMNITY.** WE are not responsible for any losses or injuries caused by the manufacture, acquisition, delivery, installation, ownership, use, lease, possession, maintenance, operation or rejection of the Equipment or defects in the Equipment. To the extent permitted by law, YOU agree to reimburse US for and to defend US against any claim for losses or injuries relating to the Equipment. This indemnity will continue even after the termination of this Lease.

**13. TAXES.** YOU agree to pay all applicable license and registration fees, sale and use taxes, personal property taxes and all other taxes and charges, relating to the ownership, leasing, rental, sale, purchase, possession or use of the Equipment (except those based on OUR net income). YOU agree that if WE pay any taxes or charges, YOU will reimburse US for all such payments and will pay US interest and a late charge (as calculated in Section 3) on such payments with the next Lease Payment, plus a fee for OUR collecting and administering any taxes, assessments or fees and remitting them to the appropriate authorities.

**14. INSURANCE.** During the term of this Lease, YOU will keep the Equipment insured against all risks of loss or damage in an amount not less than the replacement cost of the Equipment, without deductible and without co-insurance. YOU will also obtain and maintain for the term of this Lease, comprehensive public liability insurance covering both personal injury and property damage of at least \$100,000 per person and \$300,000 per occurrence or bodily injury and \$50,000 for property damage. WE will be the sole named loss payee on the property insurance and named as an additional insured on the public liability insurance. YOU will pay all premiums for such insurance and must deliver proof of insurance coverage satisfactory to US. If YOU do not provide such insurance, YOU agree that WE have the right, but not the obligation, to obtain such insurance and add an insurance fee to the amount due from you, on which we make a profit.

**15. DEFAULT.** Subject to Section 5, YOU are in default of this Lease if any of the following occurs: (a) YOU fail to pay any Lease Payment or other sum when due; (b) YOU breach any warranty or other obligation under this Lease, or any other agreement with US, (c) YOU become insolvent or unable to pay YOUR debts when due, YOU make an assignment for the benefit of creditors or YOU undergo a substantial deterioration in YOUR financial condition, or (d) YOU file or have filed against YOU a petition for liquidation, reorganization, adjustment of debt or similar relief under the Federal Bankruptcy Code or any other present or future federal or state bankruptcy or insolvency law, or a trustee, receiver or liquidator is appointed for YOU or a substantial part of YOUR assets.

**16. REMEDIES.** WE have the following remedies if YOU are in default of this Lease: WE may declare the entire balance of the unpaid Lease Payments for the then current Original Term or Renewal Term immediately due and payable; sue for and receive all Lease Payments and any other payments then accrued or accelerated under this Lease; charge YOU interest on all monies due US at the rate of eighteen percent (18%) per year from the date of default until paid, but in no event more than the maximum rate permitted by law; charge YOU a return-check or non-sufficient funds charge ("NSF Charge") of \$25.00 for a check that is returned for any reason; and require that YOU return the Equipment to US and, if YOU fail to return the Equipment, enter upon the premises peaceably with or without legal process where the Equipment is located and repossess the Equipment. Such return or repossession of the Equipment will not constitute a termination of this Lease unless WE expressly notify YOU in writing. If the Equipment is returned or repossessed by US and unless WE have terminated this Lease, WE will sell or re-rent the Equipment to any persons with any terms WE determine, at one or more public or private sales, with or without notice to YOU, and apply the net proceeds after deducting the costs and expenses of such sale or re-rent, to YOUR obligations with YOU remaining liable for any deficiency and with any excess over the amounts described in this Section plus the then applicable Purchase Price to be paid to YOU.

YOU are also required to pay (i) all expenses incurred by US in connection with the enforcement of any remedies, including all expenses of repossessing, storing, shipping, repairing and selling the Equipment, and (ii) reasonable attorneys' fees.

**17. PURCHASE OPTION.** Provided YOU are not in default, YOU shall have the option to purchase all but not less than all of the Equipment (a) on the date the last Lease Payment is due (assuming this Lease is renewed at the end of the Original Term and each Renewal Term), if this Lease is still in effect on that day, upon payment in full of Lease Payments and all other amounts then due and the payment of One Dollar to US; (b) on the last day of the Original Term or any Renewal Term then in effect, upon

at least 60 days' prior written notice to US and payment in full to US of the Lease Payments and all other amounts then due plus the then applicable Purchase Price set forth on the Lease Payment Schedule; or (c) if substantial damage to or destruction or condemnation of substantially all of the Equipment has occurred, on the day specified in YOUR written notice to US of YOUR exercise of the purchase option upon at least 60 days' prior notice to US and payment in full to US of the Lease Payments and all other amounts then due plus the then applicable Purchase Price set forth on the Lease Payment Schedule.

**18. REPRESENTATIONS AND WARRANTIES.** YOU warrant and represent as follows: (a) YOU are a public body corporate and politic duly organized and existing under the constitution and laws of YOUR State with full power and authority to enter into this Lease and the transactions contemplated hereby and to perform all of YOUR obligations hereunder; (b) YOU have duly authorized the execution and delivery of this Lease by proper action by YOUR governing body at a meeting duly called, regularly convened and attended throughout by the requisite majority of the members thereof or by other appropriate official approval, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of this Lease; (c) YOU have complied with such public bidding requirements as may be applicable to this Lease and the acquisition by YOU of the Equipment; (d) all authorizations, consents and approvals of governmental bodies or agencies required in connection with the execution and delivery by YOU of this Lease or in connection with the carrying out by YOU of YOUR obligations hereunder have been obtained; (e) this Lease constitutes the legal, valid and binding obligation of YOU enforceable in accordance with its terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally; (f) YOU have, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current budget year to make the Lease Payments scheduled to come due during the current budget year and to meet YOUR other obligations under this Lease for the current budget year, and those funds have not been expended for other purposes; (g) the Equipment is essential to YOUR functions or to the services YOU provide to YOUR citizens, YOU have an immediate need for the Equipment and expect to make immediate use of the Equipment, YOUR need for the Equipment is not temporary and YOU do not expect the need for any item of the Equipment to diminish in the foreseeable future, including the Full Lease Term, and the Equipment will be used by YOU only for the purpose of performing one or more of YOUR governmental or proprietary functions consistent with the permissible scope of YOUR authority and will not be used in the trade or business of any other entity or person; and (h) YOU have never failed to appropriate or otherwise make available funds sufficient to pay rental or other payments coming due under any lease purchase, installment sale or other similar agreement.

**19. UCC FILINGS AND FINANCIAL STATEMENTS.** YOU authorize US to file a financing statement with respect to the Equipment. If WE feel it is necessary, YOU agree to submit financial statements (audited if available) on a quarterly basis.

**20. UCC - ARTICLE 2A PROVISIONS.** YOU agree that this Lease is a Finance Lease as that term is defined in Article 2A of the Uniform Commercial Code ("UCC"). YOU acknowledge that WE have given YOU the name of the Supplier of the Equipment. WE hereby notify YOU that YOU may have rights under the contract with the Supplier and YOU may contact the Supplier for a description of any rights or warranties that YOU may have under this supply contract. YOU also waive any and all rights and remedies granted YOU under Sections 2A-508 through 2A-522 of the UCC.

**21. TAX EXEMPTION.** YOU will comply with all applicable provisions of the Internal Revenue Code of 1986, as amended, including without limitation Sections 103 and 148 thereof, and the applicable regulations thereunder to maintain the exclusion of the interest portion of the Lease Payments from gross income for purposes of federal income taxation.

**22. BANK QUALIFICATION.** If YOU checked the "Bank Qualification Elected" box on the front page of this Lease YOU and all YOUR subordinate entities will not issue in excess of \$10,000,000 of qualified tax-exempt obligations (including this Lease but excluding private activity bonds other than qualified 501(c)(3) bonds) during the calendar year in which WE fund this Lease without first obtaining an opinion of nationally recognized counsel in the area of tax-exempt municipal obligations acceptable to US that the designation of this Lease as a "qualified tax-exempt obligation" will not be adversely affected.

**23. CHOICE OF LAW; JURY TRIAL WAIVER.** This Lease shall be governed and construed in accordance with the laws of the state where YOU are located. To the extent permitted by law, YOU agree to waive YOUR rights to a trial by jury.

**24. ENTIRE AGREEMENT; SEVERABILITY; WAIVERS.** This Lease contains the entire agreement and understanding. No agreements or understandings are binding on the parties unless set forth in writing and signed by the parties. Any provision of this Lease which for any reason may be held unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective without invalidating the remaining provisions of this Lease. THIS LEASE IS NOT INTENDED FOR TRANSACTIONS WITH AN EQUIPMENT COST OF LESS THAN \$1,000.

**25. FACSIMILE DOCUMENTATION.** YOU agree that a facsimile copy of this Lease with facsimile signatures may be treated as an original and will be admissible as evidence of this Lease.

# FLORIDA ADDENDUM TO STATE AND LOCAL GOVERNMENT LEASE-PURCHASE AGREEMENT

LESSOR: **DE LAGE LANDEN PUBLIC FINANCE LLC**

LESSEE: CITY OF NORTH MIAMI

LEASE NUMBER: PUB 16353

LEASE DATE: November 2, 20 16

This Addendum is hereby incorporated in and is hereby made a part of the above-referenced State and Local Government Lease-Purchase Agreement (together with all Exhibits and Attachments and this Addendum, the "Lease"). Words "YOU" and "YOUR" refer to the "Lessee" and the words "WE," "US" and "OUR" refer to De Lage Landen Public Finance LLC, its successors and assigns, as the "Lessor" of the Equipment. Lessor and Lessee hereby agree that capitalized terms used herein and not otherwise defined herein shall have the terms assigned to such terms in the Lease and that the following changes and additions shall be made to the Lease:

1. **Section 2** of the Lease is hereby amended by adding the following sentence:

WE and YOU understand and intend that YOUR obligation to pay Lease Payments hereunder will constitute a current expense and will not in any way be construed to be a debt in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness, nor will anything contained herein constitute a pledge of YOUR ad valorem tax revenues, funds or moneys. WE and YOU understand further understand that the use of the ad valorem taxing power to make Lease Payments cannot be compelled.

2. **Section 5** of the Lease is hereby amended by adding the following language to the end of said Section:

Upon return of that Equipment to US, WE will use our best efforts to lease or sell that Equipment upon such terms as WE, in our reasonable judgment, deem prudent. WE will apply the net proceeds of that sale or lease in the following manner: (i) first, to reimburse OURSELVES for all costs associated with the taking, removing, holding, repairing and leasing or selling of that Equipment; (ii) second, to pay to OURSELVES an amount equal to the Purchase Price for that Equipment at the time of the termination of this Lease; (iii) third, to pay to OURSELVES the amount necessary to satisfy YOUR remaining obligations under this Lease; and (iv) fourth, to remit any amounts thereafter remaining to YOU. No deficiency will be allowed against YOU.

3. **Section 8** of the Lease is hereby deleted and the following **Section 8** is hereby inserted in lieu thereof:

**8. TITLE.** YOU have title to the Equipment; provided that title to the Equipment will immediately and without any action by YOU vest in US, and YOU shall immediately surrender possession of the Equipment to US, (a) upon any termination of this Lease other than termination pursuant to Section 17 or (b) if YOU are in default of this Lease. It is the intent of the parties hereto that any transfer of title to US pursuant to this Section shall occur automatically without the necessity of any bill of sale, certificate of title or other instrument of conveyance. YOU shall, nevertheless, execute and deliver any such instruments as WE may request to evidence such transfer. YOU agree not to alter or modify the Equipment or permit a lien to be placed upon the Equipment or to remove the Equipment without OUR prior written consent. If WE feel it is necessary, YOU agree to provide US with waivers of interest or liens from anyone claiming any interest in the real estate on which any items of Equipment is located. WE also have the right, at reasonable times, to inspect the Equipment.

4. **Section 16** of the Lease is hereby amended by adding the following language to the end of said Section:

WE and YOU agree that there is no intention to create under this Lease a right to dispossess YOU involuntarily of the legal title to or the right of use of the Equipment. WE hereby irrevocably waive any right to specific performance of YOUR covenant to transfer legal title to and return of possession of the Equipment to US.

5. IF YOU ARE A COUNTY, YOU represent and covenant that (a) if the Maximum Lease Term with respect to this Lease is greater than five years, Lease Payments under this Lease will be payable from sources other than ad valorem taxes, and (b) YOU represent and covenant that this Lease has been approved by YOUR Board of County Commissioners prior to the Commencement Date.

Except as specifically set forth in this Addendum, all terms and conditions contained in the Lease will remain in full force and effect and are hereby ratified and confirmed.

|   |   |
|---|---|
| <b>LESSEE SIGNATURE</b>                                 | Legal Name of Lessee <u>CITY OF NORTH MIAMI</u> |
|   | Signature _____ Date _____                      |
|   | Print Name _____                                |
|   | Title _____                                     |
| (LEASE MUST BE SIGNED BY AUTHORIZED OFFICIAL OF LESSEE) |   |

|                               |   |
|-------------------------------|---|
| <b>LESSOR SIGNATURE</b>       | Name of Lessor <u>DE LAGE LANDEN PUBLIC FINANCE LLC</u> |
|                               | Lessor Signature _____ Date _____                       |
|                               | Print Name _____  |
|                               | Title _____   |
| Lease Number <u>PUB 16353</u> |   |

09PFDOC101v1

# ATTACHMENT 1

# STATE AND LOCAL GOVERNMENT LEASE-PURCHASE AGREEMENT

## Lease Payment Schedule

LESSOR: De Lage Landen Public Finance LLC  
 LESSEE: CITY OF NORTH MIAMI  
 LEASE NUMBER: PUB 16353  
 LEASE DATE: November 2, 20 16

| Payment Number | Payment Date | Rental Payment | Interest Portion | Principal Portion | Balance    | Purchase Price |
|----------------|--------------|----------------|------------------|-------------------|------------|----------------|
| Loan           | 12/1/2016    | 0              | 0.00             | 0.00              | 226,467.78 | -              |
| 1              | 1/1/2017     | 56,616.95      | 0.00             | 56,616.95         | 169,850.83 | 176,050.39     |
| 2              | 1/1/2018     | 56,616.95      | 0.01             | 56,616.94         | 113,233.89 | 117,366.93     |
| 3              | 1/1/2019     | 56,616.95      | 0.01             | 56,616.94         | 56,616.95  | 58,683.47      |
| 4              | 1/1/2020     | 56,616.95      | 0.00             | 56,616.95         | 0.00       | 0.00           |
| Grand Totals   |              | 226,467.80     | 0.02             | 226,467.78        |            |                |

Sales tax of \$0.00 is included in the financed amount shown above.

LESSEE ACKNOWLEDGES THAT THE AMOUNT FINANCED BY LESSOR IS \$205,355.81\* AND THAT SUCH AMOUNT, NET OF ANY ADVANCE PAYMENTS, IS THE ISSUE PRICE FOR FEDERAL INCOME TAX PURPOSES. THE YIELD FOR THIS SCHEDULE FOR FEDERAL INCOME TAX PURPOSES IS 6.36%\*. SUCH ISSUE PRICE AND YIELD WILL BE STATED IN THE APPLICABLE IRS FORM 8038-G.  
 The promotional amortization schedule (including the equipment cost, the promotional interest rate, the payment dates and the payment amounts) shall remain as detailed above. The two figures noted with an \* above (amount financed by Lessor and the Yield for Federal income tax purposes) may need to be adjusted prior to closing in the event financial market conditions change. If such revisions are deemed necessary by Lessor (it its sole discretion), it is understood and agreed that a revised version of the amortization schedule reflecting these changes will be executed prior to closing.

Lessee Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

09PFDOC155v2

# ATTACHMENT 2

# STATE AND LOCAL GOVERNMENT LEASE-PURCHASE AGREEMENT EQUIPMENT DESCRIPTION

LESSOR: De Lage Landen Public Finance LLC

LESSEE: CITY OF NORTH MIAMI

LEASE NUMBER: PUB 16353

LEASE DATE: November 2, 2016

| Quantity | Description/Serial No./Model No.                             | Location     |
|----------|--|--------------|
| 1        | Cisco Business Edition 6000M Svr (M4), Export Restricted SW  | 776 NE 125ST |
| 1        | Power Cord, 200/240V 6A North America                        |              |
| 1        | Cisco Business Edition 6000 - Software App Version 10.X 11.X | NORTH MIAMI  |
| 1        | Embedded License, Cisco UC Virt. Hypervisor Plus 6.x (2-cpu) | FL           |
| 1        | 770W AC Hot-Plug Power Supply for 1U C-Series Rack Server    | 33161        |
| 1        | 2.40 GHz E5-2630 v3/85W 8C/20MB Cache/DDR4 1866MHz           |              |
| 1        | Enable RAID 5 Setting  |              |
| 2        | 16GB DDR4-2133-MHz RDIMM/PC4-17000/dual rank/x4/1.2v         |              |
| 1        | Cisco 12G SAS Modular Raid Controller                        |              |
| 1        | Cisco 12Gbps SAS 1GB FBWC Cache module (Raid 0/1/5/6)        |              |
| 6        | 300GB 12G SAS 10K RPM SFF HDD                                |              |
| 1        | 770W AC Hot-Plug Power Supply for 1U C-Series Rack Server    |              |
| 1        | Power Cord, 200/240V 6A North America                        |              |
| 80       | Cisco UC Phone 7821  |              |
| 145      | Cisco UC Phone 7841  |              |
| 5        | Cisco 8831 Base/Control Panel for North America              |              |
| 5        | Spare Cisco 8831 Display Control Unit (DCU)                  |              |
| 20       | Cisco IP Phone 8865  |              |
| 1        | Top Level SKU For 9.x/10.x User License - eDelivery          |              |
| 1        | UCM 9X/10X/11X PAK   |              |
| 2        | Enable Advanced Networking Option                            |              |
| 2        | Cisco Expressway-C Server, Virtual Edition                   |              |
| 4        | Enable Expressway Series Feature Set                         |              |
| 1        | Expressway Series, Expressway-E PAK                          |              |
| 1        | Software Image for Expressway with Encryption, Version X8    |              |
| 2        | Enable Expressway-E Feature Set                              |              |
| 4        | License Key Software Encrypted                               |              |
| 170      | Expressway Desktop Endpoint License                          |              |
| 4        | Enable GW Feature (H323-SIP)                                 |              |
| 2        | Enable TURN Relay Option                                     |              |
| 2        | Cisco Expressway-E Server, Virtual Edition                   |              |
| 1        | CCX 11 autoexpanded PAK                                      |              |
| 5        | CCX 11.0 ENH Seat Qty 1 LICENSE ONLY                         |              |

LESSEE Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

**ATTACHMENT 2**

**STATE AND LOCAL GOVERNMENT LEASE-PURCHASE AGREEMENT  
EQUIPMENT DESCRIPTION**

LESSOR: De Lage Landen Public Finance LLC

LESSEE: CITY OF NORTH MIAMI

LEASE NUMBER: PUB 16353

LEASE DATE: November 2, 20 16

| Quantity | Description/Serial No./Model No.                             | Location |
|----------|--|----------|
| 1        | CCX 11.0 NEW ENH Server License                              |          |
| 1        | CCX 11 Enhanced 5 seat Promo Bundle                          |          |
| 170      | UC Manager-10.x Enhanced Single User License                 |          |
| 80       | UC Manager-10.x Basic Single User License                    |          |
| 20       | UC Manager-10.x Essential User License User                  |          |
| 1        | CUCM Software Version 10.X                                   |          |
| 80       | UC Manager Basic 10.x License                                |          |
| 20       | UC Manager Essential 10.x License                            |          |
| 170      | UC Manager Enhanced 10.x License                             |          |
| 1        | Prime Collaboration Standard 10.x                            |          |
| 1        | Unity Connection 11.x Software                               |          |
| 270      | One Unity Connection 11.x User - All user Features-eDelivery |          |
| 2        | Unity Connection 11.x SpeechConnect Ports                    |          |
| 1        | Unity Connection 11.x PAK                                    |          |
| 1        | SpeechView Unity Connection Demo for 50 users for 6 months   |          |
| 1        | CCX 11.0 Add-on Licenses                                     |          |
| 1        | CCX 11.0 ENH HA LICENSE ONLY                                 |          |
| 1        | CCX 11 autoexpanded PAK                                      |          |
| 15       | CCX 11.0 ENH Seat Qty 1 ADDON LICENSE ONLY                   |          |
| 1        | Cisco Unified Attendant Consoles 11.x                        |          |
| 2        | Cisco Unified Attendant Console Standard 11.x - 1 Lic        |          |
| 10       | UC 2 Port Analog Telephone Adapter                           |          |
| 10       | ATA power clip for North America                             |          |
| 1        | Cisco ISR 4321 Bundle, w/UC License, CUBE-10                 |          |
| 1        | IP Base License for Cisco ISR 4320 Series                    |          |
| 1        | Unified Communication License for Cisco ISR 4320 Series      |          |
| 1        | AC Power Supply for Cisco ISR 4320                           |          |
| 1        | AC Power Cord, Type C5, US, Canada                           |          |
| 2        | Unified Border Element Enterprise License - 5 sessions       |          |
| 1        | 4G DRAM for Cisco ISR 4320 (Soldered on motherboard)         |          |
| 1        | Blank faceplate for NIM slot on Cisco ISR 4400               |          |
| 1        | 4G Flash Memory for Cisco ISR 4300 (Soldered on motherboard) |          |
| 1        | Cisco ISR 4300 Series IOS XE Universal                       |          |

LESSEE Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

# ATTACHMENT 2

# STATE AND LOCAL GOVERNMENT LEASE-PURCHASE AGREEMENT EQUIPMENT DESCRIPTION

LESSOR: De Lage Landen Public Finance LLC

LESSEE: CITY OF NORTH MIAMI

LEASE NUMBER: PUB 16353

LEASE DATE: November 2, 20 16

| Quantity  | Description/Serial No./Model No.                             | Location |
|---|--|----------|
| 1   | 2 port Multiflex Trunk Voice/Clear-channel Data T1/E1 Module |          |
| 1   | 64-channel DSP module  |          |
| 2   | Unified Border Element Enterprise License - 25 sessions      |          |
| 3   | Cisco ISR 4321 Bundle, w/UC License, CUBE-10                 |          |
| 3   | IP Base License for Cisco ISR 4320 Series                    |          |
| 3   | Unified Communication License for Cisco ISR 4320 Series      |          |
| 3   | AC Power Supply for Cisco ISR 4320                           |          |
| 3   | AC Power Cord, Type C5, US, Canada                           |          |
| 6   | Unified Border Element Enterprise License - 5 sessions       |          |
| 3   | 4G DRAM for Cisco ISR 4320 (Soldered on motherboard)         |          |
| 3   | Blank faceplate for NIM slot on Cisco ISR 4400               |          |
| 3   | 4G Flash Memory for Cisco ISR 4300 (Soldered on motherboard) |          |
| 3   | Cisco ISR 4300 Series IOS XE Universal                       |          |
| 3   | Cisco Survivable Remote Site Telephony (SRST) License        |          |
| 3   | SRST-5 Seat License (CME uses CUCME Phone License ONLY)      |          |
| 3   | 2-port Network Interface Module - FXO (Universal)            |          |
| 1   | SNTC-8X5XNBD Cisco Business Edition 6000M Svr (M4), E        |          |
| 1   | SWSS UPGRADES Top Level SKU For 9.                           |          |
| 5   | SWSS UPGRADES CCX 11.0 ENH Seat Qty 1 LICENSE ONLY           |          |
| 170   | SWSS UPGRADES UC Manager-10.x Enhanced Single User-Und       |          |
| 80  | SWSS UPGRADES UC Manager-10.x Basic Single User-Under        |          |
| 20  | SWSS UPGRADES UC Manager-10.x Essential User License U       |          |
| 1   | SWSS UPGRADES Unity Connection 11.x Software                 |          |
| 270   | SWSS UPGRADES One Unity Connection 10.x Voice Messagin       |          |
| 1   | SWSS UPGRADES CCX 11.0 Add-on Lice                           |          |
| 15  | SWSS UPGRADES CCX 11.0 ENH Seat Qty 1 ADDON LICENSE ON       |          |
| 1   | SWSS UPGRADES Cisco Unified Attendant Consoles 11.x          |          |
| 2   | SWSS UPGRADES Cisco Unified Attendant Console Standard       |          |
| 10  | SNTC-8X5XNBD UC 2 Port Analog Telephone Adapter              |          |
| 1   | SNTC-8X5XNBD Cisco ISR 4321 UC Bundle, PVD4-32, UC L         |          |
| 3   | SNTC-8X5XNBD Cisco ISR 4321 UC Bundle, PVD4-32, UC L         |          |
| <p>The Equipment comprises acquisition and implementation of an integrated hardware and/or software system which may include the perpetual, nonexclusive, nontransferable license of software and capitalizable support functions customarily provided and essential for proper utilization of such a system.</p> |  |          |

LESSEE Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

# BILLING INFORMATION

## PLEASE COMPLETE THIS FORM AND RETURN WITH DOCUMENTS

In order for De Lage Landen Public Finance LLC to properly bill and credit your account, it is necessary that you complete this form and return it with the signed documents.

Billing Name: \_\_\_\_\_

Would you like your invoices emailed to you?  YES  NO

Email Address(es): \_\_\_\_\_

**\*YOUR INVOICES WILL BE EMAILED FROM INVOICEDELIVERY@LEASEDIRECT.COM**

Billing Address: \_\_\_\_\_

Attention: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

FEDERAL ID#: \_\_\_\_\_

### SPECIAL INSTRUCTIONS

Do you require a Purchase Order Number on the invoice? If so, **please attach a copy of the purchase order (front & back) for our file.**  YES  NO

Is a new purchase order required for each new fiscal period?  YES  NO

If yes, provide month/year PO expires \_\_\_\_\_

Do you have multiple contracts, and would like them all billed on one invoice (Summary Billing)?  YES  NO

Are you tax exempt? **If yes, please attach a copy of exempt certificate or direct pay permit.**  YES  NO

Do you require any special information to establish a vendor number for \_\_\_\_\_?  YES  NO

If yes, please advise: \_\_\_\_\_

Additional Comments: \_\_\_\_\_

Would you prefer the same billing date for all Contracts?  YES  NO

### CONTACT INFORMATION AND QUESTIONNAIRE FOR FORM 8038-G FILINGS

Contact Name: \_\_\_\_\_

Title: \_\_\_\_\_

Contact Address: \_\_\_\_\_

Contact Telephone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

### Written Tax Compliance Procedures

The IRS Form 8038-G asks specific questions about whether written procedures exist with regard to compliance with the federal tax requirements for tax-exempt obligations. Please answer the following questions to help us complete the form correctly prior to your signature. **Please note that your answers to these questions will not impact the terms or conditions of the subject transaction:**

1. Has the Lessee established written procedures designed to monitor compliance with federal tax restrictions for the term of the lease? Among other matters, the written procedures should identify a particular individual within Lessee's organization to monitor compliance with the federal tax requirements related to use of the financed assets and describe actions to be taken in the event failure to comply with federal tax restrictions is contemplated or discovered.

YES  NO  If YES, please attach/provide a copy.

**Answer the following question only if proceeds of the current financing will be funded to an ESCROW Account.**

The IRS Form 8038-G asks specific questions about written procedures to monitor the yield on the investment of gross proceeds of tax-exempt obligations and, as necessary, make payments of arbitrage rebate earned to the United States.

2. Has the Lessee established written procedures to monitor the yield on the investment of proceeds of the Lease on deposit in an escrow account or similar fund prior to being spent and to ensure that any positive arbitrage rebate earned is paid to the United States?

YES  NO  If YES, please attach/provide a copy.

***If you have further questions, please consult your regular bond or legal counsel.***

# ESCROW AGREEMENT

This ESCROW AGREEMENT (the "Escrow Agreement"), dated as of November 2, 2016, and entered into among De Lage Landen Public Finance LLC, a Delaware limited liability company ("Lessor"), CITY OF NORTH MIAMI, a public body corporate and politic existing under the laws of FL ("Lessee"), and UMB Bank, n.a., a national banking corporation, as escrow agent ("Escrow Agent").

Name of Acquisition Fund: "CITY OF NORTH MIAMI"

Equipment Acquisition Fund Account No.: \_\_\_\_\_

Amount of Deposit into the Acquisition Fund: \$226,467.78

## TERMS AND CONDITIONS

1. This Escrow Agreement relates to and is hereby made a part of the State and Local Government Lease-Purchase Agreement dated as of November 2, 2016 (the "Agreement"), between Lessor and Lessee.
2. Except as otherwise defined herein, all terms defined in the Agreement shall have the same meaning for the purposes of this Escrow Agreement as in the Agreement.
3. Lessor, Lessee and Escrow Agent agree that Escrow Agent will act as sole Escrow Agent under the Agreement and this Escrow Agreement, in accordance with the terms and conditions set forth in this Escrow Agreement. Escrow Agent shall not be deemed to be a party to the Agreement, and this Escrow Agreement shall be deemed to constitute the entire agreement between Lessor and Lessee and Escrow Agent.
4. There is hereby established in the custody of Escrow Agent a special trust fund designated as set forth above (the "Acquisition Fund") to be held and administered by Escrow Agent in trust for the benefit of Lessor and Lessee in accordance with this Escrow Agreement. Lessee hereby grants to Lessor a security interest in the cash and negotiable instruments from time to time comprising the Acquisition Fund (the "Security Interest"). To the limited extent required to perfect the Security Interest, Lessor hereby appoints Escrow Agent as its security agent, and Escrow Agent accepts the appointment as security agent and agrees to hold physical possession of such cash and negotiable instruments on behalf of Lessor.
5. Lessor shall deposit in the Acquisition Fund the amount specified above. Moneys held by Escrow Agent hereunder shall be invested and reinvested by Escrow Agent upon written direction of an authorized representative of Lessee in Qualified Investments (as hereinafter defined) maturing or subject to redemption at the option of the holder thereof prior to the date on which it is expected that such funds will be needed. Escrow Agent may act as purchaser or agent in the making or disposing of any investment. Escrow Agent shall have no obligation to invest or reinvest moneys if deposited with Escrow Agent after 11:00 a.m. (E.S.T.) on such day of deposit. Instructions received after 11:00 a.m. (E.S.T.) will be treated as if received on the following business day. Escrow Agent shall have no responsibility for any investment losses resulting from the investment, reinvestment or liquidation of funds held in the Acquisition Fund. Any interest or other income received on such investment and reinvestment of such funds shall become part of the Acquisition Fund and any losses incurred on such investment and reinvestment of such funds shall be debited against the Acquisition Fund. If the authorized representative of Lessee does not provide the Escrow Agent with written instructions directing the investment or reinvestment of such funds, the Escrow Agent may invest such funds in money market funds of a type described in Section 6(a)(iv) or Section 6(b)(vi) as appropriate until the Escrow Agent has received appropriate written instructions from the authorized representative. It is agreed and understood that the entity serving as Escrow Agent may earn fees associated with the investments described herein in accordance with the terms of such investments. Notwithstanding the foregoing, Escrow Agent shall have the power to sell or liquidate the foregoing investments whenever Escrow Agent shall be required to pay or disburse all or any portion of the funds held hereunder pursuant to the provisions hereof. In no event shall Escrow Agent be deemed an investment manager or adviser in respect of any selection of investments hereunder.
6. "Qualified Investments" shall be defined for purposes of this Escrow Agreement as follows:
  - (a) For an Agreement not qualified for the arbitrage rebate exception for small governmental units under Section 148(f)(4)(C) of the Code, "Qualified Investments" means, to the extent the same are at the time legal for investment of the funds being invested: (i) United States Treasury Bills or United States Treasury Notes traded on an open market or issued directly by the United States at a yield not exceeding 6 % per annum, (ii) United States Treasury Obligations State and Local Government Series time deposit securities with a yield not exceeding 6 % per annum, (iii) obligations the interest of which is not includable in the gross income of the owner thereof for federal income tax purposes under Section 103 of the Code and which are rated AA or better by Standard & Poor's Corporation or Aa or better by Moody's Investors Service, Inc., (iv) shares of qualified regulated investment companies which distribute exempt interest dividends within the meaning of Section 852 of the Code and which are rated AA or better by Standard & Poor's Corporation or Aa or better by Moody's Investors Service, Inc. (tax exempt mutual funds), or (v) United States Treasury Obligations State and Local Government Series demand deposit securities.
  - (b) For an Agreement qualified for the arbitrage rebate exception for small governmental units under Section 148(f)(4)(C) of the Code, "Qualified Investments" means to the extent the same are at the time legal for investment of the funds being invested: (i) direct general obligations of the United States of America; (ii) obligations the timely payment of the principal of and interest on which is fully and unconditionally guaranteed by the United States of America; (iii) general obligations of the agencies and instrumentalities of the United States of America acceptable to Lessor; (iv) certificates of deposit, time deposits or demand deposits with any bank or savings institution including Escrow Agent or any affiliate thereof, provided that such certificates of deposit, time deposits or demand deposits, if not insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, are fully secured by obligations described in (i), (ii) or (iii) above; (v) repurchase agreements with any state or national bank or trust company, including Escrow Agent or any affiliate thereof, that are secured by obligations of the type described in (i), (ii) or (iii) above, provided that such collateral is free and clear of claims of third parties and that Escrow Agent or a third party acting solely as agent for Escrow Agent has possession of such collateral and a perfected first security interest in such collateral; or (vi) shares of money market funds which are registered under the Investment Act of 1940, as amended, and which are rated AAA by Standard & Poor's Corporation or Aaa by Moody's Investors Service, Inc.
7. Moneys in the Acquisition Fund shall be used to pay for the cost of acquisition of the Equipment listed in the Agreement. Payment shall be made from the Acquisition Fund for the cost of acquisition of part or all of said Equipment listed in the Agreement upon presentation to Escrow Agent of one or more properly executed Payment Request and Acceptance Certificates, a form of which is attached as Exhibit A, executed by Lessee and approved for payment by Lessor, together with an invoice for the cost of the acquisition of said Equipment for which payment is requested and a written approval by Lessor of the vendor be paid.
8. The Acquisition Fund shall terminate upon the occurrence of the earlier of (a) the presentation of a proper Payment Request and Acceptance Certificate, with the portion thereof designated "Final Acceptance Certificate", properly executed by Lessee, or (b) the presentation of written notification by Lessor, or, if Lessor shall have assigned its interest under the Agreement, then the assignees or subassignees of all of Lessor's interest under the Agreement or an Agent on their behalf, that a default has occurred or that Lessee has terminated the Agreement pursuant to **Section 5** of the Agreement. Upon termination as described in clause (a) of this paragraph, any amount remaining in the Acquisition Fund shall be used to prepay the principal component of Lease Payments unless Lessor directs that payment of such amount be made in such other manner directed by Lessor that, in the opinion of nationally recognized counsel in the area of tax exempt municipal obligations satisfactory to Lessor, will not adversely affect the exclusion of the interest compo-

nents of Lease Payments from gross income for federal income tax purposes. If any such amount is used to prepay principal, the Exhibit A of Lease Payments appearing in the Agreement shall be revised accordingly as specified by Lessor. Upon termination as described in clause (b) of this paragraph, any amount remaining in the Acquisition Fund shall immediately be paid to Lessor or to any assignees or subassignees of Lessor's interest in this Escrow Agreement.

9. Escrow Agent may at any time resign by giving at least 30 days written notice to Lessee and Lessor, but such resignation shall not take effect until the appointment of a successor Escrow Agent. The substitution of another bank or trust company to act as Escrow Agent under this Escrow Agreement may occur by written agreement of Lessor and Lessee. In addition, Escrow Agent may be removed at any time, with or without cause, by an instrument in writing executed by Lessor and Lessee. In the event of any resignation or removal of Escrow Agent, a successor Escrow Agent shall be appointed by an instrument in writing executed by Lessor and Lessee. Such successor Escrow Agent shall indicate its acceptance of such appointment by an instrument in writing delivered to Lessor, Lessee and the predecessor Escrow Agent. Thereupon such successor Escrow Agent shall, without any further act or deed, be fully vested with all the trusts, powers, rights, duties and obligations of Escrow Agent under this Escrow Agreement and the predecessor Escrow Agent shall deliver all moneys and securities held by it under this Escrow Agreement to such successor Escrow Agent.
10. Escrow Agent incurs no liability to make any disbursements pursuant to the Escrow Agreement except from funds held in the Acquisition Fund. Escrow Agent makes no representations or warranties as to the title to any Equipment listed in the Agreement or as to the performance of any obligations of Lessor or Lessee. Escrow Agent may consult legal counsel in the event of any dispute or question as to the construction of any provisions hereof or its duties hereunder, and it shall incur no liability and shall be fully protected in acting in accordance with the opinion or instructions of such counsel. Lessee agrees to indemnify Escrow Agent for, and to hold it harmless against, any loss, liability or expense incurred in connection herewith without gross negligence or willful misconduct on the part of Escrow Agent, including without limitation legal or other fees arising out of or in connection with its entering into this Escrow Agreement and carrying out its duties hereunder, including without limitation the costs and expenses of defending itself against any claim of liability in the premises or any action for interpleader. Escrow Agent shall be under no obligation to institute or defend any action, suit, or legal proceeding in connection herewith, unless first indemnified and held harmless to its satisfaction in accordance with the foregoing, except that Escrow Agent shall not be indemnified against any loss, liability or expense arising out of its own gross negligence or willful misconduct. Such indemnity shall survive the termination or discharge of this Escrow Agreement or resignation of Escrow Agent.
11. This Escrow Agreement shall be governed by and construed in accordance with the laws of the State in which Escrow Agent is located.
12. In the event any provision of this Escrow Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
13. This Escrow Agreement may not be amended except by a written instrument executed by Lessor, Lessee and Escrow Agent.
14. This Escrow Agreement may be executed in several counterparts, each of which so executed shall be an original. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.
15. Escrow Agent shall be entitled to fees and expenses for its regular services as Escrow Agent as agreed to in writing with the [Lessor/Lessee]. Escrow Agent is entitled to fees for extraordinary services and reimbursement of any out-of-pocket and extraordinary costs and expenses, including, but not limited to, attorneys' fees. Escrow Agent shall have a first lien upon the Acquisition Fund for the purpose of paying its fees and expenses. All of Escrow Agent's compensation, costs and expenses shall be paid by [Lessee/Lessor].
16. The parties hereto agree that, for tax reporting purposes, all interest or other income, if any, attributable to the funds held by Escrow Agent pursuant to this Escrow Agreement shall be allocable to Lessee. Lessor and Lessee agree to provide Escrow Agent completed Forms W-9 and other forms and documents that Escrow Agent may reasonably request (collectively, "Tax Reporting Documentation") at the time of execution of this Escrow Agreement and any information reasonably requested by Escrow Agent to comply with the USA Patriot Act of 2001, as amended from time to time. Additionally, the parties shall complete the Incumbency Certificate attached to this Escrow Agreement and provide it to Escrow Agent upon the execution of this Escrow Agreement. The parties hereto understand that if such Tax Reporting Documentation is not so certified to Escrow Agent, Escrow Agent may be required by the Internal Revenue Code, as it may be amended from time to time, to withhold a portion of any interest or other income earned on the investment of monies or other property held by Escrow Agent pursuant to this Escrow Agreement.

IN WITNESS WHEREOF, Lessor, Lessee and Escrow Agent have caused this Escrow Agreement to be executed by their duly authorized representatives, all as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

|                         |   |
|-------------------------|---|
| <b>LESSOR SIGNATURE</b> | Lessor <b>DE LAGE LANDEN PUBLIC FINANCE LLC</b> |
|                         | Signature _____                                 |
|                         | Print Name _____                                |
|                         | Title _____                                     |

|                         |                                   |
|-------------------------|-----------------------------------|
| <b>LESSEE SIGNATURE</b> | Lessee <b>CITY OF NORTH MIAMI</b> |
|                         | Signature _____                   |
|                         | Print Name _____                  |
|                         | Title _____                       |

|                               |                                    |
|-------------------------------|------------------------------------|
| <b>ESCROW AGENT SIGNATURE</b> | Escrow Agent <b>UMB BANK, n.a.</b> |
|                               | Signature _____                    |
|                               | Print Name _____                   |
|                               | Title _____                        |

12PFDOC217V1

# PAYMENT REQUEST AND ACCEPTANCE CERTIFICATE FORM

To: **UMB Bank, n.a.**  
 1010 Grand, 4th Floor  
 Kansas City, Missouri 64106

and

De Lage Landen Public Finance LLC, Lessor  
 1111 Old Eagle School Road  
 Wayne, PA 19087

Re: CITY OF NORTH MIAMI Equipment Acquisition Fund No. \_\_\_\_\_ estab-  
 lished by the Escrow Agreement, dated as of November 2, 2016, (the "Escrow Agreement"), among De Lage Landen  
 Public Finance LLC ("Lessor"), CITY OF NORTH MIAMI  
 ("Lessee") and UMB Bank, n.a., as Escrow Agent (the "Escrow Agent")

Ladies and Gentlemen:

Escrow Agent is hereby requested to pay from the Acquisition Fund to the person or corporation designated below as Payee, the sum set forth below in payment of a portion or all of the cost of the acquisition of the equipment described below. The amount shown below is due and payable under the invoice of the Payee attached hereto with respect to the cost of the acquisition of the equipment and has not formed the basis of any prior request for payment. The equipment described below is part or all of the "Equipment" that is listed in the State and Local Government Lease-Purchase Agreement (the "Agreement") described in the Escrow Agreement.

| EQUIPMENT INFORMATION | Quantity | Serial Number | Item | Amount |
|-----------------------|----------|---------------|------|--------|
|                       |          |               |      |        |
|                       |          |               |      |        |
|                       |          |               |      |        |
|                       |          |               |      |        |

|       |  |
|-------|--|
| PAYEE | Full Legal Name _____                    |
|       | Billing Address _____ Phone Number _____ |
|       | City _____ State _____ Zip Code _____    |

Lessee hereby certifies and represents to and agrees with Lessor and Escrow Agent as follows:

1. The Equipment described above has been delivered, installed and accepted on the date hereof.
2. Lessee has conducted such inspection and/or testing of said equipment as it deems necessary and appropriate and hereby acknowledges that it accepts said equipment for all purposes.
3. Lessee is currently maintaining the insurance coverage required by **Section 14** of the Agreement.
4. No event or condition that constitutes, or with notice or lapse of time or both would constitute, a default (as described in **Section 15** of the Agreement) exists at the date hereof.

Dated: \_\_\_\_\_, 20\_\_\_\_.

|                  |                                   |
|------------------|-----------------------------------|
| LESSEE SIGNATURE | Lessee <u>CITY OF NORTH MIAMI</u> |
|                  | Signature _____                   |
|                  | Print Name _____                  |
|                  | Title _____                       |

|                  |   |
|------------------|---|
| LESSOR SIGNATURE | Lessor <b>DE LAGE LANDEN PUBLIC FINANCE LLC</b> |
|                  | Signature _____                                 |
|                  | Print Name _____                                |
|                  | Title _____                                     |

# FINAL ACCEPTANCE CERTIFICATE

Date

THIS CERTIFICATE IS TO BE EXECUTED ONLY WHEN **ALL** EQUIPMENT HAS BEEN ACCEPTED.

The undersigned hereby certifies that the equipment described above, together with the equipment described in and accepted by Payment Request and Acceptance Certificates previously filed by Lessee with Escrow Agent and Lessor pursuant to the Escrow Agreement, constitutes all of the Equipment.

|                             |                                   |
|-----------------------------|-----------------------------------|
| <b>LESSEE<br/>SIGNATURE</b> | Lessee <u>CITY OF NORTH MIAMI</u> |
|                             | Signature _____                   |
|                             | Print Name _____                  |
|                             | Title _____                       |

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# INCUMBENCY CERTIFICATE

The undersigned, a duly authorized representative of CITY OF NORTH MIAMI (hereinafter "Lessee"), in connection with the Escrow Agreement dated contemporaneously herewith by and among De Lage Landen Public Finance LLC and UMB Bank, n.a. (hereinafter the "Escrow Agreement"), HEREBY CERTIFIES that the persons whose names, titles and signatures appear below are duly qualified and acting representatives of Lessee on the date hereof. Each holds the office set forth beside his/her name, and the signature appearing opposite his/her name is the genuine signature of such representative. Each is authorized to act on behalf of Lessee with respect to all matters requiring the direction, consent or other action of Lessee as set forth in the Escrow Agreement. UMB Bank, n.a. is entitled to rely on this certification until receipt of written notice to the contrary.

| NAME  | TITLE | SIGNATURE |
|-------|-------|-----------|
| _____ | _____ | _____     |
| _____ | _____ | _____     |
| _____ | _____ | _____     |
| _____ | _____ | _____     |

IN WITNESS WHEREOF, the undersigned has executed this Certificate for and on behalf of Lessee on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

|                         |                                   |
|-------------------------|-----------------------------------|
| <b>LESSEE SIGNATURE</b> | Lessee <u>CITY OF NORTH MIAMI</u> |
|                         | Signature _____                   |
|                         | Print Name _____                  |
|                         | Title _____                       |

12PFDOC217Cv1

# Information Return for Tax-Exempt Governmental Obligations

► Under Internal Revenue Code section 149(e)  
 ► See separate instructions.

OMB No. 1545-0720

Caution: If the issue price is under \$100,000, use Form 8038-GC.

**Part I Reporting Authority** If Amended Return, check here

1 Issuer's name \_\_\_\_\_ 2 Issuer's employer identification number (EIN) \_\_\_\_\_

3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions) \_\_\_\_\_ 3b Telephone number of other person shown on 3a \_\_\_\_\_

4 Number and street (or P.O. box if mail is not delivered to street address) \_\_\_\_\_ Room/suite \_\_\_\_\_ 5 Report number (For IRS Use Only) \_\_\_\_\_ 3 | \_\_\_\_\_

6 City, town, or post office, state, and ZIP code \_\_\_\_\_ 7 Date of issue \_\_\_\_\_

8 Name of issue \_\_\_\_\_ 9 CUSIP number \_\_\_\_\_

10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions) \_\_\_\_\_ 10b Telephone number of officer or other employee shown on 10a \_\_\_\_\_

**Part II Type of Issue (enter the issue price).** See the instructions and attach schedule.

|    |  |    |        |
|----|--|----|--------|
| 11 | Education . . . . .  | 11 | XXXXXX |
| 12 | Health and hospital . . . . .  | 12 | XXXXXX |
| 13 | Transportation . . . . .   | 13 | XXXXXX |
| 14 | Public safety . . . . .  | 14 | XXXXXX |
| 15 | Environment (including sewage bonds) . . . . .                                     | 15 | XXXXXX |
| 16 | Housing . . . . .  | 16 | XXXXXX |
| 17 | Utilities . . . . .  | 17 | XXXXXX |
| 18 | Other. Describe ► _____  | 18 | XXXXXX |
| 19 | If obligations are TANs or RANs, check only box 19a . . . . .                      |    |        |
|    | If obligations are BANs, check only box 19b . . . . .                              |    |        |
| 20 | If obligations are in the form of a lease or installment sale, check box . . . . . |    |        |

**Part III Description of Obligations.** Complete for the entire issue for which this form is being filed.

|    | (a) Final maturity date | (b) Issue price | (c) Stated redemption price at maturity | (d) Weighted average maturity | (e) Yield |
|----|-------------------------|-----------------|---|-------------------------------|-----------|
| 21 | XXXXXX                  | \$ XXXXXX       | \$ XXXXXX                               | XXXXXX years                  | XXXXXX %  |

**Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)**

|    |  |    |        |
|----|--|----|--------|
| 22 | Proceeds used for accrued interest . . . . .   | 22 | XXXXXX |
| 23 | Issue price of entire issue (enter amount from line 21, column (b)) . . . . .                      | 23 | XXXXXX |
| 24 | Proceeds used for bond issuance costs (including underwriters' discount) . . . . .                 | 24 | XXXXXX |
| 25 | Proceeds used for credit enhancement . . . . .   | 25 | XXXXXX |
| 26 | Proceeds allocated to reasonably required reserve or replacement fund . . . . .                    | 26 | XXXXXX |
| 27 | Proceeds used to currently refund prior issues . . . . .   | 27 | XXXXXX |
| 28 | Proceeds used to advance refund prior issues . . . . .   | 28 | XXXXXX |
| 29 | Total (add lines 24 through 28) . . . . .  | 29 | XXXXXX |
| 30 | Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here) . . . . . | 30 | XXXXXX |

**Part V Description of Refunded Bonds.** Complete this part only for refunding bonds.

31 Enter the remaining weighted average maturity of the bonds to be currently refunded . . . . . ► XXXXXX years

32 Enter the remaining weighted average maturity of the bonds to be advance refunded . . . . . ► XXXXXX years

33 Enter the last date on which the refunded bonds will be called (MM/DD/YYYY) . . . . . ► XXXXXX

34 Enter the date(s) the refunded bonds were issued ► (MM/DD/YYYY) XXXXXX



# Instructions for Form 8038-G



Department of the Treasury  
Internal Revenue Service

(Rev. September 2011)

## Information Return for Tax-Exempt Governmental Obligations

Section references are to the Internal Revenue Code unless otherwise noted.

### General Instructions

#### Purpose of Form

Form 8038-G is used by issuers of tax-exempt governmental obligations to provide the IRS with the information required by section 149(e) and to monitor the requirements of sections 141 through 150.

#### Who Must File

| IF the issue price (line 21, column (b)) is... | THEN, for tax-exempt governmental obligations issued after December 31, 1986, issuers must file...            |
|--|---|
| \$100,000 or more                              | A separate Form 8038-G for each issue   |
| Less than \$100,000                            | Form 8038-GC, Information Return for Small Tax-Exempt Governmental Bond Issues, Leases, and Installment Sales |



For all build America bonds and recovery zone economic development bonds use Form 8038-B, Information Return for Build America Bonds and Recovery Zone Economic Development Bonds. For tax credit bonds and specified tax credit bonds use Form 8038-TC, Information Return for Tax Credit Bonds and Specified Tax Credit Bonds.

#### When To File

File Form 8038-G on or before the 15th day of the 2nd calendar month after the close of the calendar quarter in which the bond is issued. Form 8038-G may not be filed before the issue date and must be completed based on the facts as of the issue date.

**Late filing.** An issuer may be granted an extension of time to file Form 8038-G under Section 3 of Rev. Proc. 2002-48, 2002-37 I.R.B. 531, if it is determined that the failure to file timely is not due to willful neglect. Type or print at the top of the form "Request for Relief under section 3 of Rev. Proc. 2002-48" and attach a letter explaining why Form 8038-G was not submitted to the IRS on time. Also indicate whether the bond issue in question is under examination by the IRS. Do not submit copies of the trust

indenture or other bond documents. See *Where To File* next.

#### Where To File

File Form 8038-G, and any attachments, with the Department of the Treasury, Internal Revenue Service Center, Ogden, UT 84201.

**Private delivery services.** You can use certain private delivery services designated by the IRS to meet the "timely mailing as timely filing/paying" rule for tax returns and payments. These private delivery services include only the following:

- DHL Express (DHL): DHL Same Day Service.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx International Priority, and FedEx International First.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

The private delivery service can tell you how to get written proof of the mailing date.

#### Other Forms That May Be Required

For rebating arbitrage (or paying a penalty in lieu of arbitrage rebate) to the Federal government, use Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate.

For private activity bonds, use Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

For build America bonds (Direct Pay), build America bonds (Tax Credit), and recovery zone economic development bonds, complete Form 8038-B, Information Return for Build America Bonds and Recovery Zone Economic Development Bonds.

For qualified forestry conservation bonds, new clean renewable energy bonds, qualified energy conservation bonds, qualified zone academy bonds, qualified school construction bonds, clean renewable energy bonds, Midwestern tax credit bonds, and all other qualified tax credit bonds (except build America bonds), file Form 8038-TC, Information Return for Tax Credit Bonds and Specified Tax Credit Bonds.

#### Rounding to Whole Dollars

You may show amounts on this return as whole dollars. To do so, drop amounts less than 50 cents and increase amounts from 50 cents through 99 cents to the next higher dollar.

#### Questions on Filing Form 8038-G

For specific questions on how to file Form 8038-G send an email to the IRS at [TaxExemptBondQuestions@irs.gov](mailto:TaxExemptBondQuestions@irs.gov) and put "Form 8038-G Question" in the subject line. In the email include a description of your question, a return email address, the name of a contact person, and a telephone number.

#### Definitions

**Tax-exempt obligation.** This is any obligation, including a bond, installment purchase agreement, or financial lease, on which the interest is excluded from income under section 103.

**Tax-exempt governmental obligation.** A tax-exempt obligation that is not a private activity bond (see below) is a tax-exempt governmental obligation. This includes a bond issued by a qualified volunteer fire department under section 150(e).

**Private activity bond.** This includes an obligation issued as part of an issue in which:

- More than 10% of the proceeds are to be used for any private activity business use, and
- More than 10% of the payment of principal or interest of the issue is either (a) secured by an interest in property to be used for a private business use (or payments for such property) or (b) to be derived from payments for property (or borrowed money) used for a private business use.

It also includes a bond, the proceeds of which (a) are to be used directly or indirectly to make or finance loans (other than loans described in section 141(c)(2)) to persons other than governmental units and (b) exceeds the lesser of 5% of the proceeds or \$5 million.

**Issue price.** The issue price of obligations is generally determined under Regulations section 1.148-1(b). Thus, when issued for cash, the issue price is the first price at which a substantial amount of the obligations are sold to the public. To determine the issue price of an obligation issued for property, see sections 1273 and 1274 and the related regulations.

**Issue.** Generally, obligations are treated as part of the same issue if they are issued by the same issuer, on the same date, and in a single transaction, or a series of related transactions. However, obligations issued during the same calendar year (a) under a loan agreement under which amounts are to be advanced periodically (a "draw-down loan") or (b) with a term not exceeding 270 days, may be treated as part of the same issue if the obligations are equally and ratably secured under a single indenture or loan agreement and are issued under a common financing arrangement (for example, under the same official statement periodically updated to reflect changing factual circumstances). Also, for obligations issued under a draw-down loan that meet the requirements of the preceding sentence, obligations issued during different calendar years may be treated as part of the same issue if all of the amounts to be advanced under the draw-down loan are reasonably expected to be advanced within 3 years of the date of issue of the first obligation. Likewise, obligations (other than private activity bonds) issued under a single agreement that is in the form of a lease or installment sale may be treated as part of the same issue if all of the property covered by that agreement is reasonably expected to be delivered within 3 years of the date of issue of the first obligation.

**Arbitrage rebate.** Generally, interest on a state or local bond is not tax-exempt unless the issuer of the bond rebates to the United States arbitrage profits earned from investing proceeds of the bond in higher yielding nonpurpose investments. See section 148(f).

**Construction issue.** This is an issue of tax-exempt bonds that meets both of the following conditions:

1. At least 75% of the available construction proceeds are to be used for construction expenditures with respect to property to be owned by a governmental unit or a section 501(c)(3) organization, and
2. All the bonds that are part of the issue are qualified 501(c)(3) bonds, bonds that are not private activity bonds, or private activity bonds issued to finance property to be owned by a governmental unit or a section 501(c)(3) organization.

In lieu of rebating any arbitrage that may be owed to the United States, the issuer of a construction issue may make an irrevocable election to pay a penalty. The penalty is equal to 1½% of the amount of construction proceeds that do not meet certain spending requirements. See section 148(f)(4)(C) and the Instructions for Form 8038-T.

## Specific Instructions

### Part I—Reporting Authority

**Amended return.** An issuer may file an amended return to change or add to the information reported on a previously filed

return for the same date of issue. If you are filing to correct errors or change a previously filed return, check the *Amended Return* box in the heading of the form.

The amended return must provide all the information reported on the original return, in addition to the new or corrected information. Attach an explanation of the reason for the amended return and write across the top, "Amended Return Explanation." Failure to attach an explanation may result in a delay in processing the form.

**Line 1.** The issuer's name is the name of the entity issuing the obligations, not the name of the entity receiving the benefit of the financing. For a lease or installment sale, the issuer is the lessee or the purchaser.

**Line 2.** An issuer that does not have an employer identification number (EIN) should apply for one on Form SS-4, Application for Employer Identification Number. You can get this form on the IRS website at [IRS.gov](http://IRS.gov) or by calling 1-800-TAX-FORM (1-800-829-3676). You may receive an EIN by telephone by following the instructions for Form SS-4.

**Line 3a.** If the issuer wishes to authorize a person other than an officer or other employee of the issuer (including a legal representative or paid preparer) to communicate with the IRS and whom the IRS may contact about this return (including in writing or by telephone), enter the name of such person here. The person listed in line 3a must be an individual. Do not enter the name and title of an officer or other employee of the issuer here (use line 10a for that purpose).

**Note.** By authorizing a person other than an authorized officer or other employee of the issuer to communicate with the IRS and whom the IRS may contact about this return, the issuer authorizes the IRS to communicate directly with the individual entered on line 3a and consents to disclose the issuer's return information to that individual, as necessary, to process this return.

**Lines 4 and 6.** If you listed an individual on line 3a to communicate with the IRS and whom the IRS may contact about this return, enter the number and street (or P.O. box if mail is not delivered to street address), city, town, or post office, state, and ZIP code of that person. Otherwise, enter the issuer's number and street (or P.O. box if mail is not delivered to street address), city, town, or post office, state, and ZIP code.

**Note.** The address entered on lines 4 and 6 is the address the IRS will use for all written communications regarding the processing of this return, including any notices.

**Line 5.** This line is for IRS use only. Do not make any entries in this box.

**Line 7.** The date of issue is generally the date on which the issuer physically

exchanges the bonds that are part of the issue for the underwriter's (or other purchaser's) funds. For a lease or installment sale, enter the date interest starts to accrue in a MM/DD/YYYY format.

**Line 8.** If there is no name of the issue, please provide other identification of the issue.

**Line 9.** Enter the CUSIP (Committee on Uniform Securities Identification Procedures) number of the bond with the latest maturity. If the issue does not have a CUSIP number, write "None."

**Line 10a.** Enter the name and title of the officer or other employee of the issuer whom the IRS may call for more information. If the issuer wishes to designate a person other than an officer or other employee of the issuer (including a legal representative or paid preparer) whom the IRS may call for more information about the return, enter the name, title, and telephone number of such person on lines 3a and 3b.



Complete lines 10a and 10b even if you complete lines 3a and 3b.

### Part II—Type of Issue



Elections referred to in Part II are made on the original bond documents, not on this form.

Identify the type of obligations issued by entering the corresponding issue price (see *Issue price* under *Definitions* earlier). Attach a schedule listing names and EINs of organizations that are to use proceeds of these obligations, if different from those of the issuer, include a brief summary of the use and indicate whether or not such user is a governmental or nongovernmental entity.

**Line 18.** Enter a description of the issue in the space provided.

**Line 19.** If the obligations are short-term tax anticipation notes or warrants (TANs) or short-term revenue anticipation notes or warrants (RANs), check box 19a. If the obligations are short-term bond anticipation notes (BANs), issued with the expectation that they will be refunded with the proceeds of long-term bonds at some future date, check box 19b. Do not check both boxes.

**Line 20.** Check this box if property other than cash is exchanged for the obligation, for example, acquiring a police car, a fire truck, or telephone equipment through a series of monthly payments. (This type of obligation is sometimes referred to as a "municipal lease.") Also check this box if real property is directly acquired in exchange for an obligation to make periodic payments of interest and principal. **Do not** check this box if the proceeds of the obligation are received in the form of cash, even if the term "lease" is used in the title of the issue.

### Part III—Description of Obligations

**Line 21.** For column (a), the final maturity date is the last date the issuer must redeem the entire issue.

For column (b), see *Issue price* under *Definitions* earlier.

For column (c), the stated redemption price at maturity of the entire issue is the sum of the stated redemption prices at maturity of each bond issued as part of the issue. For a lease or installment sale, write "N/A" in column (c).

For column (d), the weighted average maturity is the sum of the products of the issue price of each maturity and the number of years to maturity (determined separately for each maturity and by taking into account mandatory redemptions), divided by the issue price of the entire issue (from line 21, column (b)). For a lease or installment sale, enter instead the total number of years the lease or installment sale will be outstanding.

For column (e), the yield, as defined in section 148(h), is the discount rate that, when used to compute the present value of all payments of principal and interest to be paid on the obligation, produces an amount equal to the purchase price, including accrued interest. See Regulations section 1.148-4 for specific rules to compute the yield on an issue. If the issue is a variable rate issue, write "VR" as the yield of the issue. For other than variable rate issues, carry the yield out to four decimal places (for example, 5.3125%). If the issue is a lease or installment sale, enter the effective rate of interest being paid.

### Part IV—Uses of Proceeds of Bond Issue

For a lease or installment sale, write "N/A" in the space to the right of the title for Part IV.

**Line 22.** Enter the amount of proceeds that will be used to pay interest from the date the bonds are dated to the date of issue.

**Line 24.** Enter the amount of the proceeds that will be used to pay bond issuance costs, including fees for trustees and bond counsel. If no bond proceeds will be used to pay bond issuance costs, enter zero. Do not leave this line blank.

**Line 25.** Enter the amount of the proceeds that will be used to pay fees for credit enhancement that are taken into account in determining the yield on the issue for purposes of section 148(f) (for example, bond insurance premiums and certain fees for letters of credit).

**Line 26.** Enter the amount of proceeds that will be allocated to such a fund.

**Line 27.** Enter the amount of the proceeds that will be used to pay principal, interest, or call premium on any other issue of bonds within 90 days of the date of issue.

**Line 28.** Enter the amount of the proceeds that will be used to pay

principal, interest, or call premium on any other issue of bonds after 90 days of the date of issue, including proceeds that will be used to fund an escrow account for this purpose.

### Part V—Description of Refunded Bonds

Complete this part only if the bonds are to be used to refund a prior issue of tax-exempt bonds. For a lease or installment sale, write "N/A" in the space to the right of the title for Part V.

**Lines 31 and 32.** The remaining weighted average maturity is determined without regard to the refunding. The weighted average maturity is determined in the same manner as on line 21, column (d).

**Line 34.** If more than a single issue of bonds will be refunded, enter the date of issue of each issue. Enter the date in an MM/DD/YYYY format.

### Part VI—Miscellaneous

**Line 35.** An allocation of volume cap is required if the nonqualified amount for the issue is more than \$15 million but is not more than the amount that would cause the issue to be private activity bonds.

**Line 36.** If any portion of the gross proceeds of the issue is or will be invested in a guaranteed investment contract (GIC), as defined in Regulations section 1.148-1(b), enter the amount of the gross proceeds so invested, as well as the final maturity date of the GIC and the name of the provider of such contract.

**Line 37.** Enter the amount of the proceeds of this issue used to make a loan to another governmental unit, the interest of which is tax-exempt.

**Line 38.** If the issue is a loan of proceeds from another tax-exempt issue, check the box and enter the date of issue, EIN, and name of issuer of the master pool obligation.

**Line 40.** Check this box if the issue is a construction issue and an irrevocable election to pay a penalty in lieu of arbitrage rebate has been made on or before the date the bonds were issued. The penalty is payable with a Form 8038-T for each 6-month period after the date the bonds are issued. Do not make any payment of penalty in lieu of arbitrage rebate with this form. See Rev. Proc. 92-22, 1992-1 C.B. 736 for rules regarding the "election document."

**Line 41a.** Check this box if the issuer has identified a hedge on its books and records according to Regulations sections 1.148-4(h)(2)(viii) and 1.148-4(h)(5) that permit an issuer of tax-exempt bonds to identify a hedge for it to be included in yield calculations for computing arbitrage.

**Line 42.** In determining if the issuer has super-integrated a hedge, apply the rules of Regulations section 1.148-4(h)(4). If the hedge is super-integrated, check the box.

**Line 43.** If the issuer takes a "deliberate action" after the issue date that causes

the conditions of the private business tests or the private loan financing test to be met, then such issue is also an issue of private activity bonds. Regulations section 1.141-2(d)(3) defines a deliberate action as any action taken by the issuer that is within its control regardless of whether there is intent to violate such tests. Regulations section 1.141-12 explains the conditions to taking remedial action that prevent an action that causes an issue to meet the private business tests or private loan financing test from being treated as a deliberate action. Check the box if the issuer has established written procedures to ensure timely remedial action for all nonqualified bonds according to Regulations section 1.141-12 or other remedial actions authorized by the Commissioner under Regulations section 1.141-12(h).

**Line 44.** Check the box if the issuer has established written procedures to monitor compliance with the arbitrage, yield restriction, and rebate requirements of section 148.

**Line 45a.** Check the box if some part of the proceeds was used to reimburse expenditures. Figure and then enter the amount of proceeds that are used to reimburse the issuer for amounts paid for a qualified purpose prior to the issuance of the bonds. See Regulations section 1.150-2.

**Line 45b.** An issuer must adopt an official intent to reimburse itself for preissuance expenditures within 60 days after payment of the original expenditure unless excepted by Regulations section 1.150-2(f). Enter the date the official intent was adopted. See Regulations section 1.150-2(e) for more information about official intent.

### Signature and Consent

An authorized representative of the issuer must sign Form 8038-G and any applicable certification. Also print the name and title of the person signing Form 8038-G. The authorized representative of the issuer signing this form must have the authority to consent to the disclosure of the issuer's return information, as necessary to process this return, to the person(s) that have been designated in Form 8038-G.

**Note.** If the issuer in Part 1, lines 3a and 3b authorizes the IRS to communicate (including in writing and by telephone) with a person other than an officer or other employee of the issuer, by signing this form, the issuer's authorized representative consents to the disclosure of the issuer's return information, as necessary to process this return, to such person.

### Paid Preparer

If an authorized officer of the issuer filled in this return, the paid preparer's space should remain blank. Anyone who prepares the return but does not charge the organization should not sign the return. Certain others who prepare the

return should not sign. For example, a regular, full-time employee of the issuer, such as a clerk, secretary, etc., should not sign.

Generally, anyone who is paid to prepare a return must sign it and fill in the other blanks in the *Paid Preparer Use Only* area of the return.

- The paid preparer must:
- Sign the return in the space provided for the preparer's signature (a facsimile signature is acceptable),
  - Enter the preparer information, and
  - Give a copy of the return to the issuer.

**Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us

the information. We need it to ensure that you are complying with these laws.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form varies depending on individual circumstances. The estimated average time is:

|  |                |
|--|----------------|
| <b>Learning about the law or the form</b> . . . . .                              | 2 hr., 41 min. |
| <b>Preparing, copying, assembling, and sending the form to the IRS</b> . . . . . | 3 hr., 3 min.  |

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAP:MP:T:M:S, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. **Do not** send the form to this office. Instead, see *Where To File*.

**SAMPLE**

**PARTICIPATING ADDENDUM**  
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**DATA COMMUNICATIONS PRODUCTS AND SERVICES 14-19**  
**Administered by the State of Utah (hereinafter "Lead State")**

**MASTER AGREEMENT**  
Cisco Systems, Inc.  
Master Agreement No: AR233  
(hereinafter "Contractor")

And

[State of Florida Alternate Contract Source Number 43220000-WSCA-14-ACS]  
(hereinafter "Participating State/Entity")

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1. **Scope:** This addendum covers the Data Communications Products and Services 14-19 contracts led by the State of Utah for use by state agencies and other entities located in the Participating **State/Entity** authorized by that state's statutes to utilize **state/entity** contracts with the prior approval of the state's chief procurement official.

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

3. **Participating State Modifications or Additions to Master Agreement:**

(These modifications or additions apply only to actions and relationships within the Participating Entity.)

**A. Eligible Users**

State agencies and other eligible users (hereinafter collectively referred to as "Eligible Users" or an "Eligible User") may make purchases from this Agreement pursuant to the terms and conditions of the Contract as modified and supplemented herein.

**B. Changes and Additions to the Contract**

1. Upon execution of this Alternate Contract Source (ACS) agreement, the Department of Management Services (Department) and all Eligible Users may purchase products and services under the WSCA-NASPO contract No. 7wn2002 for Data Communications Equipment & Services, Exhibit A.
2. The Department and Eligible Users acknowledge and agree to be bound by the terms and conditions of Exhibit A, except as otherwise specified in this ACS.
3. The following are modifications to Exhibit A.

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- a. Prices: The prices of the ACS are set forth in the attached Exhibit B, "State of Florida Price List," and are incorporated herein.
- b. PUR 1000 Form: The Department Purchasing Form PUR 1000 is attached hereto and incorporated herein as Exhibit C.
- c. Discriminatory Vendors. An entity or affiliate placed on the discriminatory vendor list pursuant to section 287.134 of the Florida Statutes may not:
  - submit a bid on a contract to provide any goods or services to a public entity;
  - submit a bid on a contract with a public entity for the construction or repair of a public building or public work;
  - submit bids on leases of real property to a public entity;
  - be awarded or perform work as a contractor, supplier, sub-contractor, or consultant under a contract with any public entity; or
  - transact business with any public entity.
- d. Effective Date: The ACS shall become effective on the last date signed below and is coterminous with Exhibit A, unless terminated earlier by the Department. Exhibit A specifies the term as June 1, 2014 through May 31, 2019 with no renewal options identified.
- e. Vendor Registration and Transaction Fees: In order to complete any transaction between a Buyer and the Vendor, the Vendor must be registered with the Department of State, Division of Corporations ([www.sunbiz.org](http://www.sunbiz.org)) and in [MyFloridaMarketPlace](#). Section 287.042(1)(h), Florida Statutes, and Rule 60A-1.031, Florida Administrative Code, is hereby incorporated by reference. All transactions are subject to a transaction fee pursuant to the rule.
- f. Orders: In order to procure products and services hereunder, Eligible Users shall issue purchase orders or use a Purchasing Card which shall reference this ACS. Eligible Users are responsible for reviewing the terms and conditions of this ACS

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and Exhibit A. Neither the Department nor WSCA-NASPO is a party to any purchase order issued hereunder.

- g. **Compliance with Laws:** The Contractor shall comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, State, and local agencies having jurisdiction and authority. By way of non-exhaustive example, Chapter 287 of the Florida Statutes and Rule 60A-1 of the Florida Administrative Code govern the ACS. By way of further non-exhaustive example, the Contractor shall comply with section 274A of the Immigration and Nationalization Act, the Americans with Disabilities Act, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status. Violation of any laws, rules, codes, ordinances, or licensing requirements shall be grounds for Contract termination or nonrenewal of the contract.
- h. **Other Eligible Users:** If any additional ordinance, rule, or other local governmental authority requires additional contract language before an Eligible User can make a purchase from the ACS referenced above, in lieu of this ACS, the Eligible User is responsible for signing a separate contract with the Contractor, capturing that additional contract language.
- i. **Provisions of section 287.058, Florida Statutes:** The provisions of section 287.058(1)(a)-(c) and (g), Florida Statutes, are hereby incorporated by reference.
- j. **Public Records:** If, under this contract, the Contractor is providing services and is acting on behalf of the Department as provided under subsection 119.011(2), Florida Statutes, the Contractor, subject to the terms of paragraph 287.058(1)(c), Florida Statutes, and any other applicable legal and equitable remedies, shall:
  - (a) Keep and maintain public records that ordinarily and necessarily would be required by the Department in order to perform the service.
  - (b) Provide the public with access to public records on the same terms and conditions that the Department would provide the records and at a cost that does

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not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

(d) Meet all requirements for retaining public records and transfer, at no cost, to the Department all public records in possession of the Contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Department in a format that is compatible with the information technology systems of the Department.

The Department may unilaterally cancel this Contract for refusal by the Service Provider to comply with this section by not allowing public access to all documents, papers, letters, or other material made or received by the contractor in conjunction with the contract, unless the records are exempt from s. 24(a) of Article I of the State Constitution and subsection 119.07(1).

- k. The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature. The vendor shall comply with section 11.062, Florida Statutes and section 216.347, Florida Statutes, prohibiting use of funds to lobby the Legislature, Judicial, or state agencies.

**C. Contract Number**

All purchase orders issued by Eligible Users within the State of Florida shall include the Department of Management Service's contract number, 43220000-WSCA-14-ACS, unless otherwise provided by Florida Law, statute, rule or this ACS. State agencies will not be required to submit an ACS form for purchases related to this ACS.

**D. Contract Document**

This ACS and its Exhibits set forth the entire agreement between the parties with respect to the subject matter of this ACS. The terms and conditions of this ACS and its exhibits shall prevail and govern in the case of any such inconsistent or additional terms.

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**E. Event of Dispute**

In the case of an ambiguity which requires extrinsic evidence to determine the intent of the parties, the following documents shall have priority in the order set forth below:

1. This Participating Addenda
2. Exhibit B, State of Florida Price List
3. Exhibit C, PUR 1000
4. Exhibit A, State of Utah WSCA-NASPO Agreement 7wn2002, Data Communications Equipment & Services
5. Exhibit D, Preferred Pricing Affidavit

**F. Intellectual Property**

The parties do not anticipate that any intellectual property will be developed as a result of this ACS. However, any intellectual property developed as a result of this ACS will belong to and be the sole property of the Eligible User. This provision will survive the termination or expiration of the ACS.

**G. Employment Eligibility Verification**

Pursuant to State of Florida Executive Orders Nos.: 11-02 and 11-116, Contractor is required to utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment of all new employees hired by the Contractor during the ACS term. Also, Contractor shall include in related subcontracts a requirement that subcontractors performing work or providing services pursuant to the state ACS utilize the E-Verify system to verify employment of all new employees hired by the subcontractor during the ACS term.

**H. State of Florida Price List**

The Contractor shall provide, as Exhibit B, to the Department's Contract Administrator (Participating Entity Contact) a copy of the product and services price list, which shall be posted on the Department's website. If the Contractor's price list will be the same as the WSCA-NASPO price list, the Contract must advise the Contract Administrator and the Department will post a link on the Department's website to the price list posted on the WSCA-

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NASPO website. Contractors are encouraged to provide special pricing and/or tiered discount rates applicable to State of Florida Eligible Users wherever possible.

**I. Preferred Price Affidavit Requirement**

The Department will provide the Preferred Pricing Affidavit, incorporated by reference as the attached Exhibit D, for completion by an authorized representative of the Contractor attesting that the Contractor is in compliance with the best pricing provision in Section 4(b) of the PUR 1000 form. The Contractor agrees to submit to the Department, at least annually, the completed Preferred Pricing Affidavit.

**J. Scrutinized Company List**

In executing this ACS, Contractor certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes. Pursuant to subsection 287.135(5), Florida Statutes, Contractor agrees the Department may immediately terminate this ACS for cause if the Contractor is found to have submitted a false certification or if Contractor is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List during the term of the ACS.

**K. Ordering Instructions**

The focus is to direct the Eligible User with the proper method of purchasing the goods and/or services awarded based on direction from the Eligible User and previous experience with such commodities.

1. The Contractor agrees to meet the following requirements:

- a. Provide appropriate contact information for Eligible Users to use for product and/or service inquiries and purchases, as well as the most up-to-date product/service offering the Contractor is authorized to provide in accordance with the statewide contract; and
- b. If orders are to be sent to resellers or distributors for fulfillment then the Contractor is responsible for providing this list of authorized resellers or

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distributors for use; and

c. The accuracy of this information must be maintained by Contractor throughout the duration of the ACS; and

2. Contractor must be able to accept Purchase Orders (PO) via fax, e-mail, or cXML as identified in L.1 below.

**L. Electronic Invoicing**

The Contractor shall supply electronic invoices in lieu of paper-based invoices for those transactions processed through the MFMP within ninety (90) days from contract effective date. Electronic invoices shall be submitted to the agency through the Ariba Supplier Network (ASN) in one of three mechanisms as listed below:

1. cXML (commerce eXtensible Markup Language)  
This standard establishes the data contents required for invoicing via cXML within the context of an electronic environment. This transaction set can be used for invoicing via the ASN for catalog and non-catalog goods and services. The cXML format is the Ariba preferred method for e-Invoicing.
2. EDI (Electronic Data Interchange)  
This standard establishes the data contents of the Invoice Transaction Set (810) for use within the context of an Electronic Data Interchange (EDI) environment. This transaction set can be used for invoicing via the ASN for catalog and non-catalog goods and services.
3. PO Flip via ASN  
The online process allows Contractors to submit invoices via the AN for catalog and non-catalog goods and services. Contractors have the ability to create an invoice directly from their Inbox in their AN account by simply "flipping" the PO into an invoice. This option does not require any special software or technical capabilities.

For the purposes of this section, the Contractor warrants and represents that it is

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authorized and empowered to and hereby grants the State and the third party provider of MFMP, a state contractor, the right and license to use, reproduce, transmit, distribute, and publicly display within the system the information outlined above. In addition, the Contractor warrants and represents that it is authorized and empowered to and hereby grants the State and the third party provider the right and license to reproduce and display within the system the Contractor's trademarks, system marks, logos, trade dress, or other branding designation that identifies the products made available by the Contractor under the ACS.

The Contractor will work with the MFMP management team to obtain specific requirements for the electronic invoicing upon contract award.

**M. Contract Quarterly Reports**

Each Contractor shall submit a Quarterly Report in the required format electronically to the Department Contract Manager within 30 days of the end of the quarter. The Department reserves the right to require the Contractor to provide additional reports within 30 days written notice. Failure to provide the Quarterly Report or other reports requested by the Department may result in the Contractor being found in default and may result in termination of the ACS.

Initiation and submission of the Report are the responsibility of the Contractor without prompting or notification by the Contract Manager.

Sales will be reviewed on a quarterly basis. Should no sales be recorded in two consecutive contract quarters, the Department may terminate the contract.

**N. Business Review Meetings**

The Department reserves the right to schedule business review meetings as frequently as necessary. The Department will provide the format for the Contractor's agenda. Prior to the meeting, the Contractor shall submit the completed agenda to the Department for review and acceptance. The Contractor shall address the agenda items and any of the Department's additional concerns at the meeting. Failure to comply with this section may result in the Contractor being found in default and contract termination.

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**O. Commitment to Diversity in Government Contracting**

The State of Florida is committed to supporting its diverse business industry and population through ensuring participation by minority-, women-, wartime-, and service-disabled veteran business enterprises in the economic life of the State. The State of Florida Mentor Protégé Program connects minority-, women-, wartime-, and service-disabled veteran business enterprises with private corporations for business development mentoring. We strongly encourage firms doing business with the State of Florida to consider this initiative. For more information on the Mentor Protégé Program., please contact the Office of Supplier Diversity at (850) 487-0915 or [osdhelp@dms.myflorida.com](mailto:osdhelp@dms.myflorida.com).

Upon request, the Contractor shall report to the Department spend with certified and other minority business enterprises. These reports will include the period covered, the name, minority code and Federal Employer Identification Number of each minority vendor utilized during the period. Commodities and services provided by the minority business enterprise, and the amount paid to each minority vendor on behalf of each purchasing agency ordering under the terms of this Contract.

**P. Subcontractors**

The contractor may use a subcontractor in order to provide adequate network infrastructure equipment and services. All subcontractors shall be the direct responsibility of the Contractor that entered into such subcontract. The Contractor is responsible for all liability, terms and conditions within the contract. If a subcontractor is authorized to conduct business on behalf of the Contractor and the subcontractor is to receive compensation from the Contractor for its services, then any dispute between the Contractor and the subcontractor shall be resolved between the Contractor and the subcontractor. The State of Florida is not a party to any agreement entered into between the Contractor and its subcontractor(s). The Contractor shall be responsible to report all contract sales (and pay any associated MFMP transaction fees), including those of any such subcontractors and shall ensure that all such subcontractors meet the following requirements:

- Have an ACTIVE Registration with the Department of State, Division of Corporations ([www.sunbiz.org](http://www.sunbiz.org))

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- Registered in the MFMP Vendor Information Portal  
(<https://vendor.myfloridamarketplace.com>)
- Not be on the State of Florida's Convicted, Suspended, or Discriminatory lists  
[http://www.dms.myflorida.com/business\\_operations/State\\_purchasing/vendor\\_information/convicted\\_suspended\\_discriminatory\\_complaints\\_vendor\\_lists](http://www.dms.myflorida.com/business_operations/State_purchasing/vendor_information/convicted_suspended_discriminatory_complaints_vendor_lists)
- Have a copy of e-Verify Status on file
- Have a current W-9 filed with the Florida Department of Financial Services  
(<https://flvendor.myfloridacfo.com>)

**Q. Warrant of Authority**

Each person signing this Participating Addendum warrants that he or she is duly authorized to do so and to bind the respective party.

4. Lease Agreements: Agencies may lease equipment through alternative financing arrangements other than through the State of Florida Consolidated Equipment Financing Program (CEFP). This option is governed by sections 287.063 and 287.064, Florida Statutes, and Rule 69I-3, Florida Administrative Code. The Department of Financial Services (DFS) Finance and leasing Section will review proposed leases to determine compliance with all requirements and to ensure leases are economical and cost effective. The Contractor and Eligible User (working together) will be required to complete and submit to DFS the Checklist – Approval to Lease Equipment form. A copy of the form may be found at the DFS website: <http://www.myfloridacfo.com/Division/AA/Forms/default.htm>

Prior approval of the Chief Financial Officer (as defined in Section 17.001, Florida Statutes) is required for State agencies to enter into or to extend any lease or installment-purchase agreement in excess of the Category Two amount established by section 287.017 of the Florida Statutes. All State agencies are urged to review the Chief Financial Officer's latest memorandum addressing leases and deferred-payment purchases of equipment when considering the leasing or purchasing of equipment. DFS memos can be found at: <http://www.myfloridacfo.com/Division/AA/Memos/default.htm>.

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

MASTER AGREEMENT  
Cisco Systems, Inc.  
Master Agreement No: AR233  
(hereinafter "Contractor")

And

[State of Florida Alternate Contract Source Number 43220000-WSCA-14-ACS]  
(hereinafter "Participating State/Entity")

Page 11 of 12

5. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor

|           |   |
|-----------|---|
| Name      | Mimi Farr                               |
| Address   | 170 West Tasman Dr., San Jose, CA 95134 |
| Telephone | 408-527-2627                            |
| Fax       |   |
| E-mail    | mimnguye@cisco.com                      |

Participating Entity

|           |   |
|-----------|---|
| Name      | Brian Leger   |
| Address   | 4050 Esplanade Way, Suite 360, Tallahassee, FL 32399-0950 |
| Telephone | (850) 410-0978  |
| Fax       | (850) 414-6122  |
| E-mail    | Brian.Leger@dms.myflorida.com                             |

6. Subcontractors: All [contractor] dealers and resellers authorized in the State of Florida, as shown on the dedicated [contractor's] (cooperative contract) website, are approved to provide sales and service support to participants in the WSCA-NASPO Master Price Agreement. The [contractor] dealer's participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

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

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

MASTER AGREEMENT  
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 (hereinafter "Contractor")

And

[State of Florida Alternate Contract Source Number 43220000-WSCA-14-ACS]  
 (hereinafter "Participating State/Entity")

Page 12 of 12

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

|  |   |
|--|---|
| Participating State:<br><i>Florida</i>                                       | Contractor:                             |
| By:<br><i>Kelley J Scott</i>   | By:<br><i>Brian Fukuhara</i>            |
| Name:<br><i>Kelley Scott</i>   | Name:<br><b>Brian Fukuhara</b>          |
| Title: <i>Director of State Purchasing and<br/>Chief Procurement Officer</i> | Title:<br><b>Vice President Finance</b> |
| Date:<br><i>9/17/14</i>  | Date:<br><b>SEP 15 2014</b>             |

[Additional signatures as required by Participating State]

**APPROVED BY LEGAL**

For questions on executing a participating addendum, please contact:

|                                     |  |
|-------------------------------------|--|
| WSCA-NASPO                          |  |
| Cooperative Development Coordinator | Paul Stembler  |
| Telephone                           | 651-206-3858   |
| E-mail                              | <a href="mailto:pstembler@wsca-naspo.org">pstembler@wsca-naspo.org</a> |

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

# STATE OF UTAH - STATE COOPERATIVE CONTRACT

CONTRACT NUMBER AR233

1. **CONTRACTING PARTIES:** This State Cooperative Contract is between the **Division of Purchasing and General Services (State)**, 3150 State Office Building, PO Box 141061, Salt Lake City, UT 84114-1061, an agency of the State of Utah, and the following CONTRACTOR:

Cisco Systems, Inc.

Name

170 West Tasman Dr.

Address

San Jose

CA

95134

City

State

Zip

(Corporate Headquarters Address)

## LEGAL STATUS OF CONTRACTOR

- Sole Proprietor  
 Non-Profit Corporation  
 For-Profit Corporation  
 Partnership  
 Government Agency

Contact Person Mimi Farr Phone # 408-527-2627 Fax # 408-608-1802 Email mimnguye@cisco.com  
Federal Tax ID# 77-0059951 Vendor # VC0000118462 Commodity Code # 20458, 20464, 20621, 20623, 20659, 83833, 83800, 88332, 92000

2. **GENERAL PURPOSE OF CONTRACT:** The general purpose of this contract is to provide:

Data communication equipment and services. A detailed list of awarded categories and subcategories are included in Attachment B - Scope of Work.

Cisco is authorized to provide equipment and services in the following categories:

- 5.2.1 Data Center Application Service
- 5.2.2 Networking Software
- 5.2.3 Network Optimization and Acceleration
- 5.2.4 Optical Networking
- 5.2.5 Routers
- 5.2.6 Security
- 5.2.7 Storage Networking
- 5.2.8 Switches
- 5.2.9 Wireless
- 5.3.0 Unified Communications

3. **CONTRACT PERIOD:** Effective date: June 1, 2014 Termination date: May 31, 2019 unless terminated early or extended in accordance with the terms and conditions of this contract. Renewal options (if any): N/A
4. **PRICING AS PER THE ATTACHMENT C**  
PAYMENT TERMS: Net 30  
DAYS REQUIRED FOR DELIVERY: 30 days ARO  
MINIMUM ORDER: N/A  
FREIGHT TERMS: FOB Destination, Freight Prepaid
5. **ATTACHMENT A:** Standard Contract Terms and Conditions, State Cooperative Contract  
**ATTACHMENT B:** Scope of Work  
**ATTACHMENT C:** Product Offerings and Pricing  
**ATTACHMENT D:** Vendors Response to Solicitation JP14001. The parties hereby acknowledge and agree that any exceptions stated in attachment "D" – Vendor's Proposal Response have been removed and/or resolved between the parties. Any exception in attachment "D" are explicitly NOT a part of this contract.

**Any conflicts between Attachment A and other Attachments will be resolved in favor of Attachment A. State specific Terms and Conditions will be found in the executed Participating Addendums. State Terms**

State of Utah Contract Number AR233

**and Conditions in an executed Participating Addendum will take priority in the event of conflict between those terms and conditions and this Cooperative Contract.**

6. DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:
- a. All other governmental laws, regulations, or actions applicable to the goods and/or services authorized by this contract.
  - b. Utah State Procurement Code, Procurement Rules, CONTRACTOR'S response to Bid #JP14001 and JP14001-1 dated August 30, 2013 and December 2, 2013.

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

**CONTRACTOR**



March 19, 2014

Contractor's Signature  
Juan Pablo Brockmann

Date

Director, Finance

Type or Print Name and Title

**STATE OF UTAH**



Director, Div. of Purchasing & General Svs.      Date

**APPROVED BY LEGAL**



## **ATTACHMENT A**

### **WSCA-NASPO Master Agreement Terms and Conditions**

#### **1. AGREEMENT ORDER OF PRECEDENCE:**

The Master Agreement shall consist of the following documents:

1. A Participating Entity's Participating Addendum ("PA");
2. WSCA-NASPO Master Agreement Terms and Conditions (the "Agreement" or "Master Agreement");
3. The Statement of Work;
4. The Solicitation; and
5. Contractor's response to the Solicitation.

These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to this Master Agreement as an Exhibit or Attachment. No other terms and conditions shall apply, including terms and conditions listed in the Contractor's response to the Solicitation, or terms listed or referenced on the Contractor's website, in the Contractor quotation/sales order or in similar documents subsequently provided by the Contractor.

**2. AMENDMENTS** The terms of this Master Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the WSCA-NASPO Contract Administrator.

**3. ASSIGNMENT/SUBCONTRACT** Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the WSCA-NASPO Contract Administrator, which approval will not be unreasonably withheld or delayed.

Notwithstanding the foregoing, Contractor may, with prior written consent from Participating States, which consent shall not be unreasonably withheld, enter into subcontracts with third parties as "Fulfillment Partners." Fulfillment Partners are Subcontractors who may provide products and services under this Master Agreement at the price discounts established in this Master Agreement and bill Purchasers directly for such products and services.

**4. CANCELLATION** The Master Agreement may be canceled by either party upon 60 days notice, in writing, prior to the effective date of the cancellation. Further, any Participating State may cancel its participation upon 30 days written notice, unless otherwise limited or stated in the special terms and conditions of this solicitation. Cancellation may be in whole or in part. Any cancellation under this provision shall not effect the rights and obligations attending orders outstanding at the time of cancellation, including any right of and Purchasing Entity to indemnification by the Contractor, rights of payment for goods/services delivered and accepted, and rights attending any warranty or default in performance in association with any order. Cancellation of the Master Agreement due to Contractor default may be immediate.

On termination, all accounts and payments will be processed according to the financial arrangements set forth herein for products delivered and/or approved services rendered to date of termination.

**Rights upon Termination or Expiration**

1. Upon termination or expiration of this Master Agreement or a Participating Addendum, (a) Contractor reserves the right to cease all further delivery of product or services, and (b) all outstanding invoices become due and payable within thirty (30) days of termination. If Contractor agrees to complete delivery of any further products or services due against any existing accepted Purchase Orders, then Customer shall pay for such products or services in advance within thirty (30) days.
2. Except for a termination of this Master Agreement or a Participating Addendum resulting from Customer's breach of Contractor's proprietary rights and software licensing, Confidential Information, or Export, Re-Export, Transfer and Use Controls, upon termination or expiration of this contract, Customer may continue to use, in accordance with the terms and conditions of this contract and/or the Participating Addendum, products provided to it by Contractor prior to the date of termination or expiration provided (1) payment has been made in full for such products and (2) license rights allow for such continued use.
3. In the event of any termination pursuant to this section, and unless otherwise required by law or court of competent jurisdiction, Customer shall remain obligated to comply in perpetuity with the provisions of Contractor's Software License terms, and Confidential Information.

**5. CONFIDENTIALITY, NON-DISCLOSURE AND INJUNCTIVE RELIEF**

**5.1 Confidentiality.** Each party acknowledges that it and its employees or agents may, in the course of dealing under this Master Agreement, be exposed to or acquire information that may be deemed confidential. Any and all information of any form that is marked as confidential or would by its nature be deemed confidential obtained by the receiving party or its employees or agents (the "Receiving Party") in the performance of this Master Agreement, including, but not limited to, the following "Confidential Information": (a) any Participating Entity records, (b) personnel records, and (c) information concerning individuals, is confidential information of the disclosing party (the "Disclosing Party"). Any reports or other documents or items (including software) that result from the use of the Confidential Information shall be treated in the same manner as the Confidential Information. Confidential Information does not include information that (a) is or becomes (other than by disclosure by the Disclosing Party) publicly known; (b) is furnished by the Disclosing Party to others without restrictions similar to those imposed by this Master Agreement; (c) is rightfully in the Receiving Party's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (d) is obtained from an independent source without the obligation of confidentiality, (e) is disclosed with the written consent of Participating Entity or; (f) is independently developed by employees, agents or subcontractors of either party who can be shown to have had no access to the Confidential Information.

Neither party shall disclose the Confidential Information to any third party, except that the receiving party may disclose Confidential Information to its employees, subcontractors, or Affiliates' employees and subcontractors only: (a) on a "need to know" basis, (b) consistent with the objectives of this Master Agreement, and (c) pursuant to separate written non-disclosure terms that contractually obligate such employees and subcontractors to maintain the confidentiality of the Confidential Information.

Notwithstanding termination of this Master Agreement as described herein, the obligations of the Receiving Party with respect to Confidential Information received prior to termination shall continue for three (3) years from the date the Confidential Information was received.

Customer agrees that aspects of the Software and associated documentation, including the specific design and structure of individual programs, constitute trade secrets and/or copyrighted material of Contractor.

**5.2 Non-Disclosure.** The Receiving Party shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use

Confidential Information for any purposes whatsoever other than the performance of this Master Agreement, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. The Receiving Party shall use commercially reasonable efforts to assist the Disclosing Party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, the Receiving Party shall advise the Disclosing Party immediately if the Receiving Party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement and the Receiving Party shall at its expense cooperate with the Disclosing Party in seeking injunctive or other equitable relief in the name of the Disclosing Party against any such person. Except as directed by the Disclosing Party, the Receiving Party will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement or at the Disclosing Party's request, the Receiving Party shall turn over to the Disclosing Party all documents, papers, and other matter in the Receiving Party's possession that embody Confidential Information. Notwithstanding the foregoing, the Receiving Party may keep one copy of such Confidential Information necessary for quality assurance, audits and evidence of the performance of this Master Agreement.

**5.3 Injunctive Relief.** The parties acknowledge that breach of this Section, including disclosure of any Confidential Information, may cause irreparable injury to the Disclosing Party that is inadequately compensable in damages. Accordingly, the Disclosing Party may seek injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. The Receiving Party acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Participating Entity and are reasonable in scope and content.

**6. DEBARMENT** The contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the contractor cannot certify this statement, attach a written explanation for review by WSCA-NASPO.

#### **7. DEFAULTS & REMEDIES**

a. The occurrence of any of the following events shall be an event of default under this Master Agreement:

- i. Nonperformance of contractual requirements; or
- ii. A material breach of any term or condition of this Master Agreement; or
- iii. Any representation or warranty by Contractor in response to the solicitation or in this Master Agreement proves to be untrue or materially misleading; or
- iv. Institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) calendar days after the institution or occurrence thereof; or
- v. Any default specified in another section of this Master Agreement.

b. Upon the occurrence of an event of default, the non-defaulting party shall issue a written notice of default, identifying the nature of the default, and providing a period of 60 calendar days in which the defaulting party shall have an opportunity to cure the default. The non-defaulting party shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part if the non-defaulting party, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure shall not diminish or eliminate the defaulting party's liability for damages, to the extent provided for under this Master Agreement.

**Participating Addendum:** If either party to a Participating Addendum (including the Lead State when acting in its sovereign capacity under this Master Agreement) materially breaches any of the provisions of a Participating Addendum, the non-breaching party may terminate the Participating Addendum as follows: (a) immediately upon providing written notice to the breaching party if the breach is not capable of being

cured, and (b) thirty (30) calendar days after providing written notice to the breaching party if the breaching party fails to cure such breach within such thirty (30) calendar day period. Notwithstanding the foregoing, a Participating Addendum may be terminated immediately by Contractor for cause in the event of Purchaser's breach of the provisions relating to Software License or Confidential Information.

The cure periods stated in the above paragraphs shall not apply to any failure(s) to perform that result from the willful or negligent acts or omissions of the aggrieved party.

c. If Contractor is afforded an opportunity to cure and fails to cure the default within the period specified in the written notice of default, Contractor shall be in breach of its obligations under this Master Agreement and Lead State shall have the right to exercise any or all of the following remedies:

- i. Exercise any remedy provided by law; and
- ii. Terminate this Master Agreement and any related Contracts or portions thereof; and
- iii. Suspend Contractor from receiving future bid solicitations; and
- iv. Suspend Contractor's performance; and
- v. Withhold payment until the default is remedied.

d. In the event of a default under a Participating Addendum, a Participating Entity shall provide a written notice of default as described in this section and have all of the rights and remedies under this paragraph regarding its participation in the Master Agreement, in addition to those set forth in its Participating Addendum.

## **8. DELIVERY**

8.1 After receipt and acceptance by Contractor of Customer's Order(s), Contractor will use commercially reasonable efforts to ship all direct orders designated for shipment to U.S. locations within thirty (30) days for all products. Please note that the following circumstances may affect lead times: (i) new products purchased within the first three (3) months of release of the product which are subject to Contractor's then current published lead-times, (ii) third-party stand-alone products which are not a component of equipment resold by Contractor, (iii) end-of-life products where the termination of the product has been announced by Contractor, (iv) products which have been line-stopped due to software discrepancies, reconfiguration, industry-wide product shortages, or alleged infringement claims, or (v) situations where government rated orders create delays in lead-times.

Notwithstanding the foregoing, at any time when Customer states "expedite" on an order or otherwise communicates to Contractor that an order is to be expedited, Contractor shall use all commercially reasonable efforts to ensure the earliest possible delivery of such products.

8.2 Contractor will communicate scheduled shipping dates in the order acknowledgement and/or on [www.cisco.com](http://www.cisco.com) within three (3) business days after receipt of an electronic order on [www.cisco.com](http://www.cisco.com), provided, however, that in the event such notification is not received in this time period, Customer shall notify Contractor of the non-receipt, and Contractor's sole obligation with respect to such non-receipt shall be to promptly provide the information to the Customer after such notification.

8.3 If Contractor has reason to believe that the actual shipment date will occur later than the original shipment date acknowledged by Contractor for reasons caused by Contractor, Contractor shall use commercially reasonable efforts to promptly provide additional information to Customer including by electronic posting of the expected period of delay and, upon request, of the steps available, if any, to minimize the delay. If the extended delivery date is anticipated to be more than thirty (30) calendar days beyond the originally scheduled delivery date, the parties will work in good faith to resolve any ordering issues pursuant to the order escalation process.

8.4 Shipping terms are FOB destination, shipping and handling prepaid by Contractor. The method of shipment shall be consistent with the nature of the products and hazards of transportation. Title and risk of loss shall pass to Customer upon delivery.

8.5 If Customer requests delivery of products to Customer's forwarding agent or other representative, Customer assumes responsibility for compliance with applicable export laws and regulations.

8.6 Contractor is not liable for damage or penalty for delay in delivery or for failure to give notice of delay. Contractor shall not have any liability in connection with product shipment other than as set forth in this Section.

All sales are final. Except as provided in Contractor's Limited Warranty, Contractor only permits the return of un-opened products due to Contractor's shipping or order processing error, or damage in transit. No other returns are authorized under this Master Agreement. Warranty returns will not be subject to any restocking charges.

**9. FORCE MAJEURE** Neither party to this Master Agreement shall be held responsible for delay or default caused by including, but not limited to, fire, riot, acts of God and/or war which is beyond that party's reasonable control. WSCA-NASPO may terminate this Master Agreement after determining such delay or default will reasonably prevent successful performance of the Master Agreement.

The obligations and rights of the excused party shall be extended on a day-by-day basis for the time period equal to the period of the excusable delay. When payments are delayed solely due to a force majeure event, late fees with respect to such payment will not accrue during the period of such force majeure event.

**10. GOVERNING LAW** This procurement and the resulting agreement shall be governed by and construed in accordance with the laws of the state sponsoring and administering the procurement. The construction and effect of any Participating Addendum or order against the Master Agreement(s) shall be governed by and construed in accordance with the laws of the Participating Entity's State. Venue for any claim, dispute or action concerning an order placed against the Master Agreement(s) or the effect of a Participating Addendum shall be in the Purchasing Entity's State.

**11. INDEMNIFICATION**

Each party to this Agreement shall defend, indemnify, and hold harmless the other, its corporate affiliates and their respective officers, directors, employees, and agents and their respective successors and assigns from and against any and all claims, losses, liabilities, damages, and expenses (including, without limitation, reasonable attorneys' fees), including without limitation those based on contract or tort, arising out of or in connection with a claim, suit, or proceeding brought by a third party based upon bodily injury (including death) or damage to tangible personal property (not including lost or damaged data) arising from the negligent or intentional acts or omissions of the indemnifying party or its subcontractors, or the officers, directors, employees, agents, successors, and assigns of any of them. In the event that the indemnified party's or a third party's negligent or intentional acts or omissions contributed to cause the injury or damage for which a claim of indemnity is being asserted against the indemnifying party hereunder, the damages and expenses (including, without limitation, reasonable attorneys' fees) shall be allocated or reallocated, as the case may be, between the indemnified party, the indemnifying party, and any other party bearing responsibility in such proportion as appropriately reflects the relative fault of such parties, or their subcontractors, or the officers, directors, employees, agents, successors, and assigns of any of them, and the liability of the indemnifying party shall be proportionately reduced.

The foregoing indemnification obligations are conditioned upon the indemnified party promptly notifying the indemnifying party in writing of the claim, suit, or proceeding for which the indemnifying party is obligated under this Subsection, cooperating with, assisting, and providing information to, the indemnifying party as reasonably required, and granting the indemnifying party the exclusive right to defend or settle such claim, suit, or proceeding; provided that any such settlement or compromise includes a release of the indemnified party from all liability arising out of such claim, suit or proceeding.

**12. INDEMNIFICATION – INTELLECTUAL PROPERTY**

12.1 Contractor will have the obligation to defend any claim, action, suit, or proceeding ("IPR Claim") brought against Purchaser so far as it is based on a claim that any product supplied under this Master Agreement infringes Third Party IPR (as defined below). Contractor will indemnify Purchaser 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.

Contractor's obligations to defend the IPR Claim and indemnify the Purchaser are conditional upon:

- 12.1.1 Purchaser notifying Contractor promptly in writing of the IPR Claim or threat thereof;
  - 12.1.2 Purchaser giving Contractor full and exclusive authority for the conduct of the defense and settlement of the IPR Claim and any subsequent appeal; and
  - 12.1.3 Purchaser giving Contractor all information and assistance reasonably requested by Contractor in connection with the conduct of the defense and settlement of the IPR Claim and any subsequent appeal.
- 12.2 For the purposes of this Master Agreement, "Third Party IPR" means a United States copyright existing as at the date of order or a United States patent issued as at the date of order.
- 12.3 If an IPR Claim has been made, or in Contractor's reasonable opinion is likely to be commenced, Purchaser agrees to permit Contractor, at its option and expense, either to: (a) procure for Purchaser the right to continue using the product; (b) replace or modify the product so that it becomes non-infringing; or (c) immediately terminate both parties' respective rights and obligations under this Master Agreement with regard to the product, in which case Purchaser will return the product to Contractor and Contractor will refund to Purchaser the price originally paid by Purchaser to Contractor for the product, as depreciated or amortized by an equal annual amount over three (3) years from date of original shipment.
- 12.4 Notwithstanding the foregoing, Contractor has no liability for, and Purchaser will defend and indemnify Contractor against, any IPR Claim arising from:
- 12.4.1 the combination, operation, or use of a product supplied under this Master Agreement with any product, device, or software not supplied by Contractor;
  - 12.4.2 a Claim that asserts damages based upon the amount or duration of use which Purchaser makes of the product, revenue earned by Purchaser from services it provides which utilize the product, or services offered by Purchaser to external or internal customers;
  - 12.4.3 the alteration or modification of any product supplied under this Master Agreement from and after the date such product is so supplied and such alteration or modification is not made by Contractor;
  - 12.4.4 Contractor's compliance with Purchaser's designs, specifications, or instructions; or
  - 12.4.5 Purchaser's use of the product after Contractor has informed Purchaser of modifications or changes in the product required to avoid such an IPR Claim if the alleged infringement would have been avoided by implementation of Contractor's recommended modifications or changes.

THIS SECTION STATES THE ENTIRE OBLIGATION OF CONTRACTOR AND ITS SUPPLIERS, AND THE EXCLUSIVE REMEDY OF PURCHASER, IN RESPECT OF ANY INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS OR PROPRIETARY RIGHTS. THIS INDEMNITY OBLIGATION AND REMEDY ARE GIVEN TO PURCHASER SOLELY FOR ITS BENEFIT AND IN LIEU OF, AND CONTRACTOR DISCLAIMS, ALL WARRANTIES, CONDITIONS, AND OTHER TERMS OF NON-INFRINGEMENT WITH RESPECT TO ANY PRODUCT.

**Limitation of Liability.** Except for those obligations under Intellectual Property Infringement, General Indemnity, notwithstanding anything else herein, all liability of Contractor and its suppliers to any Participating Entity for claims arising under this Agreement, the applicable Participating Addendum, or otherwise shall be limited to Three Million Dollars (\$3,000,000). This limitation of liability is cumulative and not per incident.

**Waiver of Consequential and Other Damages.** In no event shall Contractor or its suppliers be liable for any incidental, special, indirect, or consequential damages, or lost or damaged data (except for a loss of

Purchaser data caused by Contractor's negligence), arising in tort (including negligence), or otherwise, even if Contractor or its suppliers have been informed of the possibility thereof.

**13. INDEPENDENT CONTRACTOR** The contractor shall be an independent contractor, and as such shall have no authorization, express or implied to bind WSCA-NASPO or the respective states to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for WSCA-NASPO or the states, except as expressly set forth herein.

**14. INDIVIDUAL CUSTOMER** Except to the extent modified by a Participating Addendum, each Participating Entity shall follow the terms and conditions of the Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement, including but not limited to, any indemnity or to recover any costs allowed in the Master Agreement and applicable Participating Addendum for their purchases. Each Participating Entity will be responsible for its own charges, fees, and liabilities. The Contractor will apply the charges and invoice each Participating Entity individually.

**15. INSURANCE** Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in the Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of Best's Reports. Failure to buy and maintain the required insurance may result in this Master Agreement's termination or at a Participating Entity's option, result in termination of its Participating Addendum.

Coverage shall be written on an occurrence basis. The limits shall be as indicated below, with no deductible for each of the following categories:

- a) Commercial General Liability covering the risks of bodily injury (including death), property damage and personal injury, including coverage for contractual liability, with a limit of \$1 million per occurrence/\$2 million general aggregate;
- b) Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.

Contractor shall pay premiums on all insurance policies.

Prior to commencement of the work, Contractor shall provide to the Participating Entity a written endorsement to the Contractor's general liability insurance policy that (i) names the Participating Entity as an additional insured, but only to the extent of liabilities falling within Contractor's indemnity obligations pursuant to the terms of this Master Agreement, and (ii) provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of the Participating Entity as secondary and noncontributory.

Contractor shall furnish to Participating Entity copies of certificates of all required insurance within thirty (30) calendar days of the Participating Addendum's effective date and prior to performing any work. Copies of renewal certificates of all required insurance shall be furnished within thirty (30) days after renewal date. These certificates of insurance must expressly indicate compliance with each and every insurance requirement specified in this section. Failure to provide evidence of coverage may, at State's sole option, result in this Master Agreement's termination. In addition, should any of the required insurance be cancelled or non-renewed, Contractor shall immediately replace such insurance and provide to Participating Entity a certificate of insurance evidencing the replacement insurance.

Coverage and limits shall not limit Contractor's liability and obligations under this Master Agreement.

**16. LAWS AND REGULATIONS** Any and all supplies, services and equipment offered and furnished shall comply fully with all applicable Federal and State laws and regulations.

### **17. LICENSE OF PRE-EXISTING INTELLECTUAL PROPERTY**

- 17.1 License. Conditioned upon compliance with the terms and conditions of the license granted herein or as represented in Contractor's End User License Agreement, Contractor grants to

Customer a nonexclusive and nontransferable license to use for Customer's internal business purposes the Software and the Documentation for which Customer has paid the required license fees, subject to the terms herein and Exhibit 1, End User License Agreement.

Customer's license to use the Software shall be limited to, and Customer shall not use the Software in excess of, a single hardware chassis or card or that number of agent(s), concurrent users, sessions, IP addresses, port(s), seat(s), server(s), or site(s), as set forth in the applicable Purchase Order which has been accepted by Contractor and for which Customer has paid to Contractor the required license fee.

Unless otherwise expressly provided in the documentation, Customer shall use the Software solely as embedded in, for execution on, or (where the applicable documentation permits installation on non-Contractor equipment) for communication with Contractor equipment owned or leased by Customer and used for Customer's internal business purposes. For evaluation or beta copies for which Contractor does not charge a license fee, the above requirement to pay license fees does not apply.

17.2 General Limitations. This is a license, not a transfer of title, to the Software and Documentation, and Contractor retains ownership of all copies of the Software and Documentation. Customer acknowledges that the Software and Documentation contain trade secrets of Contractor, its suppliers or licensors, including but not limited to the specific internal design and structure of individual programs and associated interface information. Accordingly, except as otherwise expressly provided under this Agreement, Customer shall have no right, and Customer specifically agrees not to:

17.2.1 transfer, assign or sublicense its license rights to any other person or entity, or use the Software on unauthorized or secondhand Contractor equipment, and Customer acknowledges that any attempted transfer, assignment, sublicense, or use shall be void;

17.2.2 except as approved in writing by Contractor, make error corrections to or otherwise modify or adapt the Software or create derivative works based upon the Software, or permit third parties to do the same;

17.2.3 reverse engineer or decompile, decrypt, disassemble, or otherwise reduce the Software to human-readable form, except to the extent otherwise expressly permitted under applicable law notwithstanding this restriction;

17.2.4 use or permit the software (other than embedded in the product) to be used to perform services for third parties, whether on a service bureau or time sharing basis or otherwise, without the express written authorization of Contractor; or

17.2.5 except and to the extent expressly required by a Participating State's applicable records laws or final court order (provided that the Participating State provides: (1) prior written notice to Contractor of such obligation and (2) the opportunity to oppose such disclosure, provision, or otherwise making available), disclose, provide, or otherwise make available trade secrets contained within the Software and Documentation in any form to any third party without the prior written consent of Contractor. Customer shall implement reasonable security measures to protect such trade secrets.

To the extent required by law, and at Customer's written request, Contractor shall provide Customer with the interface information needed to achieve interoperability between the Software and another independently created program, on payment of Contractor's applicable fee, if any. Customer shall observe strict obligations of confidentiality with respect to such information and shall use such information in compliance with any applicable terms and conditions upon which Contractor makes such information available.

17.3 Software, upgrades/updates, and additional copies.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS MASTER AGREEMENT: (1) CUSTOMER HAS NO LICENSE OR RIGHT TO USE ANY ADDITIONAL COPIES OR

UPGRADES UNLESS CUSTOMER, AT THE TIME OF ACQUIRING SUCH COPY OR UPGRADE, ALREADY HOLDS A VALID LICENSE TO THE ORIGINAL SOFTWARE AND HAS PAID THE APPLICABLE FEE FOR THE UPGRADE OR ADDITIONAL COPIES; (2) USE OF UPGRADES IS LIMITED TO CONTRACTOR EQUIPMENT FOR WHICH CUSTOMER IS THE ORIGINAL END USER PURCHASER OR LESSEE OR WHO OTHERWISE HOLDS A VALID LICENSE TO USE THE SOFTWARE WHICH IS BEING UPGRADED; AND (3) THE MAKING AND USE OF ADDITIONAL COPIES IS LIMITED TO NECESSARY BACKUP PURPOSES ONLY.

- 17.4 Proprietary Notices. Customer agrees to maintain and reproduce all copyright and other proprietary notices on all copies, in any form, of the Software in the same form and manner that such copyright and other proprietary notices are included on the Software. Except as expressly authorized in this Agreement, Customer shall not make any copies or duplicates of any Software without the prior written permission of Contractor.
- 17.5 Term and Termination of License. This license granted herein shall remain effective until terminated. Customer may terminate the license at any time by destroying all copies of Software and any Documentation except as to the minimum number of copies required by law to keep for archival records purposes only. Customer's rights under this license will terminate immediately if Customer fails to comply with any material provision of this license and Contractor will give Customer notice of such non-compliance. Upon termination, Customer shall destroy all copies of Software and Documentation in its possession or control.
- 17.6 Customer Records. Customer grants to Contractor and its independent accountants the right to examine Customer's books, records, and accounts during Customer's normal business hours to verify compliance with this license. In the event such audit discloses non-compliance with this license, Customer shall promptly pay to Contractor the appropriate license fees, plus the reasonable cost of conducting the audit. In all other circumstances, the audit fees shall be paid by Contractor.

**18. NO WAIVER OF SOVEREIGN IMMUNITY** In no event shall this Master Agreement, any Participating Addendum or any contract or any purchase order issued thereunder, or any act of a Lead State or a Participating Entity, be a waiver by the Participating Entity of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

If a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the Participating State. This section applies to a claim brought against the Participating State only to the extent Congress has appropriately abrogated the Participating State's sovereign immunity and is not consent by the Participating State to be sued in federal court. This section is also not a waiver by the Participating State of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

**19. ORDER NUMBERS** Master Agreement order and purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence. Any such information will be per Contractor's existing free form structure, without customization. The purchase order numbers reflect Contractor's Fulfillment Partner purchase order numbers; however, Contractor will request that its Fulfillment Partners use reasonable efforts to provide the Customer purchase order number in the free form notes.

**ORDERS.** Notwithstanding anything contained in the Master Agreement to the contrary:

1. Contractor reserves the right to require that purchases be made through Fulfillment Partners. Where so required by Contractor, Purchasers shall not order Products or Services directly from Contractor and shall order same from Fulfillment Partner. Purchaser shall purchase products by issuing a written or electronic Purchase Order, signed or (in the case of electronic transmission) sent by its authorized representative, indicating specific products, quantity, unit price, total

purchase price, shipping instructions, requested delivery dates, bill-to and ship-to addresses, tax exempt certifications, if applicable, and any other special instructions.

2. Any contingencies on Purchaser's Purchase Orders are not binding upon Contractor. The terms and conditions of this Master Agreement and applicable Participating Addendum prevail, regardless of any additional or conflicting terms on the Purchase Order, or other correspondence from Purchaser to Contractor and any additional or conflicting terms are deemed rejected by Contractor unless Contractor has expressly agreed to such terms in writing. Mere acceptance or processing of a Purchase Order, Order, or Order Document containing such terms shall not constitute such express consent.
3. All Purchase Orders are subject to Contractor's reasonable acceptance (including performing any related credit checks). Contractor shall use commercially reasonable efforts to accept or reject orders in writing within ten (10) days from receipt, or within three (3) business days, if orders are placed electronically.
4. Purchaser may defer product shipment up to thirty (30) days from the originally scheduled shipping date, provided written notice is received by Contractor at least ten (10) days before the originally scheduled shipping date. Cancelled orders, rescheduled deliveries, or product configuration changes made by Purchaser less than ten (10) days before the original shipping date are subject to Contractor's acceptance and a charge of fifteen percent (15%) of the total invoice amount relating to the affected Product(s). Contractor reserves the right to reschedule delivery due to configuration changes made within ten (10) days of scheduled shipment. No cancellation shall be accepted by Contractor where products are purchased with implementation services, including but not limited to design, customization, or installation services, except as may be set forth in the agreement or Statement of Work under which the services are to be rendered. Notwithstanding anything to the contrary, if Contractor is delayed in shipping the product for thirty (30) days or more from the original shipping date, the Customer may cancel the order without charge.
5. Services. Purchaser may place Purchase Orders for the various services offered by Contractor. The provision of any such services, if accepted by Contractor, shall be subject to the terms and conditions set forth in this Agreement, including the Master Services Agreement attached hereto as Exhibit 2, as well as the then-current terms of service offerings set forth on Contractor's website at <http://www.cisco.com/legal/services.html>. Contractor reserves the right to subcontract services to a third party maintenance organization to provision services for Purchaser.
6. All stated prices are exclusive of any taxes, fees, and duties or other similar amounts, however designated, and including without limitation value added, sales and withholding taxes which are levied or based upon such prices, charges, or upon this Master Agreement. Purchaser will pay sales and use taxes, if any, imposed on the Products and Services acquired under this Master Agreement, or furnish proof of its tax-exempt status upon request. Contractor will pay all other taxes based on Contractor's income or gross receipts, or personal property taxes levied or assessed on Contractor's personal property. In the event that the Purchaser is exempt from property and sales taxes, it will not be charged same.
7. Notwithstanding anything contained in the Master Agreement to the contrary, modifications which Contractor deems necessary to comply with specifications, changed safety standards or governmental regulations, to make the product non-infringing with respect to any patent, copyright, or other proprietary interest, or to otherwise improve the product may be made at any time by Contractor without prior notice to or consent of Purchaser or WSCA, and such altered product shall be deemed fully conforming. Contractor shall employ commercially reasonable efforts to announce, including by electronic posting, product discontinuance or changes other than those set forth in the previous sentence in accordance with Contractor's End-of-Life Policy, which is found at the following URL: <http://www.cisco.com/c/en/us/products/eos-eol-policy.html>. Purchaser may make a last-time purchase of such products as set forth in such policy.

**20. PARTICIPANTS** WSCA-NASPO is the cooperative purchasing arm of the National Association of State Procurement Officials. It is a cooperative group contracting consortium for state government

departments, institutions, agencies and political subdivisions (e.g., colleges, school districts, counties, cities, etc.) for all 50 states, the District of Columbia and the organized US territories. Obligations under this Master Agreement are limited to those Participating States who have signed a Participating Addendum where contemplated by the solicitation. Participating States incur no financial obligations on behalf of political subdivisions. Unless otherwise specified in the solicitation, the resulting award(s) will be permissive. Purchaser under a *Participating Addendum* shall have no liability to Contractor beyond funds that are appropriated and made available to the Purchaser by the applicable legislative body. If sufficient funds are not appropriated by legislative action to a Purchaser as to any future period, Purchaser may terminate its Order(s) prospectively as to such future performance impacted by and to the extent of non-appropriation, or otherwise work with Contractor to arrive at a mutually acceptable resolution of the situation. Purchaser shall notify Contractor in writing of such non-appropriation within thirty (30) calendar days of final legislative action.

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

## **22. PAYMENT**

Upon and subject to credit approval by Contractor, payment is net thirty (30) days from invoice date. Invoices for products ordered without implementation services shall be rendered by Contractor on or after the date of delivery of such products to the Purchaser. If, at any time, Purchaser is delinquent in payment, or is otherwise in breach of this contract, Contractor may, without prejudice to other rights, withhold shipment (including partial shipments) of any order or require Purchaser to prepay for further shipments. Any sum not paid by Purchaser when due shall bear interest until paid at a rate of 1 percent per month (12 percent per annum) or the maximum legal rate, whichever is less. Purchaser grants Contractor a security interest in products purchased under this contract to secure payment for those products purchased which security interest shall expire upon full payment in accordance with the terms. If requested by Contractor, Purchaser agrees to execute financing statements to perfect this security interest. Payments may be made via a State or political subdivision "Purchasing Card" to Fulfillment Partners under this contract.

Where permitted by the law of the Participating State/Entity, lease financing is an allowable payment option under the resulting contract. The terms and conditions of the capital lease financing arrangement with Cisco Capital, or its designated and/or approved financing partner, will be set forth between the purchaser and Cisco Capital or its designated and/or approved financing partner.

**23. PUBLIC INFORMATION** This Master Agreement and all related documents are subject to disclosure pursuant to the Participating Entity's public information laws.

**24. RECORDS ADMINISTRATION AND AUDIT** The contractor will maintain, or require the maintenance of all records necessary to properly account for the payments made to the contractor for costs authorized by this Master Agreement. These records will be retained by the contractor for at least four years after the Master Agreement terminates, or until all audits initiated within the four years have been completed, whichever is later. The contractor agrees to allow WSCA-NASPO, State and Federal auditors, and state agency staff access to all the records of this Master Agreement and any order placed under this Master Agreement, for audit and inspection, and monitoring of services. Such access will be 1) with at least ten (10) business days advance written notice, during normal business hours, 2) shall not unduly interrupt or interfere with Contractor's normal business operations, and 3) shall not unduly interrupt or interfere with Contractor's normal business operations, and 4) in the event that such audit is conducted by a third party, such third party shall, prior to conducting such audit, execute a confidentiality agreement for the benefit of Contractor in a form reasonably satisfactory to Contractor.

**25. REPORTS and ADMINISTRATIVE FEES** The contractor shall submit quarterly reports to the WSCA-NASPO Contract Administrator showing the quantities and dollar volume of purchases by each participating entity.

The contractor must pay a WSCA-NASPO administrative fee of one quarter of one percent (.25%) in accordance with the terms and conditions of the Master Agreement. The WSCA-NASPO administrative fee shall be submitted quarterly and is based on sales of products and services. The WSCA-NASPO administrative fee is not negotiable. This fee is to be included as part of the pricing submitted with proposal.

Additionally, some States may require that an additional fee be paid directly to the State on purchases made by procuring entities within that State. For all such requests, the fee level, payment method and schedule for such reports and payments will be incorporated in a Participating Addendum that is made a part of the Master Agreement. The contractor may adjust the Master Agreement pricing accordingly for purchases made by procuring agencies within the jurisdiction of the State. All such agreements may not affect the WSCA-NASPO administrative fee or the prices paid by the procuring agencies outside the jurisdiction of the State requesting the additional fee.

**26. STANDARD OF PERFORMANCE AND ACCEPTANCE** Purchaser has thirty (30) days after Product delivery to inspect the Product for external damage and for any concealed damage ("Acceptance Period"). If external or concealed damage is revealed during the Acceptance Period, then Purchaser shall notify Contractor. At Contractor's option, Contractor shall 1) repair such damage, 2) ship a replacement, or 3) refund the purchase price (upon return of the Product). After such Acceptance Period the Products shall be deemed accepted.

27. Section Intentionally Left Blank.

**28. TITLE OF PRODUCT** Title and risk of loss shall pass to Purchaser upon delivery. Any transfers of Embedded Software shall be per Contractor's then-current Transfer and Re-Licensing Policy.

**29. WAIVER OF BREACH** Failure of Lead State or Participating Entity to declare a default or enforce any rights and remedies shall not operate as a waiver under this Master Agreement or Participating Addendum. Any waiver by the Lead State or Participating Entity must be in writing. Waiver by the Lead State or Participating Entity of any default, right or remedy under this Master Agreement or Participating Addendum, or breach of any terms or requirements shall not be construed or operate as a waiver of any subsequent default or breach of such term or requirement, or of any other term or requirement under this Master Agreement or Participating Addendum.

### **30. WARRANTY**

All products are sold with Contractor's standard limited warranty listed below:

- 30.1 **Hardware.** Contractor warrants that from the date of shipment by Contractor to Customer, and continuing for a period of the longer of (a) ninety (90) days or (b) the period set forth in the Warranty Card accompanying the product, the Hardware will be free from defects in material and workmanship, under normal use. This limited warranty extends only to the original user of the product. Customer's sole and exclusive remedy and the entire liability of Contractor and its suppliers under this limited warranty will be, at Contractor's or its service center's option, shipment of a replacement within the period and according to the replacement process described in the Warranty Card, or a refund of the purchase price, if the Hardware is returned to the party supplying it to Customer, if different than Contractor, freight and insurance prepaid. Contractor replacement parts, used in Hardware repair, may be new or equivalent to

new. Contractor's obligations hereunder are conditioned upon the return of affected products, in accordance with Contractor's then-current Return Material Authorization (RMA) procedures.

- 30.2 **Software.** Contractor warrants that from the date of delivery by Contractor to Customer (but in case of resale by a Contractor reseller, commencing not more than ninety (90) days after original shipment by Contractor), and continuing for a period of the longer of (a) ninety (90) days or (b) the period set forth in the Warranty Card accompanying the product (if any): (a) the media on which the Software is furnished will be free of defects in materials and workmanship, under normal use; and (b) the Software substantially conforms to its published specifications. The date of shipment of a product by Contractor is set forth on the packaging material in which the product is shipped. Except for the foregoing, the Software is provided AS IS. This limited warranty extends only to the Customer who is the original licensee. Customer's sole and exclusive remedy and the entire liability of Contractor and its suppliers under this limited warranty will be, at Contractor or its service center's option, repair, replacement, or refund of the Software if reported (or, upon request, returned) to the party supplying the Software to Customer, if different than Contractor. In no event does Contractor warrant that the Software is error free or that Customer will be able to operate the Software without problems or interruptions. In addition, due to the continual development of new techniques for intruding upon and attacking networks, Contractor does not warrant that the Software or any equipment, system, or network on which the Software is used will be free of vulnerability to intrusion or attack.
- 30.3 **Restrictions.** This warranty does not apply if the product (a) has been altered, except by Contractor, (b) has not been installed, operated, repaired, or maintained in accordance with instructions supplied by Contractor, (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 Contractor does not receive a payment of purchase price or license fee.
- 30.4 **DISCLAIMER OF WARRANTY.** 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, NONINFRINGEMENT, 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. This disclaimer shall apply even if the above-stated warranty fails of its essential purpose.

The above warranty does not apply to any beta software, any software made available for testing or demonstration purposes, any temporary software modules or any software for which Contractor does not receive a license fee. All such software is provided AS IS without any warranty whatsoever.

**31. ASSIGNMENT OF ANTITRUST RIGHTS** Contractor irrevocably assigns to a Participating Entity any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's state antitrust provisions), as now in effect and as may be amended from time to time, in connection with any goods or services provided to the Contractor for the purpose of carrying out the Contractor's obligations under this Master Agreement or Participating Addendum, including, at a Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.

Contractor shall require any subcontractors hired to perform any of Contractor's obligations, under this Master Agreement or Participating Addendum, to irrevocably assign to a Participating Entity, as third party beneficiary, any right, title or interest that has accrued or which may accrue in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's state antitrust provisions), as now in effect and as may be amended from time to time, in connection with any goods or services provided to the subcontractor for the purpose of carrying out the subcontractor's obligations to

the Contractor in pursuance of this Master Agreement or Participating Addendum, including, at a Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.

**32. WSCA-NASPO eMARKET CENTER** Awarded responders are required to participate in the WSCA-NASPO eMarket Center and, working through WSCA-NASPO's contractor (SciQuest), connect with the eMarket Center. The ideal situation would be to use either a hosted (by SciQuest) or Punchout Level 2 catalog configurations, but actual requirements will be determined by the Lead State Contract Administrator, WSCA-NASPO, WSCA-NASPO's contractor (SciQuest) and the awarded contractor, after award. Participation does not require an awarded responder to have any special level of technology or technological understanding.

### **Definitions**

**Contractor** - means the person or entity delivering Products or performing services under the terms and conditions set forth in this Master Agreement.

**Lead State** - means the State conducting this cooperative solicitation and centrally administering any resulting Master Agreement with the permission of the Signatory States.

**Master Agreement** – means the underlying agreement executed by and between the Lead State, as WSCA-NASPO contract administrator, acting on behalf of WSCA-NASPO, and the Contractor, as now or hereafter amended.

**Order** - means any purchase order, sales order, or other document used by a Participating Entity to order the Products.

**Participating Addendum** - means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any other additional Participating Entity specific language or other requirements ,e.g. ordering procedures specific to the Participating Entity, other terms and conditions.

**Participating Entity** - means a state, or other legal entity, properly authorized by a state to enter into the Master Agreement or Participating Addendum or who is authorized to order under the Master Agreement or Participating Addendum.

**Product** - Any equipment, software (including embedded software), documentation, or deliverable supplied or created by the Contractor pursuant to this Master Agreement.

**WSCA-NASPO** -is a cooperative group contracting consortium for state procurement officials, representing departments, institutions, agencies, and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) for all states and the District of Columbia. WSCA-NASPO is a cooperative purchasing arm of the National Association of State Procurement Officials (NASPO).

### **Additional Definitions and Alternative Terms**

**Customer** - see "Purchaser" or "Participating Entity."

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

**Effective Date** – means June 1, 2014.

**Fulfillment Partner** (also referred to as "Reseller" or "Authorized Reseller") - means a third-party contractor qualified and authorized by Contractor, and approved by the Participating State under a Participating Addendum, who may, to the extent authorized by Contractor, fulfill any of the requirements of this Master Agreement including but not limited to providing Products and Services under this Master Agreement and billing Purchasers directly for such Products and Services. Contractor may, upon written

notice to the Participating State, add or delete authorized Fulfillment Partners as necessary at any time during the contract term. Fulfillment Partner has no authority to amend this Master Agreement or to bind Contractor to any additional terms and conditions.

**Participating State** – see “Participating Entity.”

**Purchaser** - (also referred to as “Customer”) means: (a) the Lead State, (b) any office, department, commission, council, board, committee, institution, legislative body, agency, public authority, public benefit corporation, other government corporation, or public educational institution of a Participating State or a Local Public Body within such Participating State, provided that such entity is authorized, under applicable laws, rules and/or regulations of the Participating State, (i) to purchase Product(s) and Services pursuant to this Master Agreement solely by execution of the applicable Participating Addendum, and (ii) to legally bind such body to the terms of such agreement solely by the issuance of a Purchase Order, Order, or Order Document in accordance with and pursuant to this Master Agreement, and (iii) has been authorized by the WSCA Contract Manager and Contractor to participate under this Master Agreement.

**Purchase Order** – see “Order.”

**Services** - “Services” means those services within the scope of this Master Agreement, to include the attached Master Services Agreement, and listed on Contractor’s then-current Global Price List, including consulting, training, installation and maintenance services, and/or other services related to the products being acquired and further described at [cisco.com](http://cisco.com) and which are subject to the terms of service set forth in the SOW Terms and Conditions.

**(Revised March 2013)**



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## Exhibit 1 — Additional Vendor Terms and Conditions

### End User License Agreement (EULA)

Cisco Systems, Inc. or its affiliate licensing the software ("Cisco") is willing to license this software to you only upon the condition that you purchased the software from an approved source and that you accept all of the terms contained in this end-user license agreement plus any additional limitations on the license set forth in a supplemental license agreement accompanying the product, available at the time of your order, or posted on the Cisco website at [www.cisco.com/go/terms](http://www.cisco.com/go/terms) (collectively, the "agreement"). To the extent of any conflict between the terms of this end-user license agreement and any supplemental license agreement, the supplemental license agreement shall apply. By downloading, installing, or using the software, you are representing that you purchased the software from an approved source and binding yourself to the agreement. If you do not agree to all of the terms of the agreement, then Cisco is unwilling to license the software to you and (a) you may not download, install, or use the software, and (b) you may return the software (including any unopened cd package and any written materials) for a full refund, or (c), if the software and written materials are supplied as part of another product, you may return the entire product for a full refund. Your right to return and refund expires 30 days after purchase from an approved source, and applies only if you are the original and registered end user purchaser. For the purposes of this end-user license agreement, an "approved source" means (a) Cisco; or (b) a distributor or systems integrator authorized by Cisco to distribute/sell Cisco equipment, software, and services within your territory to end users; or (c) a reseller authorized by any such distributor or systems integrator in accordance with the terms of the distributor's agreement with Cisco to distribute/sell the Cisco equipment software and services within your territory to end users.

Please note that the remaining license terms are addressed in the WSCA – NASPO Master Agreement Terms and Conditions.

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## Exhibit 2 — Additional Vendor Terms and Conditions

### Master Services Agreement

This Master Services Agreement governs all Orders for Services placed under the WSCA NASPO Master Agreement Terms and Conditions ("WSCA Master Agreement").

This Agreement is entered into between Cisco Systems, Inc. ("Cisco"), a California corporation having its principal place of business at 170 West Tasman Drive, San Jose, California, 95134 and the WSCA-NASPO Cooperative Purchasing Organization LLC ("WSCA"), on behalf of their Public Sector Customers formed under the laws of United States ("Customer") having its principal place of business at State of Utah, Division of Purchasing and General Services, State Office Building, Capitol Hill, Room 3150, Salt Lake City, UT 84114-1061, United States, and is entered into as June 1, 2014.

This Master Services Agreement consists of (i) the Master Services Agreement Terms and Conditions (including the Exhibits), (ii) incorporated Sections from the WSCA NASPO Terms and Conditions and (iii) the Services Descriptions of the Services at [cisco.com](http://cisco.com) that the WSCA Customer may elect to purchase, which are incorporated in this Agreement by this reference.

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### Master Services Agreement - Terms and Conditions

- 1. Definitions** are those set out in the Exhibit A, Glossary of Terms at the end of the Agreement.
- 2. Scope.** This Agreement describes the terms and conditions for Purchases by Customer of Services. 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 requested by Cisco such as valid serial numbers, site location, contract number, and Product type.
- 3. Orders.** Terms of this Section are covered in the WSCA NASPO Terms and Conditions.
- 4. Pricing.** For Direct Purchases, and subsequent Equipment List renewals, prices for Services shall be (a) those specified in Cisco's then-current Price List less any applicable contract discount in effect under the WSCA Master Agreement at the time of acceptance of the Purchase Order by Cisco, or (b) those set forth in a written price quotation submitted by Cisco or its Fulfillment Partner, if at or below the stated contract discount. All stated prices are exclusive of taxes, fees, and duties or other amounts in accordance with the WSCA Master Agreement. 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. In the event that Customer is unable to provide valid and applicable serial number(s) for Product and Cisco agrees to provide Services, then Service fees payable by Customer shall be at Cisco's then-current time and materials or non-contract service rates.  
  
Subject to the price discount floor established by Cisco under the WSCA Master Agreement, for Indirect Purchases, Fulfillment Partners are free to determine their resale prices unilaterally. Customer understands that no employee or representative of Cisco or anyone else has any authority to determine such resale prices, or to limit the Fulfillment Partners' pricing discretion with respect to Services.
- 5. Payment.** Terms of this Section are covered in the WSCA NASPO Terms and Conditions.
- 6. 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. Term and Termination.**

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Cisco Systems, Inc.

- (a) The term of any service order shall commence on the Effective Date of the Order and shall continue for a period of one (1) year, or such other multi-year period as set forth in the purchase order or SOW. Such term will be renewed automatically for successive one (1) 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 term.
- (b) The term of an Equipment List shall commence on the date set forth on such.
- (c) Equipment List, which may be up to sixty (60) days following the date of Purchase Order acceptance by Cisco. The term of an Equipment List shall be for a period of one (1) year and shall be renewed automatically for successive one (1) 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 (1) year term.
- (d) The term of each SOW shall be stated in the SOW.

This Master Service Agreement may be terminated in accordance on the same terms as set forth in the WSCA Master Agreement. Any Equipment List or SOW may be terminated immediately by either party upon written notice.

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

- (e) Cisco 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 Equipment Lists and SOWs. If Customer does not agree to a change of scope or content, Customer may terminate any affected Equipment List or SOW by notifying Cisco at least sixty (60) days prior to the expiration of the then current one (1) year term of the Equipment List or SOW. In such case, Cisco shall continue to provide Services until the next expiration date of the affected Equipment List or SOW.
- (f) Each Equipment List and SOW hereunder shall terminate immediately upon termination of the Agreement.
- (g) Upon termination of the Agreement, any Equipment List, or SOWs, Customer shall pay Cisco for all work performed under the affected Equipment Lists or SOWs up to the effective date of termination at the agreed-upon prices, fees, and expense reimbursement rates.
- (h) Firm orders for services under this Master Services Agreement placed and accepted prior to expiration of the contract term, (even if involving a multi-year commitment) remain valid in accordance with the contract terms which shall remain binding as to such prior orders only for the term stated therein, and shall not otherwise constitute an extension of the Master Services Agreement.

Additional terms governing Term and Termination are covered in the WSCA NASPO Terms and Conditions.

- 8. Confidentiality.** Terms of this Section are covered in the WSCA NASPO Terms and Conditions.
- 9. Warranty.** All services provided hereunder shall be performed in a workmanlike manner in accordance with industry standards expected of a company providing professional services in the networking industry. Except as specified in this section, Cisco 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, 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 Cisco's option, re-performance of the services; or termination of this agreement or the applicable equipment list or SOW and return of the portion of the service fees paid to Cisco by customer for such non-conforming services.

10. **Limitation of Liability and Consequential Damages Waiver.** Terms of this Section are covered in the WSCA NASPO Terms and Conditions.
11. **License.** Terms of this Section are covered in the WSCA NASPO Terms and Conditions.
12. **Ownership.** Cisco shall at all times retain all right, title, and interest in and to all pre-existing Intellectual Property owned by Cisco as of the Effective Date and all Intellectual Property in and to the Services, Cisco Products, Deliverables, and Data Collection Tools or other Intellectual Property provided or developed by Cisco or a third party on Cisco's behalf thereafter. Customer shall at all times retain all right, title, and interest in and to all pre-existing Intellectual Property owned by Customer as of the Effective Date and all Intellectual Property that is developed by Customer or by a third party on Customer's behalf thereafter without the benefit of any of Cisco's Intellectual Property. Third Party Products shall at all times be owned by the applicable third party.
13. **Force Majeure.** Terms of this Section are covered in the WSCA NASPO Terms and Conditions.
14. **Applicable law and Jurisdiction.** Terms of this Section are covered in the WSCA NASPO Terms and Conditions.
15. **Export Control.** Customer shall comply with such laws and regulations governing use, export, re-export, and transfer of Cisco Products and technology and will obtain all required U.S. and local authorizations, permits, or licenses. Information regarding compliance with U.S. use, export, re-export, and transfer laws may be found at: [http://www.cisco.com/www/export/compliance\\_provision.html](http://www.cisco.com/www/export/compliance_provision.html).
16. **Assignment.** Terms of this Section are covered in the WSCA NASPO Terms and Conditions.
17. **Subcontracting.** Cisco reserves the right to subcontract Services to a third party organization including Fulfillment Partners or Servicing Subcontractors (as defined in the WSCA Master Agreement) to provide Services to Customer; provided that invoicing and/or payments will only be handled by and through Cisco and its authorized Fulfillment Partners. Any such subcontract shall not relieve Cisco of any of its obligations under this Agreement.

If Contractor or its Fulfillment Partners are using servicing subcontractors for the performance of local marketing, maintenance, and/or technical support services in accordance with the terms and conditions of this Contract, servicing subcontractors may not directly accept purchase orders or payments for products or services from Purchasers under the terms and conditions of the contract. Only Contractor or Fulfillment Partners authorized by Cisco may directly accept purchase orders, invoice, or receive payments for products or services under the terms and conditions of the contract. The authorized Purchaser has the option of choosing whether to purchase the associated OEM maintenance and/or training to support the equipment purchased.
18. **Inventory Review.** From time-to-time Cisco may perform an inventory review of Customer's installed base and review serial numbers and other records (upon reasonable advance notice) to validate entitlement. Cisco 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, and attorneys' and audit fees. Attorneys' and audit fees will only be payable by the customer where the discrepancy exceeds 5 percent of the amount otherwise due and payable. Cisco 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. **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 (7) 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 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 Cisco.com or by email or fax.

20. **Entire Agreement.** This Master Services Agreement, in addition to the general provisions of the WSCA Master Agreement pertinent to Services, 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.
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.
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, 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 unless the judgment expressly precludes survivability.
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. **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. **Headings.** Headings of sections have been added solely for convenience of reference and shall not be deemed part of this Agreement.
27. **Survival.** Sections 5 (Payment), 7 (Term and Termination), 8 (Confidentiality), 9 (Warranty), 10 (Limitation of Liability and Consequential Damages Waiver), 11 (License), 12 (Ownership), 13 (Force Majeure), 14 (Applicable Law and Jurisdiction), 15 (Export Control), Section 18 (Inventory Review), 19 (Notices), 20 (Entire Agreement), 21 (No Waiver), 22 (Severability), 23 (Attorneys' Fees), 24 (No Agency), 27 (Survival), and the Glossary of Terms shall survive the termination or expiration of this Agreement.

## Exhibit A Glossary of Terms

In addition to the Definitions set forth in the WSCA Master Agreement, the following definitions shall apply to this Services Agreement:

**Additional Services** means installation of new Hardware, system additions, Hardware upgrades, dispatch of a field engineer, or non-mandatory engineering changes otherwise within the scope of the WSCA Master Agreement.

**Advance Replacement** means shipment of replacement Field-Replaceable Unit (FRU) before receiving failed or defective FRU.

**Advanced Services** means the proactive Services within the scope of the WSCA Master Agreement, and as set forth in the AS Service Description(s) found at <http://www.cisco.com/go/servicedescriptions> throughout the term of the agreement and/or SOW(s) selected by the Customer. Advanced Services does not include Cisco's core maintenance services, such as SMARTnet or Software Application Services, nor does it apply to the purchase, support, or maintenance of any Products.

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

**Application Software** means non-resident or standalone Software Products listed on the Price List and within the scope of the WSCA Master Agreement, that include but are not limited to Cisco Systems® Network management Software, security Software, IP telephony Software, Internet appliance Software, Cisco® Intelligent Contact Management Software, IP Contact Center Software, and Cisco Customer Interaction Suite Software.

**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 Cisco.

Cisco.com (<http://www.cisco.com>) is the Cisco website for its suite of online services and information.

**Confidential Information** means proprietary and confidential Information received by Cisco or Customer in connection with the 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 Cisco, any information posted on Cisco.com.

**Customer** as defined in the WSCA Master Agreement means the entity purchasing Services for its own internal use either directly or through a Fulfillment Partner.

**Data Collection Tools** means Hardware or Software tools that support Cisco's ability to provide troubleshooting on critical cases, data analysis, and report-generation capabilities.

**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** means, with respect to each SOW, the items specified as deliverables in the SOW.

Device Type means a Cisco supported Hardware Product (for example, Cisco Catalyst® 6509 Switch, GSR 12000, and Cisco 7200 Series Router).

**Direct Purchases** means purchases of Services by Customer directly from Cisco.

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

**Equipment List** means the list of Hardware and/or Software for which Cisco provides services.

**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.

**Field-Replaceable Unit (FRU)** means any component or subassembly of an item or unit of Hardware that reasonably can be replaced at Customer's location. FRUs also may be subject to size and weight limitations.

**Four-hour Response** means:

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

**Fulfilment Partner** means a system integrator, distributor or reseller authorized by Cisco to sell Services under the WSCA Master Agreement in a Participating State.

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

**Indirect Purchases** means purchases of Services by Customer through a Fulfilment Partner.

**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 (Cisco or Cisco-authorized Reseller) with appropriate skill, perform installations, Remedial Hardware Maintenance, and basic Hardware and Software configuration on Cisco 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 Cisco Product(s). Customer shall not report Software bugs to Cisco 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 Cisco shall cooperate in attempting to replicate and resolve related Software bugs in either Customer's or Cisco'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 Cisco before seeking further resolution with Cisco'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. Cisco 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. Cisco 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. Cisco 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 Cisco supported Hardware and Software that is implemented, operated, and supported by Customer from a single Network Operations Center (NOC).

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

**Network Infrastructure Size** means the total value of Products in Customer's Network based on the global list price of the Products that Customer has purchased.

**Participating State** means a member of WSCA authorized under state law to participate under this Agreement who subsequently executes a Participating Addendum, or any other state or Local Public Body authorized by the WSCA Contract Manager and Cisco to be a party to the resulting Agreement who subsequently executes a Participating Addendum.

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

**Product** means both Cisco Hardware and/or Software which are generally available.

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

**Remedial Hardware Maintenance** means diagnosis and onsite replacement of Hardware components with FRUs.

**RMA** means Return Material Authorization.

**Services** means one or more of the services options selected by the Customer in its Purchase Order and described at: <http://www.cisco.com/go/servicedescriptions>.

**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 licensed to Customer by Cisco along with copies, Updates, or Upgrades to those software programs.

**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 of the respective Cisco TAC, on Business Days for case handling of TAC calls.

**Statement of Work (SOW)** means the documents agreed upon by the parties that define Services and deliverables to be provided.

**TAC** means the Cisco Technical Assistance Center.

**Technical Support Services** means Services that provide both essential proactive and reactive operation and maintenance support Services identified as Technical Support Services at <http://www.cisco.com/go/servicedescriptions>.

**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 thereto, that are designated by Cisco as required for:

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

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

**Two-hour Response** means:

- (i) For Advance Replacement, the two-hour time period commencing with Cisco's problem diagnosis and determination that a FRU is required and ending when the FRU is delivered onsite.

- (ii) For onsite service, the two-hour time period commencing with our problem diagnosis and determination that remedial onsite service is required and ending when Cisco personnel arrive onsite.

**Update** means Cisco 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.

**WSCA** shall mean the WSCA NASPO Contracting Alliance (WSCA). WSCA is a cooperative group contracting consortium for state government departments, institutions, agencies, and political subdivisions (i.e., colleges, school districts, counties, cities, etc.). Rights and obligations under this contract are limited to those Participating States who execute a Participating Addendum with Cisco.

**“WSCA Contract Manager” or “Contract Manager”** shall mean the individual state member designated as the contract manager by WSCA, currently the State of Utah, as responsible for the legal maintenance and administration of the WSCA Master Agreement, notices, reports, and any other pertinent documentation or information.

**“WSCA Master Agreement” (also referred to as “Agreement” or “Contract”)** shall mean the underlying purchasing agreement executed by and between WSCA-NASPO Cooperative Purchasing Organization LLC (“State”), and Cisco, as now or hereafter amended.

## ATTACHMENT B – Scope of Work

The following categories are authorized under this contract:

**5.2.1 DATA CENTER APPLICATION SERVICES** — Application networking solutions and technologies that enable the successful and secure delivery of applications within data centers to local, remote, and branch-office users using technology to accelerate, secure, and increase availability of both application traffic and computing resources.

**5.2.1.1 Virtualized Load Balancers** — Virtual devices that act like a reverse proxy to distribute network and/or application traffic across multiple servers to improve the concurrent user capacity and overall reliability of applications. Capabilities should include:

- SSL (Secure Sockets Layer) Off-loading
- Caching capabilities
- Layer 4 Load Balancing
- Layer 7 Load Balancing
- Detailed Reporting
- Supports multiple load balancers in the same system for multiple groups
- Supports TLS1.2

**5.2.1.2 WAN Optimization** — An appliance utilizing a collection of techniques for increasing data-transfer efficiencies across wide-area networks (WAN). Capabilities should include:

- CIFS (Common Internet File System) acceleration
- Data Compression
- SSL encryption/decryption for acceleration (Optional)
- Layer 4-7 visibility
- Application Specific optimization

**5.2.2 NETWORKING SOFTWARE** — Software that runs on a server and enables the server to manage data, users, groups, security, applications, and other networking functions. The network operating system is designed to allow shared file and printer access among multiple computers in a network, typically a local area network (LAN), a private network or to other networks. Networking software capabilities should include:

- Restartable Process
- High availability options
- Targeted operating systems, i.e. DC, campus, core, wan, etc.
- Operating System Efficiencies

**5.2.2.1 Network Management and Automation** — Software products and solutions for data center automation, cloud computing, and IT systems management.

**5.2.2.2 Data Center Management and Automation** — Software products and solutions that capture and automate manual tasks across servers, network, applications, and virtualized infrastructure.

**5.2.2.3 Cloud Portal and Automation** — Software products and solutions for cloud management with policy-based controls for provisioning virtual and physical resources.

**5.2.2.4 Branch Office Management and Automation** — Software products and solutions for management of branch offices. Capabilities include remote troubleshooting, device management, WAN performance monitoring.

**5.2.3 NETWORK OPTIMIZATION AND ACCELERATION** — Devices and tools for increasing data-transfer efficiencies across wide-area networks.

**5.2.3.1 Dynamic Load Balancing** — An appliance that performs a series of checks and calculations to determine which server can best service each client request in order to select the server that can successfully fulfill the client request and do so in the shortest amount of time without overloading either the server or the server farm as a whole.

**5.2.3.2 WAN Acceleration** — Appliance that optimizes bandwidth to improve the end user's experience on a wide area network (WAN). Capabilities should include:

CIFS acceleration

Data Compression

SSL encryption/decryption for acceleration (Optional)

Layer 4-7 visibility

Application Specific optimization

**5.2.3.3 High Availability and Redundancy** — Limits any disruption to network uptime should an appliance face unforeseen performance issues. Transparently redistributes workloads to surviving cluster appliances without impacting communication throughout the cluster.

**5.2.4 OPTICAL NETWORKING** — High capacity networks based on optical technology and components that provide routing, grooming, and restoration at the wavelength level as well as wavelength based services.

**5.2.4.1 Core DWDM (Dense Wavelength Division Multiplexing) Switches** — Switches used in systems designed for long haul and ultra long-haul optical networking applications.

**5.2.4.2 Edge Optical Switches** — Provide entry points into the enterprise or service provider core networks.

**5.2.4.3 Optical Network Management** — Provides capabilities to manage the optical network and allows operators to execute end-to-end circuit creation.

**5.2.4.4 IP over DWDM (IPoDWDM)** — A device utilized to integrate IP Routers and Switches in the OTN (Optical Transport Network).

**5.2.5 ROUTERS** — A device that forwards data packets along networks. A router is connected to at least two networks, commonly two LANs or WANs or a LAN and its ISP's network. Routers are located at gateways, the places where two or more networks connect, and are the critical device that keeps data flowing between networks and keep the networks connected to the Internet.

**5.2.5.1 Branch Routers** — A multiservice router typically used in branch offices or locations with limited numbers of users and supports flexible configurations/feature. For example: security, VoIP, wan acceleration, etc.

**5.2.5.2 Network Edge Routers** — A specialized router residing at the edge or boundary of a network. This router ensures the connectivity of its network with external networks, a wide area network or the Internet. An edge router uses an External Border Gateway Protocol, which is used extensively over the Internet to provide connectivity with remote networks.

**5.2.5.3 Core Routers** - High performance, high speed, low latency routers that enable Enterprises to deliver a suite of data, voice, and video services to enable next-generation applications such as IPTV and Video on Demand (VoD), and Software as a Service (SaaS).

**5.2.5.4 Service Aggregation Routers** — Provides multiservice adaptation, aggregation and routing for Ethernet and IP/MPLS networks to enable service providers and enterprise edge networks simultaneously host resource-intensive integrated data, voice and video business and consumer services.

**5.2.5.5 Carrier Ethernet Routers** — High performance routers that enable service providers to deliver a suite of data, voice, and video services to enable next-generation applications such as IPTV, Video on Demand (VoD), and Software as a Service (SaaS).

## **5.2.6 SECURITY**

**5.2.6.1 Data Center and Virtualization Security Products and Appliances** — Products designed to protect high-value data and data center resources with threat defense and policy control.

**5.2.6.2 Intrusion Detection/Protection and Firewall Appliances** — Provide comprehensive inline network firewall security from worms, Trojans, spyware, key loggers, and other malware. This includes Next-Generation Firewalls (NGFW), which offer a wire-speed integrated network platform that performs deep inspection of traffic and blocking of attacks. Intrusion Detection/Protection and Firewall Appliances should provide:

- Non-disruptive in-line bump-in-the-wire configuration

- Standard first-generation firewall capabilities, e.g., network-address translation (NAT), stateful protocol inspection (SPI) and virtual private networking (VPN), etc.

- Application awareness, full stack visibility and granular control

- Capability to incorporate information from outside the firewall, e.g., directory-based policy, blacklists, white lists, etc.

- Upgrade path to include future information feeds and security threats

- SSL decryption to enable identifying undesirable encrypted applications (Optional)

**5.2.6.3 Logging Appliances and Analysis Tools** — Solutions utilized to collect, classify, analyze, and securely store log messages.

**5.2.6.4 Secure Edge and Branch Integrated Security Products** — Network security, VPN, and intrusion prevention for branches and the network edge. Products typically consist of appliances or routers.

**5.2.6.5 Secure Mobility Products** — Delivers secure, scalable access to corporate applications across multiple mobile devices.

**5.2.6.6 Encryption Appliances** — A network security device that applies crypto services at the network transfer layer - above the data link level, but below the application level.

**5.2.6.7 On-premise and Cloud-based services for Web and/or Email Security** — Solutions that provide threat protection, data loss prevention, message level encryption, acceptable use and application control capabilities to secure web and email communications.

**5.2.6.8 Secure Access** — Products that provide secure access to the network for any device, including personally owned mobile devices (laptops, tablets, and smart phones). Capabilities should include:

- Management visibility for device access

- Self-service on-boarding
- Centralized policy enforcement
- Differentiated access and services
- Device Management

**5.2.7 STORAGE NETWORKING** — High-speed network of shared storage devices connecting different types of storage devices with data servers.

**5.2.7.1 Director Class SAN (Storage Area Network) Switches and Modules** — A scalable, high-performance, and protocol-independent designed primarily to fulfill the role of core switch in a core-edge Fibre Channel (FC), FCOE or similar SAN topology. A Fibre Channel director is, by current convention, a switch with at least 128 ports. It does not differ from a switch in core FC protocol functionality. Fibre Channel directors provide the most reliable, scalable, high-performance foundation for private cloud storage and highly virtualized environments.

**5.2.7.2 Fabric and Blade Server Switches** — A Fibre Channel switch is a network switch compatible with the Fibre Channel (FC) protocol. It allows the creation of a Fibre Channel fabric, which is currently the core component of most SANs. The fabric is a network of Fibre Channel devices, which allows many-to-many communication, device name lookup, security, and redundancy. FC switches implement zoning; a mechanism that disables unwanted traffic between certain fabric nodes.

**5.2.7.3 Enterprise and Data Center SAN and VSAN (Virtual Storage Area Network) Management** — Management tools to provisions, monitors, troubleshoot, and administers SANs and VSANs.

**5.2.7.4 SAN Optimization** — Tools to help optimize and secure SAN performance (ie. Encryption of data-at-rest, data migration, capacity optimization, data reduction, etc.

**5.2.8 SWITCHES** — Layer 2/3 devices that are used to connect segments of a LAN (local area network) or multiple LANs and to filter and forward packets among them.

**5.2.8.1 Campus LAN – Access Switches** — Provides initial connectivity for devices to the network and controls user and workgroup access to internetwork resources. The following are some of the features a campus LAN access switch should support:

Security

- i. SSHv2 (Secure Shell Version 2)
- ii. 802.1X (Port Based Network Access Control)
- iii. Port Security
- iv. DHCP (Dynamic Host Configuration Protocol) Snooping

VLANs

Fast Ethernet/Gigabit Ethernet

PoE (Power over Ethernet)

link aggregation

10 Gb support

Port mirroring

Span Taps

Support of IPv6 and IPv4

Standards-based rapid spanning tree  
Netflow Support (Optional).

**5.2.8.2 Campus LAN – Core Switches** — Campus core switches are generally used for the campus backbone and are responsible for transporting large amounts of traffic both reliably and quickly. Core switches should provide:

High bandwidth  
Low latency  
Hot swappable power supplies and fans

- Security
  - SSHv2
  - MacSec encryption
  - Role-Based Access Control Lists (ACL)

Support of IPv6 and IPv4  
1/10/40/100 Gbps support  
IGP (Interior Gateway Protocol) routing  
EGP (Exterior Gateway Protocol) routing  
VPLS (Virtual Private LAN Service) Support  
VRRP (Virtual Router Redundancy Protocol) Support  
Netflow Support.

**5.2.8.3 Campus Distribution Switches** — Collect the data from all the access layer switches and forward it to the core layer switches. Traffic that is generated at Layer 2 on a switched network needs to be managed, or segmented into Virtual Local Area Networks (VLANs), Distribution layer switches provides the inter-VLAN routing functions so that one VLAN can communicate with another on the network. Distribution layer switches provides advanced security policies that can be applied to network traffic using Access Control Lists (ACLs).

High bandwidth  
Low latency  
Hot swappable power supplies and fans  
Security (SSHv2 and/or 802.1X)  
Support of IPv6 and IPv4  
Jumbo Frames Support  
Dynamic Trunking Protocol (DTP)  
Per-VLAN Rapid Spanning Tree (PVRST+)  
Switch-port auto recovery  
NetFlow Support or equivalent

**5.2.8.4 Data Center Switches** — Data center switches, or Layer 2/3 switches, switch all packets in the data center by switching or routing good ones to their final destinations, and discard unwanted traffic using Access Control Lists (ACLs), all at Gigabit and 10 Gigabit speeds. High availability and modularity differentiates a typical Layer 2/3 switch from a data center switch. Capabilities should include:

High bandwidth  
Low latency  
Hot swappable power supplies and fans

- Ultra-low latency through wire-speed ports with nanosecond port-to-port latency and hardware-based Inter-Switch Link (ISL) trunking
- Load Balancing across Trunk group able to use packet based load balancing scheme
- Bridging of Fibre Channel SANs and Ethernet fabrics
- Jumbo Frame Support
- Plug and Play Fabric formation that allows a new switch that joins the fabric to automatically become a member
- Ability to remotely disable and enable individual ports
- Support NetFlow or equivalent

**5.2.8.5 Software Defined Networks (SDN) - Virtualized Switches and Routers —** Technology utilized to support software manipulation of hardware for specific use cases.

**5.2.8.6 Software Defined Networks (SDN) —** Controllers - is an application in software-defined networking (SDN) that manages flow control to enable intelligent networking. SDN controllers are based on protocols, such as OpenFlow, that allow servers to tell switches where to send packets. The SDN controller lies between network devices at one end and applications at the other end. Any communications between applications and devices have to go through the controller. The controller uses multiple routing protocols including OpenFlow to configure network devices and choose the optimal network path for application traffic.

**5.2.8.7 Carrier Aggregation Switches —** Carrier aggregation switches route traffic in addition to bridging (transmitted) Layer 2/Ethernet traffic. Carrier aggregation switches' major characteristics are:

- Designed for Metro Ethernet networks
- Designed for video and other high bandwidth applications
- Supports a variety of interface types, especially those commonly used by Service Providers
- Capabilities should include:
  - Redundant Processors
  - Redundant Power
  - IPv4 and IPv6 unicast and multicast
  - High bandwidth
  - Low latency
  - Hot swappable power supplies and fans
  - MPLS (Multiprotocol Label Switching)
  - BGP (Border Gateway Protocol)
  - Software router virtualization and/or multiple routing tables
  - Policy based routing
- Layer 2 functionality
  - Per VLAN Spanning Tree
  - Rapid Spanning Tree
  - VLAN IDs up to 4096
  - Layer 2 Class of Service (IEEE 802.1p)
  - Link Aggregation Control Protocol (LACP)

QinQ (IEEE 802.1ad)

**5.2.8.8 Carrier Ethernet Access Switches** — A carrier Ethernet access switch can connect directly to the customer or be utilized as a network interface on the service side to provide layer 2 services.

- Hot-swappable and field-replaceable integrated power supply and fan tray
- AC or DC power supply with DC input ranging from 18V to 32 VDC and 36V to 72 VDC
- Ethernet and console port for manageability
- SD flash card slot for additional external storage
- Stratum 3 network clock
- Line-rate performance with a minimum of 62-million packets per second (MPPS) forwarding rate
- Support for dying gasp on loss of power
- Support for a variety of small form factor pluggable transceiver (SFP and SFP+) with support for Device Object Model (DOM)
- Timing services for a converged access network to support mobile solutions, including Radio Access Network (RAN) applications
- Support for Synchronous Ethernet (SyncE) services
- Supports Hierarchical Quality of Service (H-QoS) to provide granular traffic-shaping policies
- Supports Resilient Ethernet Protocol REP/G.8032 for rapid layer-two convergence

**5.2.9 WIRELESS** — Provides connectivity to wireless devices within a limited geographic area. System capabilities should include:

- Redundancy and automatic failover
- IPv6 compatibility
- NTP Support

**5.2.9.1 Access Points** — A wireless Access Point (AP) is a device that allows wireless devices to connect to a wired network using Wi-Fi, or related standards. Capabilities should include:

- 802.11a/b/g/n
- 802.11n
- 802.11ac
- Capable of controller discovery method via DHCP (onsite controller or offsite through Cloud Architecture)
- UL2043 plenum rated for safe mounting in a variety of indoor environments
- Support AES-CCMP (128-bit)
- Provides real-time wireless intrusion monitoring and detection

**5.2.9.2 Outdoor Wireless Access Points** — Outdoor APs are rugged, with a metal cover and a DIN rail or other type of mount. During operations they can tolerate a wide temperature range, high humidity and exposure to water, dust, and oil. Capabilities should include:

- Flexible Deployment Options
- Provides real-time wireless intrusion monitoring and detection
- Capable of controller discovery method via DHCP (onsite controller or offsite through Cloud Architecture)

**5.2.9.3 Wireless LAN Controllers** — An onsite or offsite solution utilized to manage light-weight access points in large quantities by the network administrator or network operations center. The WLAN controller automatically handles the configuration of wireless access-points. Capabilities should include:

- Ability to monitor and mitigate RF interference/self-heal
- Support seamless roaming from AP to AP without requiring re-authentication
- Support configurable access control lists to filter traffic and denying wireless peer to peer traffic
- System encrypts all management layer traffic and passes it through a secure tunnel
- Policy management of users and devices provides ability to de-authorize or deny devices without denying the credentials of the user, nor disrupting other AP traffic
- Support configurable access control lists to filter traffic and denying wireless peer to peer traffic

**5.2.9.4 Wireless LAN Network Services and Management** — Enables network administrators to quickly plan, configure and deploy a wireless network, as well as provide additional WLAN services. Some examples include wireless security, asset tracking, and location services. Capabilities should include:

- Provide for redundancy and automatic failover
- Historical trend and real time performance reporting is supported
- Management access to wireless network components is secured
- SNMPv3 enabled
- RFC 1213 compliant
- Automatically discover wireless network components
- Capability to alert for outages and utilization threshold exceptions
- Capability to support Apple's Bonjour Protocol / mDNS
- QoS / Application identification capability

**5.2.9.5 Cloud-based services for Access Points** — Cloud-based management of campus-wide WiFi deployments and distributed multi-site networks. Capabilities include:

- Zero-touch access point provisioning
- Network-wide visibility and control
- RF optimization,
- Firmware updates

**5.2.9.6 Bring Your Own Device (BYOD)** — Mobile Data Management (MDM) technology utilized to allow employees to bring personally owned mobile devices (laptops, tablets, and smart phones) to their workplace, and use those devices to access privileged government information and applications in a secure manner. Capabilities should include:

- Ability to apply corporate policy to new devices accessing the network resources, whether wired or wireless
- Provide user and devices authentication to the network
- Provide secure remote access capability
- Support 802.1x
- Network optimization for performance, scalability, and user experience

**5.3.0 UNIFIED COMMUNICATIONS (UC)** — A set of products that provides a consistent unified user interface and user experience across multiple devices and media types. Unified Communications that is able to provide services such as session management, voice, video, messaging, mobility, and web conferencing. It can provide the foundation for advanced unified communications capabilities of IM and presence-based services and extends telephony features and capabilities to packet telephony network devices such as IP phones, media processing devices, Voice over IP (VoIP) gateways, and multimedia applications. Additional services, such as unified messaging, multimedia conferencing, collaborative contact centers, and interactive multimedia response systems, are made possible through open telephony APIs. General UC solution capabilities should include:

- High Availability for Call Processing
- Hardware Platform High Availability
- Network Connectivity High Availability
- Call Processing Redundancy

**5.3.0.1 IP Telephony** — Solutions utilized to provide the delivery of the telephony application (for example, call setup and teardown, and telephony features) over IP, instead of using circuit-switched or other modalities. Capabilities should include:

- Support for analog, digital, and IP endpoints
- Centralized Management
- Provide basic hunt group and call queuing capabilities
- Flexibility to configure queue depth and hold time, play unique announcements and Music on Hold (MoH), log in and log out users from a queue and basic queue statistics (from the phone)
- E911 Support

**5.3.0.2 Instant messaging/ Presence** — Solutions that allow communication over the Internet that offers quick transmission of text-based messages from sender to receiver. In push mode between two or more people using personal computers or other devices, along with shared clients, instant messaging basically offers real-time direct written language-based online chat. Instant messaging may also provide video calling, file sharing, PC-to-PC voice calling and PC-to-regular-phone calling.

**5.3.0.3 Unified messaging** — Integration of different electronic messaging and communications media (e-mail, SMS, Fax, voicemail, video messaging, etc.) technologies into a single interface, accessible from a variety of different devices.

- Ability to access and manage voice messages in a variety of ways, using email inbox, Web browser, desktop client, VoIP phone, or mobile phone
- Visual Voicemail Support (Optional)

**5.3.0.4 Contact Center** — A computer-based system that provides call and contact routing for high-volume telephony transactions, with specialist answering "agent" stations and a sophisticated real-time contact management system. The definition includes all contact center systems that provide inbound contact handling capabilities and automatic contact distribution, combined with a high degree of sophistication in terms of dynamic contact traffic management.

**5.3.0.5 Communications End Points and Applications**

- Attendant Consoles
- IP Phones

**5.3.0.6 UC Network Management** — Provides end-to-end service management for Unified Communications. Capabilities include testing, performance monitoring, configuration management, and business intelligence reporting.

**5.3.0.7 Collaboration** — Voice, video, and web conferencing; messaging; mobile applications; and enterprise social software.

**5.3.0.8 Collaborative Video** — A set of immersive video technologies that enable people to feel or appear as if they were present in a location that they are not physically in. Immersive video consists of a multiple codec video system, where each meeting attendee uses an immersive video room to “dial in” and can see/talk to every other member on a screen (or screens) as if they were in the same room and provides call control that enables intelligent video bandwidth management.

**5.3.0.8.1 Content Delivery Systems (CDS)** — A large distributed system of servers deployed in multiple data centers connected by the Internet. The purpose of the content delivery system is to serve content to end-users with high availability and high performance. CDSs serve content over the Internet, including web objects (text, graphics, URLs, and scripts), downloadable objects (media files, software, documents), applications (e-commerce, portals), live streaming media, on-demand streaming media, and social networks.

**5.3.0.8.2 Physical Security** — Technology utilized to restricting physical access by unauthorized people to controlled facilities.

Technologies include:

- a. Access control systems
- b. Detection/Identification systems, such as surveillance systems, closed circuit television cameras, or IP camera networks and the associated monitoring systems.
- c. Response systems such as alert systems, desktop monitoring systems, radios, mobile phones, IP phones, and digital signage
- d. Building and energy controls

**5.3.1 SERVICES** — For each Category above (5.21-5.30), the following services should be available for procurement as well at the time of product purchase or anytime afterwards.

**5.3.1.1 Maintenance Services** — Capability to provide technical support, flexible hardware coverage, and smart, proactive device diagnostics for hardware.

**5.3.1.2 Professional Services**

Deployment Services

Survey/ Design Services — Includes, but not limited to, discovery, design, architecture review/validation, and readiness assessment.

Implementation Services — Includes, but not limited to, basic installation and configuration or end-to-end integration and deployment.

Optimization — Includes, but not limited to, assessing operational environment readiness, identify ways to increase efficiencies throughout the network, and optimize Customer's infrastructure, applications and service management.

Remote Management Services — Includes, but not limited to, continuous monitoring, incident management, problem management, change management, and utilization and performance reporting that may be on a subscription basis.

Consulting/Advisory Services — Includes, but not limited to, assessing the availability, reliability, security and performance of Customer's existing solutions.

**Data Communications Architectural Design Services** — Developing architectural strategies and roadmaps for transforming Customer's existing network architecture and operations management.

**Statement of Work (SOW) Services** — Customer-specific tasks to be accomplished and/or services to be delivered based on Customer's business and technical requirements.

**5.3.1.3 Partner Services** — Provided by Contractor's Authorized Partners/Resellers.

Subject to Contractor's approval and the certifications held by its Partners/Resellers, many Partners/Resellers can also offer and provide some or all of the Services as listed above at competitive pricing, along with local presence and support. As the prime, Contractor is still ultimately responsible for the performance of its Partners/Resellers. Customers can have the option to purchase the Services to be directly delivered by Contractor (OEM) or its certified Partners/Resellers.

**5.3.1.4 Training** — Learning offerings for IT professionals on networking technologies, including but not limited to designing, implementing, operating, configuring, and troubleshooting network systems pertaining to items provided under the master agreement.

STATE OF UTAH CONTRACT NUMBER – AR233

Attachment C – Pricing  
Solicitation Number JP14001  
WSCA-NASPO Data Communications RFP

Vendor Name: Cisco Systems, Inc.

**RFP Product Categories:**

**Minimum Discount Percentage:**

**5.2.1 DATA CENTER APPLICATION SERVICES** Discount %  35.00

**5.2.2 NETWORKING SOFTWARE** Discount %  35.00

**5.2.3 NETWORK OPTIMIZATION AND ACCELERATION** Discount %  35.00

**5.2.4 OPTICAL NETWORKING** Discount %  35.00

**5.2.5 ROUTERS** Discount %  35.00

**5.2.6 SECURITY** Discount %  35.00

**5.2.7 STORAGE NETWORKING** Discount %  35.00

**5.2.8 SWITCHES** Discount %  35.00

**5.2.9 WIRELESS** Discount %  35.00

**5.3.0 UNIFIED COMMUNICATIONS (UC)** Discount %  35.00

**WARRANTY: See Section 30 of the WSCA-NASPO/Cisco Master Agreement.**

**CAPITAL LEASE FINANCING: Allowed under and subject to Section 22 of the WSCA-NASPO Master Agreement.**

**5.3.1 SERVICES**

For RFP evaluation purposes, vendors must provide not to exceed post sale on site service and consulting rates that are fully loaded (inclusive of travel, lodging, and meals) for each service category below. Remote access rates for non-warranty and consultation services must be expressed as a separate net hourly labor rate.

Definition of Onsite: Customer premise.

Definition of Remote: Vendor premise.

**Maintenance Services**

Onsite Hourly Rate \$ NTE 600.00

Remote Hourly Rate \$ NTE 525.00

**Professional Services - Deployment Services**

Onsite Hourly Rate \$ NTE 743.17

Remote Hourly Rate \$ NTE 661.17

**Consulting/Advisory Services**

Onsite Hourly Rate \$ NTE 743.17

Remote Hourly Rate \$ NTE 661.17

**Architectural Design Services**

Onsite Hourly Rate \$ NTE 743.17

Remote Hourly Rate \$ NTE 661.17

**Statement of Work Services**

Onsite Hourly Rate \$ [NTE 743.17](#)

Remote Hourly Rate \$ [NTE 661.17](#)

**Partner Services**

Onsite Hourly Rate \$ [NTE 600.00](#)

Remote Hourly Rate \$ [NTE 525.00](#)

**Training Deployment Services**

Onsite Hourly Rate \$ [NTE 600.00](#)

Remote Hourly Rate \$ [NTE 525.00](#)

In addition to the above, Cisco, through applicable [Authorized Resellers](#), is pleased to offer hosted service offerings for certain technology categories listed above (at Cisco's discretion). These hosted offerings provide WSCA-NASPO customers with an alternative way to consume the technology to best meet their needs and provide flexible payment models. These models may be well suited for customers that have limited technical staff for technology deployment and ongoing administration.

The hosted service offerings are based on Cisco validated architectures and delivered through carefully vetted and approved [Authorized Resellers](#). Due to the unique requirements of each customer, Cisco and the approved [Authorized Resellers](#) can work with the customer to understand their unique requirements and deploy hosted offerings to best meet their needs. Additional contractual terms and conditions specific to the hosted solutions may be required.

Current Cisco Systems, Inc. pricing sheets, approved by the State of Utah, can be found at the following web link:

[\*\*VENDOR PRICING SHEETS CLICK HERE\*\*](#)

**IMPORTANT:** The minimum discount percentage listed in this attachment is for general informational purposes only and may not apply to every line item authorized under this contract. For specific item pricing, please refer to the contact price list weblink provided in this document.

Vendors are required to post state specific pricing on their hosted website or through the WSCA-NASPO eMarket center as required by solicitation JP14001, in addition to the vendor pricing sheets approved and hosted by the State of Utah's master contract summary sheet. The State of Utah vendor pricing sheets will serve as the approved base price and do not include any applicable state specific administrative fees. State specific pricing, hosted on the vendor website or WSCA-NASPO eMarketcenter may reflect authorized state specific administrative fees. No other fees are authorized under this contract. Pricing audits may be conducted at any time by the State of Utah, WSCA-NASPO, or 3<sup>rd</sup> party audit provider to ensure accurate pricing.

Per Solicitation JP14001, the following pricing/product requirements and instructions apply:

### **1.11 Pricing Structure**

**Pricing Structure:** Pricing for the State of Utah WSCA-NASPO Master Agreements shall be based on the Percent Discount off the current global MSRP Schedule applicable to United States customers.

### **1.12 Price Guarantee Period**

**Price Guarantee Period:** The Data Communication Provider's Discount rate shall remain in effect for the term of the WSCA-NASPO Master Price Agreement.

### **1.13 Price Escalation**

**Equipment, Supplies and Services:** Data Communications provider may update the pricing on their MSRP price list one time every year after the first year of the original contract term. The WSCA-NASPO Contract Administrator will review a documented request for a Price Schedule price list adjustment only after the Price Guarantee Period.

### **1.14 Price Reductions**

In the event of a price decrease in any category of product at any time during the contract in a Provider's Price Schedule, including renewal options, the WSCA-NASPO Contract Administrator shall be notified immediately. All Price Schedule price reductions shall be effective upon the notification provided to the WSCA-NASPO Master Agreement Administrator.

### **1.15 Usage Reporting Requirement**

All Data Communication Provider's will be required to provide quarterly usage reports to the WSCA-NASPO Contract Administrator or designee. The initiation and submission of the quarterly reports are the responsibility of the Data Communication Contract Provider. You are responsible to collect and report all sales data including your resellers and partners sales associated with your Master Agreement. There will be no prompting or notification provided by the WSCA-NASPO Contract Administrator. The quarterly usage reports are due as follows:

- |             |   |
|-------------|---|
| Quarter #1: | July 1 through September 30, due annually by November 30.   |
| Quarter #2: | October 1 through December 31, due annually by February 28. |
| Quarter #3: | January 1 through March 31, due annually by May 31.         |
| Quarter #4: | April 1 through June 30, due annually by August 31.         |

### **1.20 WSCA Administrative Fee**

The Contracted Supplier must pay a WSCA-NASPO administrative fee of one quarter of one percent (.25%) in accordance with the terms and conditions of the contract. The WSCA-NASPO administrative fee shall be submitted quarterly and is based on the actual sales of all products and services in conjunction with your quarterly reports. The WSCA-NASPO administrative fee must be included when determining the pricing offered. The WSCA-NASPO administrative fee is not negotiable and shall not be added as a separate line item on an invoice.

Additionally, some WSCA-NASPO participating entities may require that an administrative fee be paid directly to the WSCA-NASPO participating entity on purchases made by purchasing entities within that State. For all such requests, the fee percentage, payment method and payment schedule for the participating entity's administrative fee will be incorporated in the Participating Addendum. Data Communications Provider will be held harmless, and may adjust (increase) the WSCA-NASPO Master Agreement pricing by the fee percentage for that participating entity accordingly for purchases made by purchasing entities within the jurisdiction of the State. All such agreements may not affect the

WSCANASPO fee or the prices paid by the purchasing entities outside the jurisdiction of the participating entities requesting the additional fee. **The WSCA-NASPO quarterly administrative fee will be submitted along with the quarterly usage reports as set forth below:**

|                    |  |
|--------------------|--|
| <b>Quarter #1:</b> | <b>July 1 through September 30, due annually by November 30.</b>   |
| <b>Quarter #2:</b> | <b>October 1 through December 31, due annually by February 28.</b> |
| <b>Quarter #3:</b> | <b>January 1 through March 31, due annually by May 31.</b>         |
| <b>Quarter #4:</b> | <b>April 1 through June 30, due annually by August 31.</b>         |

### **5.3.2 ADDING PRODUCTS**

The ability to add new equipment and services is for the convenience and benefit of WSCA-NASPO, the Participating States, and all the Authorized Purchasers. The intent of this process is to promote “one-stop shopping” and convenience for the customers and equally important, to make the contract flexible in keeping up with rapid technological advances. The option to add new product or service categories and/items will expedite the delivery and implementation of new technology solutions for the benefit of the Authorized Purchasers.

After the contracts are awarded, additional IT product categories and/or items may be added per the request of the Contractor, a Participating State, an Authorized Purchaser or WSCA-NASPO. Additions may be ad hoc and temporary in nature or permanent. All additions to an awarded Contractor or Manufacturer’s offerings must be products, services, software, or solutions that are commercially available at the time they are added to the contract award and fall within the original scope and intent of the RFP (i.e., converged technologies, value adds to manufacturer’s solution offerings, etc.).

**5.3.2.1 New Product from Contractors** — If Contractor, a Participating State, an Authorized Purchaser or WSCA-NASPO itself requests to add new product categories permanently, then all awarded Contractors (Manufacturers) will be notified of the proposed change and will have the opportunity to work with WSCA to determine applicability, introduction, etc. Any new products or services must be reviewed and approved by the State of Utah WSCA-NASPO Contract Administrator.

**5.3.2.2 Ad Hoc Product Additions** — A request for an ad hoc, temporary addition of a product category/item must be submitted to WSCA-NASPO via the governmental entity’s contracting/purchasing officer. Ad hoc, temporary requests will be handled on a case-by-case basis. The State of Utah WSCA-NASPO Contract Administrator must also be notified and will review and approve the addition before the purchase is finalized by the end user. The State of Utah WSCA-NASPO Contract Administrator has the final approval on any Ad Hoc product additions.

**5.3.2.3 Pricelist Updates** — As part of each Contractor’s ongoing updates to its pricelists throughout the contract term, Contractor can add new SKUs to its awarded product categories that may have been developed in-house or obtained through mergers, acquisitions or joint ventures; provided, however, that such new SKUs fall within the Contractor’s awarded product categories. Updated price lists will be reviewed and approved by the State of Utah WSCA-NASPO Contract Administrator before the revised price list is considered valid.