

## SOW Terms and Conditions

If you purchase Services directly from Cisco pursuant to a Statement of Work ("SOW"), and if you are not a party to a Master Services Agreement or other applicable Services agreement covering SOW-based services with Cisco, then the SOW will be governed by the terms and conditions in this SOW Terms and Conditions agreement ("Agreement"), which is incorporated into and made a part of the SOW by this reference.

The terms of the SOW, including this Agreement, are limited to the scope of the specific SOW, and is not applicable to any other SOWs that may be executed between the parties unless the parties otherwise agree. To the extent there is a conflict between the terms of the SOW and this Agreement, then the terms of this Agreement control unless explicitly stated otherwise in the SOW.

- 1. Definitions.** Capitalized terms not defined in the Agreement, including Exhibit A (Defined Terms), have the meanings as defined in the SOW.
- 2. Orders.** Customer may, upon and subject to approval by Cisco, purchase Services by issuing a Purchase Order. A Customer's authorized representative must either sign (and seal, if applicable) or, in the case of electronic transmission, send the Purchase Order on behalf of Customer. For each Purchase Order, include the SOW reference and project identification number(s), specific Services purchased, quantity, price, total purchase price, bill-to and ship-to addresses, tax exempt certifications if applicable, and any other special instructions. No contingency contained in any Purchase Order is binding upon Cisco. The terms of the SOW apply regardless of any additional or conflicting terms in any Purchase Order or other correspondence or documentation submitted by Customer to Cisco, and any such additional or conflicting terms are deemed rejected by Cisco.
- 3. Performance of Services.**
  - 3.1. Cisco may use subcontractors to perform the all or part of the Services.
  - 3.2. Cisco is not responsible for providing any Services to End User beyond those expressly set forth in the SOW.
- 4. Pricing.** All prices set forth in the SOW and are exclusive of any taxes, fees, duties or other similar charges. Customer shall pay all taxes related to Services (other than taxes based on Cisco's net income) or present an exemption certificate acceptable to the taxing authorities. Cisco may invoice Customer for applicable taxes as a separate item. Cisco reserves the right to increase the Service fee in the event Customer determines any withholding tax obligation prevents Cisco from receiving the specified prices for such Services set forth in the SOW.
- 5. Payment and Invoicing.**
  - 5.1. Payment. All Purchase Orders are subject to credit approval. Payment terms are net thirty (30) days from the date of invoice. Unless otherwise agreed by Cisco, all payments must be made in the currency used by the Cisco entity with which Customer has placed its Purchase Order. Any sum not paid by Customer when due will bear interest from the due date until paid at a rate of: (a) ten (10) per cent per annum, or (b) the maximum rate permitted by law, whichever is less. If the SOW is with Cisco Solutions LLC, Cisco reserves the right to apply interest at a rate of twice the official Central Bank of Russia refinance rate. Interest will be calculated on a daily basis and accrue both before and after any judgment.
  - 5.2. Invoicing. Cisco will invoice Customer upon completion of each Milestone as listed in the SOW's Milestone schedule. Invoices may contain multiple Milestones. The SOW Milestone schedule supersedes any Milestones identified in a Purchase Order; nevertheless, unless otherwise mutually agreed through the SOW's Change Management Procedure, the total invoiced amounts for SOW Milestones will not exceed the total amount of Customer's Purchase Order. If the SOW does not contain a Milestone schedule, Cisco will invoice Services performed under such SOW as set forth in such SOW.
  - 5.3. If the SOW is with Cisco Solutions LLC (Russia), the following also applies:
    - a. Cisco shall issue two Acts of Acceptance to Customer ("Act of Acceptance"). The Act of Acceptance need not be issued at the same time as the relevant invoice. Customer shall, within five (5) Business Days of Cisco sending the Act of Acceptance, either (i) sign and return one copy of the Act of Acceptance to Cisco or (ii) provide detailed comments to Cisco disputing the rendering of Services. If Customer fails to do either within the indicated time frame, the Act of Acceptance will be deemed signed and Services deemed accepted as described in the Act of Acceptance.
    - b. Approximately within five (5) Business Days after Cisco (i) issues the Act of Acceptance to Customer or (ii) receives advance payment from Customer, Cisco shall send a VAT invoice to Customer.

c. The parties may use a Unified Transfer Document (“UTD”) and/or VAT invoice as supporting primary documentation (in place of a consignment note and/or transportation waybill). UTD, consignment notes, transportation waybills and Acts of Acceptance may be made in electronic format using electronic signatures.

5.4. If the SOW is with Cisco China Company, Limited (思科(中国)有限公司), Cisco (China) Innovation Technology Co., Ltd. (思科(中国)创新科技有限公司) or Cisco Systems (China) Information Technology Services Limited (思科系统(中国)信息技术服务有限公司), and if Customer requests that Cisco issue a credit memo and a red-letter VAT invoice because of price adjustment, service cancellation, or another similar reason, upon Cisco’s approval of such request, Customer must sign a Price Adjustment Agreement, Service Cancellation Agreement, or other applicable agreement, as necessary or as requested by Cisco. Within two business days of when Cisco notifies Customer in writing that Cisco accepts its request for the credit memo and red letter VAT invoice, Customer must provide the red-letter VAT invoice information notice verified by a competent tax authority to Cisco.

## 6. Termination.

6.1. The SOW, and any Services being performed under the SOW, may be terminated immediately by either party upon written notice for the following reasons:

- a. if the other party breaches any of the material provisions of the SOW or this Agreement, and (i) the breach is not capable of being cured, or (ii) the other party fails to cure such breach within thirty (30) days after receiving written notice from the non-breaching party requiring the breach to be cured;
- b. if the other party (i) ceases, or threatens to cease, to carry on business as a going concern, (ii) becomes or may become the object of a voluntary or involuntary proceedings in bankruptcy or liquidation, (iii) a receiver or similar officer is appointed with respect to all or a substantial part of its assets, or (iv) has an event occur similar to any of the foregoing under applicable law; or
- c. if, except as provided in Section 15 (Assignment) below, either party assigns (by operation of law or otherwise, including merger) or transfers any of the rights or responsibilities granted under the SOW, without the prior written consent of the other party, or in the event of a sale of all or substantially all of such party’s assets, or transfer of a controlling interest in such party to an unaffiliated third party. Notwithstanding the foregoing: (i) Cisco reserves the right to subcontract the performance of the Services, either in whole or in part, to any Affiliate or third party, and (ii) Cisco may assign the SOW, or all or any portion of its rights and obligations in the SOW and Agreement, to any Affiliate of Cisco.

6.2. If Customer has not paid Cisco the Services fees when due and Cisco has not received payment 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 immediately terminate the SOW.

6.3. Upon termination of the SOW, Customer shall pay Cisco for all work Cisco has performed up to the effective date of termination at the agreed upon prices, fees and expense reimbursement rates.

## 7. Confidentiality.

7.1. Each party may obtain Confidential Information as a result of, and related to, the SOW. The receiving party shall (a) keep in trust and confidence all such Confidential Information, (b) not use such Confidential Information other than as expressly authorized by the disclosing party under the SOW. The receiving party shall not disclose any such Confidential Information to third parties without the disclosing party’s written consent.

7.2. Notwithstanding the above, Cisco is authorized to disclose Customer’s Confidential Information to subcontractors, contractors or employees of a Cisco entity who have a legitimate business need to have access to such information.

7.3. Upon termination or expiration of the SOW (for any reason and at any time), the receiving party shall, if requested, immediately return to the disclosing party or destroy all Confidential Information (including all copies) in the receiving party’s possession, custody, or control, provided that the receiving party may keep archival copies for regulatory purposes and to enforce its rights and subject to the obligations of confidentiality in this Agreement.

7.4. The obligations of confidentiality do not apply to information that: (a) has entered the public domain, except where such entry is the result of the receiving party’s breach of the SOW or Agreement, (b) was already rightfully in the receiving party’s possession prior to the disclosure hereunder, or (c) is obtained by the receiving party on a non-confidential basis

from a third party who has the right to disclose such information to the receiving party.

- 7.5. The receiving party will be authorized to disclose Confidential Information pursuant to a valid order issued by a court, government agency or relevant regulatory authority (including a stock exchange), provided that the receiving party, if reasonably practicable, provides: (a) prior written notice to the disclosing party of such obligation, and (b) the opportunity to oppose such disclosure.
- 7.6. Neither party may disclose, advertise, or publish the terms and conditions of the SOW or this Agreement without the prior written consent of the other party. Any press release or publication regarding the SOW is subject to prior review and written approval of the parties.

## 8. Warranty.

- 8.1. CISCO SHALL PERFORM THE SERVICES PROVIDED UNDER THE SOW IN A WORKMANLIKE MANNER. CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY WILL BE, AT CISCO'S OPTION:
  - a. RE-PERFORMANCE OF THE SERVICES; OR
  - b. TERMINATION OF THE SOW OR THE APPLICABLE SERVICE AND REIMBURSEMENT BY CISCO TO CUSTOMER OF THE PORTION OF THE SERVICE FEES PAID TO CISCO BY CUSTOMER FOR SUCH NON-CONFORMING SERVICES.
- 8.2. THE WARRANTY SET OUT ABOVE IS IN LIEU OF ALL OTHER WARRANTIES, CONDITIONS AND OTHER TERMS, EXPRESS OR IMPLIED, ALL OF WHICH ARE EXCLUDED, INCLUDING WITHOUT LIMITATION, THOSE OF SATISFACTORY QUALITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, DATA ACCURACY, NON-INFRINGEMENT, TITLE, OR REASONABLE CARE AND SKILL.

## 9. Limitation of Liability and Consequential Damages Waiver.

- 9.1. NOTHING IN THE SOW OR AGREEMENT LIMITS OR EXCLUDES THE LIABILITY OF:
  - a. EITHER PARTY TO THE OTHER PARTY FOR (I) BODILY INJURY OR DEATH RESULTING DIRECTLY FROM THE NEGLIGENCE OF THE OTHER PARTY; (II) FRAUD OR FRAUDULENT MISREPRESENTATION; (III) ANY LIABILITY THAT CANNOT BE LIMITED OR EXCLUDED UNDER APPLICABLE LAW;
  - b. CUSTOMER TO CISCO ARISING OUT OF: (I) CUSTOMER'S BREACH OF SECTION 10 (LICENSE); OR (II) FAILURE TO PAY ANY AMOUNTS DUE TO CISCO UNDER THE SOW.
- 9.2. SUBJECT TO SECTION 9.1 ABOVE, AND NOTWITHSTANDING ANYTHING ELSE IN THE SOW AND AGREEMENT TO THE CONTRARY, NEITHER PARTY WILL BE LIABLE FOR ANY:
  - a. SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES;
  - b. LOSS OF ANY OF THE FOLLOWING: PROFITS, REVENUE, BUSINESS, ANTICIPATED SAVINGS, USE OF ANY PRODUCT OR SERVICE, OPPORTUNITY, GOODWILL OR REPUTATION; OR
  - c. LOST OR DAMAGED DATA.
- 9.3. SUBJECT TO SECTION 9.1 AND 9.2, EACH PARTY'S TOTAL AGGREGATE LIABILITY IS LIMITED TO THE AMOUNT PAID BY CUSTOMER TO CISCO UNDER THE SOW DURING THE TWELVE (12) MONTH PERIOD PRIOR TO THE EVENT OR CIRCUMSTANCE THAT FIRST GAVE RISE TO SUCH LIABILITY.
- 9.4. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER-INCIDENT (I.E., THE EXISTENCE OF TWO OR MORE CLAIMS WILL NOT ENLARGE THIS LIMIT).
- 9.5. REFERENCES IN THIS SECTION 9 TO (a) A "PARTY" INCLUDES A PARTY'S AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND SUPPLIERS, AND (b) "LIABILITY" INCLUDES LIABILITY ARISING FROM CONTRACT, TORT (INCLUDING NEGLIGENCE), UNDER ANY INDEMNITY, STRICT LIABILITY, OR OTHERWISE, IN EACH CASE EVEN IF A PARTY HAS BEEN INFORMED OF THE POSSIBILITY OF THAT LIABILITY.

## 10. License.

- 10.1. Except to the extent as otherwise expressly set forth in the SOW and subject to the terms and conditions of the SOW and Agreement, Cisco grants to Customer a non-exclusive and non-transferable license to use for Customer's internal business use only: (a) Software provided as a result of the Services, if any, solely in object code form, (b) the Deliverables specified in the SOW, if any, and (c) Data Collection Tools, if any (collectively and individually, the "Licensed Materials").

In addition, Cisco grants to Customer a right to modify and create derivative works of any Scripts provided by Cisco to Customer pursuant to this Agreement, solely for Customer's internal business use. These license grants do not include the right to sublicense. Customer may permit its suppliers, subcontractors and other related third parties to use the Licensed Materials solely on Customer's behalf for Customer's direct benefit, provided that any such use is subject to license restrictions and confidentiality obligations at least as protective of Cisco's rights in such Licensed Materials as are specified in this Agreement.

- 10.2. Nothing in this Agreement or the SOW alters or affects the Intellectual Property rights and/or licenses provided with any Cisco Products. The terms and conditions provided with the Software, or in the absence of such terms, the license posted at <http://www.cisco.com/go/eula> ("End User License Agreement"), are hereby incorporated into this Agreement by this reference. To the extent there is a conflict between the terms of the End User License Agreement and this Agreement, the terms of the End User License Agreement will apply, unless explicitly stated otherwise in this Agreement. The provisions in this Section apply only to those Services, Deliverables and other Intellectual Property provided by Cisco to Customer pursuant to the SOW.
- 10.3. Except as otherwise expressly permitted by Cisco, Customer will use Software solely on Cisco Hardware. Customer may also use Application Software on third party hardware and as expressly authorized in the Software Documentation. In the case of Data Collection Tools that include Hardware, Customer may only use the Software included with such Data Collection Tools solely on the Hardware provided with such Data Collection Tools. In the case of Data Collection Tools that consist of Software only, Customer may use such Data Collection Tools on Hardware or third party hardware, unless otherwise set forth in the SOW.
- 10.4. The license rights granted in this Section are perpetual, provided Customer is not in breach of this Agreement or the SOW. Notwithstanding the above, the license for Data Collection Tools will terminate upon the earlier of: (a) the expiration or termination of the Services pursuant to which the Data Collection Tools were provided, or (b) Cisco's request to Customer that the Data Collection Tool(s) be returned to Cisco.
- 10.5. Except as otherwise expressly set forth in this Agreement or the SOW, Customer shall not (and shall not permit a third party to): (a) download more than one copy of the Software; (b) copy, in whole or in part, any Software, Deliverable or Data Collection Tool, (c) make error corrections or derivative works of, or otherwise modify, decompile, decrypt, reverse engineer, disassemble or reduce all or any portion of any Software, Deliverable or Data Collection Tool to human-readable form; or (d) transfer, sublicense, rent, lease, distribute, or sell any Software, Deliverables or Data Collection Tools. Customer acknowledges that it does not receive any implied licenses under this Agreement, and all rights not expressly granted herein are reserved to Cisco.
- 10.6. When Customer updates or upgrades a copy of Software to a new release, Customer shall not thereafter use concurrently, except for a limited period of parallel testing, that new release and any previous release of the Software. Customer shall not re-use, host or have hosted for later re-use, or transfer any previous release of the Software to any other device(s).
- 10.7. Customer grants to Cisco a perpetual, irrevocable, royalty free, worldwide right and license to all Intellectual Property in the Customer Feedback (as defined below) to use and incorporate into any or all Services, Products, Deliverables, Data Collection Tools, Reports, Scripts and Cisco Pre-Existing Technology, and to use, make, have made, offer to sell, sell, copy, distribute, and create derivative works of such Intellectual Property for any and all purposes whatsoever, and Customer acknowledges that it will have no rights in or to any Services, Products, Deliverables, Data Collection Tools, Reports, Scripts or Cisco Pre-Existing Technology as a result of Cisco's use of any such Intellectual Property. For purposes of this Agreement, "Customer Feedback" means all oral or written communications regarding improvements or changes to any Services, Products, Deliverables, Data Collection Tools, Reports, Scripts or Cisco Pre-Existing Technology that Customer provides to Cisco.

## 11. Ownership.

- 11.1. Except to the extent as otherwise expressly set forth in the SOW, Cisco owns and will continue to own all right, title, and interest in and to all Cisco Intellectual Property.
- 11.2. Each party will retain the exclusive ownership of all of its Pre-Existing Technology.
- 11.3. Third Party Products will at all times be owned by the applicable third party, and will be subject to any applicable third party license terms.

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

**13. Applicable Law and Jurisdiction.**

13.1. The validity, interpretation, and performance of the SOW shall be controlled by and construed under the laws of:

- a. If the SOW is with Cisco Systems, Inc., then the State of California, United States of America, as if performed wholly within the state and without giving effect to the principles of conflicts of law, and the State and Federal courts of California shall have exclusive jurisdiction over any claim arising under this Agreement.
- b. If the SOW is with Cisco Systems Canada Co., then the Province of Ontario and the federal laws of Canada applicable therein, as if performed wholly within the province and without giving effect to the principles of conflicts of law, and the courts of the Province of Ontario shall have exclusive jurisdiction over any claim arising under this Agreement.
- c. If the SOW is with any of the following Cisco entities, then the laws of England apply the English Courts have exclusive jurisdiction over any claim.

Cisco Systems International B.V.	Cisco Systems Services B.V.
Cisco International Limited	Cisco Systems (Italy) S.r.l
Cisco International Limited Sp. z o.o. Oddzial w Polsce	Cisco International Limited
Sucursal em Portugal	Cisco International Limited, France Branch
Cisco Solutions GmbH	Cisco International Limited, Zweigniederlassung Österreich
Cisco International Limited, Sucursal en Espana	Cisco International Limited Hungarian Branch Office
Cisco Bilgisayar ve Internet Sistemleri Limited Sirketi	Cisco International Limited, Cardiff Zweigniederlassung Zürich
Cisco Sweden, filial af Cisco International Limited	Cisco Technology Denmark ApS
Cisco Norway AS	Cisco International Limited, Ireland Branch
Cisco International Israel Limited	Cisco International Limited Magyarországi Fióktelepe
Cisco International Limited Organizacni Slozka	

- d. If the SOW is with Cisco Systems (Korea) Limited., then Republic of Korea and the Seoul Central District Court shall have exclusive jurisdiction over any claim arising under this Agreement.
- e. If the SOW is with Cisco Commerce India Private Limited, then the laws of India and the courts at Bengaluru, Karnataka shall have exclusive jurisdiction over any claim arising under this Agreement.
- f. If the SOW is with Cisco Systems G.K., then Japan and the Tokyo District Court shall have exclusive jurisdiction over any claim arising under this Agreement.
- g. If the SOW is with Cisco Systems Australia Pty Ltd, then the State of New South Wales, Australia, as if performed wholly within the state and without giving effect to the principles of conflicts of law, and the State and Federal Courts of New South Wales shall have exclusive jurisdiction over any claim arising under this Agreement.
- h. If this SOW is with Cisco Technology and Services (South Africa) (Proprietary) Limited, then the South Gauteng High Court of South Africa shall have exclusive jurisdiction over any claims arising under thereunder.
- i. If the SOW is with LLC Cisco Systems (the Russian Federation), then all disputes arising out of or in connection with the SOW, including any questions regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration (LCIA), which Rules are

deemed to be incorporated by reference into this Section. The place of arbitration shall be London, England, the number of arbitrators shall be three and the language to be used in the arbitral proceedings shall be English.

- j. If the SOW is with Cisco Solutions LLC (the Russian Federation), the parties shall refer all disputes to arbitration under the Rules of the International Commercial Arbitration Court under the Chamber of Commerce and Industry of the Russian Federation in Moscow, any document presented to arbitration in Russian also must be presented in English or accompanied by a certified translation into English.
- k. If the SOW is with Cisco China Company, Limited (思科(中国)有限公司), Cisco (China) Innovation Technology Co., Ltd. (思科(中国)创新科技有限公司) or Cisco Systems (China) Information Technology Services Limited (思科系统(中国)信息技术服务有限公司) (The People's Republic of China); then, to the extent that the laws of the People's Republic of China do not stipulate, relevant international practice and customs shall apply, and any claim arising under this Agreement shall be submitted to the Hong Kong International Arbitration Centre ("HKIAC") for final and binding arbitration in Hong Kong upon the request of either party with a Notice to the other party. For any claim submitted to the HKIAC as set forth in this Section, the following terms shall apply. There shall be a sole arbitrator appointed in accordance with the rules of the HKIAC prevailing as of the Effective Date, except to the extent as modified in this Agreement. If the parties fail to agree on the choice of sole arbitrator within twenty (20) days from the date on which the respondent receives the notice of arbitration, the HKIAC shall make the appointment. The arbitrator will be bound by the provisions of this Agreement and shall be made aware of the terms hereof prior to his appointment. The arbitrator(s) shall have no power or authority to make or issue any award that provides for punitive or exemplary damages. The arbitration proceedings shall be conducted in English and in accordance with the HKIAC Procedures for the Administration of International Arbitration in force as of the Effective Date. However, if any rules are in conflict with the provisions of this Section, including the provisions concerning the appointment of a sole arbitrator, the provisions of this Section shall prevail. Upon rendering a decision, the arbitrator shall state in writing the basis for the decision. The arbitrator's decision shall be final and binding upon the parties. Application may be made by a party to a court of competent jurisdiction for the recognition and enforcement of an arbitral award rendered by the sole arbitrator pursuant to this Section. The costs of arbitration and attorneys' fees and disbursements shall be borne by the losing party, unless otherwise determined by the arbitration award. Except for the matters under dispute, the parties shall each continue to fulfill their respective obligations (and shall be entitled to exercise their rights) under this Agreement.

13.2. Notwithstanding the foregoing, either party has, at all times, the right to commence proceedings in any other court of its choice for interim injunctive relief in the event of threatened or actual breach of Intellectual Property rights or provisions regarding protection and non-disclosure of Confidential Information.

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

**14. Export Control.** Customer shall comply with such laws and regulations governing use, export, re-export, and transfer of 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).

**15. Assignment.** Except as provided below, neither party may assign or delegate its rights or obligations under the SOW (other than: (a) the right to receive any amount due, which shall be freely assignable, or (b) to Customer's parent or majority-owned subsidiary company of sufficient net worth to meet any potential liability under the SOW) without the prior written consent of the other, such consent not to be unreasonably withheld or delayed, provided that any such assignment will not relieve the assigning entity of any obligation to pay monies that were owed prior to the date of the assignment. Notwithstanding the foregoing: (i) Cisco reserves the right to subcontract Services to any Affiliate or third party organization to provide Services to Customer, and (ii) Cisco may assign the SOW or all or any portion of its rights and obligations hereunder, to any Affiliate of Cisco.

**16. Notices.** All notices required or permitted under the SOW will be in writing and will be deemed given 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 the SOW 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 e-mail or fax.

- 17. Entire Agreement.** The SOW, including this Agreement, is the complete agreement between the parties concerning the subject matter of the SOW 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. The SOW may only be modified by a written document executed by the parties hereto.
- 18. No Waiver.** The waiver by either party of any right provided under the SOW will not constitute a subsequent or continuing waiver of such right or of any other right under the SOW.
- 19. Severability.** In the event that one or more terms of the SOW becomes or is declared to be illegal or otherwise unenforceable by any court of competent jurisdiction, each such term will be null and void and deemed deleted from the SOW. All remaining terms of the SOW will remain in full force and effect. Notwithstanding the foregoing, if this paragraph is invoked and, as a result, the value of the SOW is materially impaired for either party, as determined by such party in its sole discretion, then the affected party may terminate the SOW by written notice with immediate effect to the other.
- 20. Attorneys' Fees.** To the extent allowed under local law, in any suit or proceeding relating to the SOW, the prevailing party will have the right to recover from the other its costs and reasonable fees and expenses of attorneys, accountants, and other professionals incurred in connection with the suit or proceeding, including costs, fees and expenses upon appeal, separately from and in addition to any other amount included in such judgment. This provision is intended to be severable from the other provisions of the SOW, and will survive expiration or termination and may not be merged into any such judgment.
- 21. Third Party Rights.** If the SOW is with any Cisco entity listed in Section 13.1 such that the laws of England apply, then no person who is not a party to the SOW shall be entitled to enforce or take the benefit of any of its terms under the Contracts (Rights of Third Parties) Act of 1999.
- 22. Survival.** Sections 5 (Payment and Invoicing), 6 (Termination), 7 (Confidentiality), 8 (Warranty), 9 (Limitation of Liability and Consequential Damages Waiver), 10 (License), 11 (Ownership), 12 (Force Majeure), 13 (Applicable Law and Jurisdiction), 14 (Export Control), 16 (Notices), 17 (Entire Agreement), 18 (No Waiver), 19 (Severability), 20 (Attorneys' Fees), 21 (Third Party Rights), 22 (Survival), and the Exhibit A (Defined Terms) survive the termination or expiration of the SOW.

## Exhibit A Defined Terms

The following defined terms are in addition to the Glossary located in Appendix B of the How Cisco Provides Services document located at [https://www.cisco.com/c/dam/en\\_us/about/doing\\_business/legal/service\\_descriptions/docs/how-cisco-provides-services.pdf](https://www.cisco.com/c/dam/en_us/about/doing_business/legal/service_descriptions/docs/how-cisco-provides-services.pdf). To the extent there is a conflict between the terms of the Agreement and the Glossary, then this Agreement takes precedence.

Defined term	Meaning
<b>Affiliate</b>	with respect to a party, means any corporation, firm, partnership, limited liability company or other entity, whether <i>de jure</i> or <i>de facto</i> , that directly or indirectly owns, is owned by, or is under common ownership with such party to the extent of at least fifty percent (50%) of the equity having the power to vote on or direct the affairs of such party, and any person, firm, partnership, corporation, limited liability company or other entity actually controlled by, controlling, or under common control with such party.
<b>Cisco Intellectual Property</b>	means the Services, Products, Deliverables, Data Collection Tools, Reports, Scripts, sketches, diagrams, text, know-how, concepts, proofs of concepts, artwork, software, algorithms, methods, processes, identifier codes or other technology provided or developed by Cisco (or a third party acting on Cisco's behalf) pursuant to the SOW, including modifications, enhancements, improvements or derivative works of any of the foregoing, regardless of who first conceives or reduces to practice, and all Intellectual Property in any of the foregoing.
<b>Pre-Existing Technology</b>	means pre-existing Intellectual Property, Confidential Information and materials, including, without limitation, proprietary ideas, sketches, diagrams, text, know-how, concepts, proofs of concepts, artwork, software, algorithms, methods, processes, identifier codes or other technology that are owned by a party prior to commencement of any Services hereunder, or that are otherwise developed by or for such party outside the scope of the SOW.