

**DATA COMMUNICATION PRODUCTS &
SERVICES (2019-2026)**

Led by the State of Utah

Master Agreement #: AR3227

Participating Addendum # AR3227

Contractor: **CISCO SYSTEMS, INC.**

Participating Entity: **STATE OF UTAH**

The following products or services are included in this contract portfolio:

All products and services listed on the Contractor page of the NASPO ValuePoint website and Contractor's contract website.

Master Agreement Terms and Conditions:

1. **Scope:** This Addendum covers the *Data Communication Products and Services* procurement led by the State of Utah for use by state agencies and other entities located in the Participating State or State Entity authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official.
2. **Pricing:** Prices and rates from the NASPO ValuePoint Master Agreement AR3227 ("Master Agreement") shall flow down to this PA. An amendment to this PA is not required when pricing in the Master Agreement is adjusted / updated.
3. **Contract Effective Dates:** This PA is effective upon final signature of both parties, and expires upon the expiration or termination of the NASPO ValuePoint Master Agreement AR3227. A contract amendment is not necessary to extend or renew this PA in the event of the renewal or extension of the Master Agreement, so long as such renewal/extension was originally provided within the solicitation supporting the master agreement.
4. **Order of Precedence:** The order of precedence as provided in the NASPO ValuePoint Master Agreement AR3227 Attachment A section 1 applies to this PA.
5. **Participation:** All state agencies, political subdivisions (cities, counties, municipalities, local governments), special districts or precincts, public educational entities (i.e. K-12 schools and Higher Education institutions) and other entities authorized to use statewide contracts in the State of Utah, including any nonprofit agency certified under the provisions of section 501(c) of the federal Internal Revenue Code, are eligible purchasers and are authorized to purchase Contractor's products and services under the terms of this Participating Addendum. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.
6. **Primary Contacts:** The primary contact individuals for this Participating Addendum are as follows (or their named successors):



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Contractor

Name:	Gigi Feril
Address:	170 W. Tasman Drive, San Jose, CA 95134
Telephone:	408-424-0712
Fax:	408-608-1729
Email:	nvp-help@cisco.com

Participating Entity

Name:	Solomon Kingston
Address:	PO Box 141061, Salt Lake City, UT 84114-1061
Telephone:	801-957-7142
Email:	skingston@utah.gov

7. Participating Entity Modifications or Additions to The Master Agreement

The following terms and conditions will apply to this participating addendum.

1. DEFINITIONS:

- a. "Access to Secure State Facilities, Data, and Technology" means Contractor will (A) enter upon secure premises controlled, held, leased, or occupied by the State of Utah or an Eligible User; or (B) have access to or receive any State Data or Confidential Information during the course of performing this Contract.
- b. "Authorized Persons" means the Contractor's employees, officers, partners, Subcontractors or other agents of Contractor who need to access State Data to enable the Contractor to perform its responsibilities under this Contract.
- c. "Confidential Information" means information that is deemed as confidential under applicable record laws. The State of Utah and the Eligible Users reserves the right to identify, during and after this Contract, additional information that must be kept confidential under federal and state laws by Contractor.
- d. "Contract" means this State of Utah PA, including the referenced NASPO ValuePoint Master Agreement AR3227, and all referenced attachments and documents incorporated by reference. This Contract may include any purchase orders that result from the parties entering into this Contract.
- e. "Contractor" is as defined in the NASPO ValuePoint Master Agreement AR3227 Attachment A section 2.
- f. "Custom Deliverable" means the Work Product that Contractor that specifically develops for a specified Eligible User, as specifically identified as such in a signed statement of work or other signed writing, and that Contractor is required to deliver to Eligible Users under this Contract.
- g. "Data Breach" is as defined in the NASPO ValuePoint Master Agreement AR3227 Attachment A section 2.
- h. "Division" means the State of Utah Division of Purchasing.
- i. "DTS" means the Department of Technology Services.
- j. "Eligible User(s)" means those entities identified above in section 5 Participation.

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- k. "Federal Criminal Background Check" means an in depth background check conducted and processed by the FBI that covers all states. Federal Criminal Background Check reports will show if applicant has had any criminal cases filed against them that violated federal criminal law.
- l. "Good" means any hardware or software, including cloud-based software-as-a-service, not classified as a Custom Deliverable or Service that Contractor is required to deliver to the Eligible Users under this Contract.
- m. "Non-Public Data" means data, other than personal data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by the State of Utah and the federal government because it contains information that is exempt by state, federal and local statutes, ordinances, or administrative rules from access by the general public as public information.
- n. "Personal Data" is as defined in the NASPO ValuePoint Master Agreement AR3227 Attachment A section 2.
- o. "Proposal" means Contractor's response documents, including attachments, to the NASPO ValuePoint Data Communications Products and Services solicitation.
- p. "Protected Health Information" (PHI) means individually identifiable health information transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium. PHI excludes education records covered by the Family Educational Rights and Privacy Act (FERPA), as amended, 20 U.S.C. 1232g, records described at 20 U.S.C. 1232g(a)(4)(B)(iv) and employment records held by a covered entity in its role as employer.
- q. "Security Incident" is as defined in the NASPO ValuePoint Master Agreement AR3227 Attachment A section 2.
- r. "Services" means the furnishing of labor, time, or effort by Contractor as set forth in this Contract, including but not limited to installation, configuration, implementation, technical support, warranty maintenance, and other support services.
- s. "Solicitation" is as defined in the NASPO ValuePoint Master Agreement AR3227 Attachment A section 2.
- t. "State Data" means all Confidential Information, Non-Public Data, Personal Data, and Protected Health Information that is created by or in any way originating with the State of Utah or an Eligible User whether such data or output is stored on the State of Utah's or an Eligible User's hardware, Contractor's hardware, or exists in any system owned, maintained or otherwise controlled by the State of Utah, an Eligible User, or by Contractor. State Data includes any federal data, that the State of Utah or an Eligible User controls or maintains, that is protected under federal laws, statutes, and regulations. State Data does not include Administrative Data, Telemetry Data and Statistical Data (as those terms are defined in NASPO ValuePoint Master Agreement AR3227 Attachment A section 2). Data which may include State Data that personnel from State of Utah or an Eligible User provides to Contractor as part of a troubleshooting or technical support request initiated by such personnel, to permit or assist Contractor in providing the requested troubleshooting or technical support for Contractor's products and services, may be stored for purposes relating to such troubleshooting and technical support, as well as the record of the actions taken by Contractor as part of the troubleshooting or technical support
- u. "State of Utah" means the State of Utah, in its entirety, including its institutions, agencies, departments, divisions, authorities, instrumentalities, boards, commissions, elected or appointed officers, employees, agents, and authorized volunteers.
- v. "Work Product" means every invention, modification, discovery, design, development, customization, configuration, improvement, process, software program, work of authorship, documentation, formula, datum, technique, know how, secret, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registerable under copyright or similar statutes or subject to analogous protection) that is specifically made, conceived, discovered, or reduced to practice by Contractor or Contractor's Subcontractors (either alone or with others) for a specific Eligible User pursuant to this Contract; and which Work Product is specifically described and identified as such in a signed statement of work or other signed writing between Contractor and the Eligible User. Such Work Product shall be considered a work made for hire under federal, state, and local laws; and all interest and title shall be transferred to and owned by the

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ordering Eligible User. Notwithstanding anything in the immediately preceding sentence to the contrary, Work Product does not include any Eligible User intellectual property, Contractor's intellectual property (that it owned or licensed prior to this Contract) or Third Party intellectual property.

2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** This Contract shall be governed by the laws, rules, and regulations of the State of Utah. Any action or proceeding arising from this Contract shall be brought in a court of competent jurisdiction in the State of Utah. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** At all times during this Contract, Contractor and all the Goods delivered under this Contract will comply with all applicable federal and state constitutions, laws, rules, codes, orders, and regulations, including applicable licensure and certification requirements.
4. **NO WAIVER OF SOVEREIGN IMMUNITY:** In no event shall this Contract be considered a waiver by the Division, an Eligible User, or the State of Utah of any form of defense or immunity, whether sovereign immunity, governmental immunity, or any other 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.
5. **RECORDS ADMINISTRATION:** Contractor shall maintain or supervise the maintenance of all records necessary to properly account for Contractor's performance and the payments made by Eligible Users to Contractor under this Contract. These records shall be retained by Contractor for at least six (6) years after final payment, or until all audits initiated within the six (6) years have been completed, whichever is later. Contractor agrees to allow, at no additional cost, State of Utah auditors, federal auditors, Eligible Users or any firm identified by the Division, access to all such records. Such access will be upon reasonable notice and during normal business hours, and subject to reasonable confidentiality protections. Contractor must refund to the Division any overcharges brought to Contractor's attention by the Division or the Division's auditor and but Contractor is permitted to offset identified overcharges by identified undercharges to Eligible Users.
6. **CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** This Status Verification System, also referred to as "E-verify", requirement only applies to contracts issued through a Request for Proposal process and to sole sources that are included within a Request for Proposal.
 - (1) Contractor certifies as to its own entity, under penalty of perjury, that Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of Contractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws including Section 63G-12-302, Utah Code, as amended.
 - (2) Contractor shall ensure that subcontractors providing personnel to work under this contract also verify the work eligibility status of their new employees that are employed in the State of Utah in accordance with subsection (1) above.
7. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made to the Division.
8. **CONFLICT OF INTEREST WITH STATE EMPLOYEES:** Contractor agrees to comply and cooperate in good faith will all conflict of interest and ethic laws including Section 63G-6a-2404, Utah Procurement Code, as amended.
9. **INDEPENDENT CONTRACTOR:** Contractor's legal status is that of an independent contractor, and in no manner shall Contractor be deemed an employee or agent of the Division, the Eligible Users, or the State of Utah, and therefore is not entitled to any of the benefits associated with such employment. Contractor, as an independent contractor, shall have no authorization, express or implied, to bind the Division, the Eligible Users, or the State of Utah to any agreements, settlements, liabilities, or understandings whatsoever, and agrees not to perform any acts as an agent for the Division, the Eligible Users, or the State of Utah. Contractor shall remain responsible for all applicable federal, state, and local taxes, and all FICA contributions for Contractor's employees.
10. **CONTRACTOR ACCESS TO SECURE STATE FACILITIES, STATE DATA, OR TECHNOLOGY:** An employee of Contractor or a Subcontractor may be required to complete a Federal Criminal Background Check, if said employee of Contractor or a Subcontractor will have Access to Secure State Facilities. The individual employee of Contractor shall provide the Eligible User's chosen background check vendor with sufficient personal information

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so that a Federal Criminal Background Check may be completed by the Eligible User's chosen background check vendor, in accordance with applicable law, at the Eligible User's expense, and after the individual Contractor employee consents. Contractor shall be responsible for obtaining the individual employee consent. Additionally, each employee of Contractor or a Subcontractor, who will have Access to Secure State Facilities will be scheduled by the Eligible User's chosen background check vendor to be fingerprinted, at a minimum of one week prior to having such access. The Eligible User, only through its chosen background check vendor, is authorized to conduct a Federal Criminal Background Check based upon the fingerprints and personal information provided. The Eligible User, only through its chosen background check vendor, may use this same information to complete a Name Check in the Utah Criminal Justice Information System (UCJIS) every two years and reserves the right to revoke Access to Secure State Facilities in the event of any negative results. Contractor, in executing any duty or exercising any right under this Contract, shall not cause or permit any of its employees or employees of a Subcontractor (if any) to be assigned to perform services at the Secure State Facilities if they have had Access to Secure State Facilities revoked or denied as contemplated above. In lieu of a Federal Criminal Background Check for access to Secure State Facilities, the State of Utah or Eligible Users may escort Contractor employees, at the State or Eligible User's discretion.

11. **DRUG-FREE WORKPLACE:** Contractor agrees to abide by the Eligible User's drug-free workplace policies while on the Eligible User's or the State of Utah's premises.
12. **CODE OF CONDUCT:** If Contractor is working at facilities controlled or owned by the State of Utah, Contractor agrees to follow and enforce the applicable code of conduct which will be provided upon request by Contractor to the Eligible User. Contractor will assure that each employee or each employee of Subcontractor(s) under Contractor's supervision receives a copy of such code of conduct.
13. **INDEMNITY CLAUSE:** Indemnity shall be as outlined in the NASPO ValuePoint Master Agreement AR3227 Attachment A section 40.
14. **EMPLOYMENT PRACTICES:** Contractor agrees to abide by the following employment laws: (i) Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; (ii) Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; (iii) 45 CFR 90 which prohibits discrimination on the basis of age; (iv) Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities; and (v) Utah's Executive Order 2019-1, dated February 5, 2019, which prohibits unlawful harassment in the work place. Contractor further agrees to abide by any other applicable laws, regulations, or binding orders that prohibit the discrimination of any kind of any of Contractor's employees.
15. **SEVERABILITY:** A declaration or order by any court that any provision of this Contract is illegal and void shall not affect the legality and enforceability of any other provision of this Contract, unless the provisions are mutually dependent.
16. **AMENDMENTS:** This Contract may only be amended by the mutual written agreement of the parties, which amendment will be attached to this Contract. Subject to section 3 Contract Effective Dates, automatic renewals will not apply to this Contract.
17. **DEBARMENT:** Contractor certifies that it is not presently nor has ever been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract, by any governmental department or agency, whether international, national, state, or local. Contractor must notify the Division within thirty (30) days if debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any contract by any governmental entity during this Contract.
18. **TERMINATION:** Termination is as outlined in the NASPO ValuePoint Master Agreement AR3227 Attachment A section 35.
19. **SUSPENSION OF WORK:** Should circumstances arise which would cause the Division to suspend Contractor's responsibilities under this Contract, but not terminate this Contract, this will be done by formal written notice pursuant to the terms of this Contract. Contractor's responsibilities may be reinstated upon advance formal written notice from the Division. Suspension of work as set forth herein shall only be for the same events giving rise to a termination for cause. The Eligible User will pay Contractor for all Goods and Services and Custom Deliverables

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delivered before through the date of work suspension.

- 20. NONAPPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW:** Upon thirty (30) days written notice delivered to the Contractor, this Contract may be terminated in whole or in part at the sole discretion of the Division or an Eligible User, if it is reasonably determined that: (i) a change in Federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of this Contract; or (ii) that a change in available funds affects an Eligible User's ability to pay under this Contract. A change of available funds as used in this paragraph, includes, but is not limited to, a change in Federal or State funding available to meet the Eligible User's payment commitments, whether as a result of a legislative act or by order of the President or the Governor.

If a written notice is delivered under this section, the Eligible User will reimburse Contractor for the Goods or Services or Customer Deliverables properly ordered until the effective date of said notice. The Eligible User will not be liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of said written notice.

- 21. SALES TAX EXEMPTION:** The Goods, Custom Deliverables, or Services being purchased by the Eligible Users under this Contract are being paid from the Eligible User's funds and used in the exercise of the Eligible User's essential function as an Eligible User. The Eligible User will provide Contractor with a copy of its sales tax exemption number upon request. It is the Contractor's responsibility to request the sales tax exemption number from the Eligible User.
- 22. TITLE AND OWNERSHIP WARRANTY:** Contractor conveys full ownership, clear title free of all liens and encumbrances to any hardware delivered to the Eligible Users under this Contract.
- 23. HARDWARE WARRANTY:** Hardware warranty shall be as outlined in the NASPO ValuePoint Master Agreement AR3227 Attachment A section 18.
- 24. SOFTWARE WARRANTY:** Software warranty shall be as outlined in the NASPO ValuePoint Master Agreement AR3227 Attachment A section 18.
- 25. WARRANTY REMEDIES:** Warranty remedies shall be as outlined in the NASPO ValuePoint Master Agreement AR3227 Attachment A section 18.
- 27. BUG FIXING AND REMOTE DIAGNOSTICS:** If an Eligible User has a support and maintenance services entitlement that covers reported software problems, Contractor will perform the services in accordance with the applicable warranty set forth in the NASPO ValuePoint Master Agreement AR3227 Attachment A section 18. With an Eligible User's prior authorization, Contractor may perform remote diagnostics to work on reported problems, subject to Contractor's obligation of this Contract. In the event that an Eligible User declines remote diagnostics, Contractor and the Eligible User may agree to on-site technical support, subject to the terms of this Contract and the End Users entitlements to support and maintenance.
- 28. TECHNICAL SUPPORT AND MAINTENANCE:** If technical support and maintenance is a part of the Goods or Custom Deliverables that Contractor provides under this Contract, Contractor will perform the services in accordance with the applicable warranty set forth in the NASPO ValuePoint Master Agreement AR3227 Attachment A section 18 when technical support or maintenance requests regarding the Goods or Custom Deliverables are made to Contractor.
- 29. SECURE PROTECTION AND HANDLING OF STATE DATA:** If Contractor is given State Data as part of this Contract, Contractor shall ensure that there is no inappropriate or unauthorized use of State Data by Contractor. To the extent that Contractor is given State Data, Contractor shall safeguard the confidentiality, integrity and availability of the State Data and comply with the following conditions outlined below. Eligible Users reserve the right to verify Contractor's adherence to the following conditions to ensure they are met during the life of the contract:
- 1. Network Security:** Contractor agrees at all times to maintain network security that - at a minimum - includes: network firewall provisioning, intrusion detection, and regular penetration testing. Contractor also agrees to maintain network security that conforms or aligns to one of the following:

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(1) Those standards the State of Utah applies to its own network, found outlined in *DTS Policy 5000-0002 Enterprise Information Security Policy* (copy available upon request);

(2) Current standards set forth and maintained by the National Institute of Standards and Technology, includes those at: <http://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-53r4.pdf>;

(3) Any comparable standard that Contractor then applies to its own network; or

(4) ISO/IEC/27001 Information Security Management Systems (ISMS) requirements.

2. **State Data Security:** Contractor agrees to protect and maintain the security of State Data with protection that conforms or aligns to one of the following: (1) Those standards the State of Utah applies to its own network, found outlined in *DTS Policy 5000-0002 Enterprise Information Security Policy* (copy available upon request); (2) Current standards set forth and maintained by the National Institute of Standards and Technology, includes those at: <http://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-53r4.pdf>; (3) Any comparable standard that Contractor then applies to its own network; or (4) ISO/IEC/27001 Information Security Management Systems (ISMS) requirements. The security measures implemented by Contractor shall include but are not limited to maintaining secure environments that are patched and up to date with all appropriate security updates as designated (ex. Microsoft Notification). Eligible User reserves the right to determine if Contractor's level of protection adequately meets the Eligible User's security requirements prior to making purchases under this Agreement.

3. **Public Data Transmission:** Contractor agrees that any and all transmission or exchange of system application data with the Eligible Users and State of Utah and/or any other parties expressly designated by the State of Utah, shall take place via secure means (ex. HTTPS or FTPS).

4. **State Data Storage:** Contractor may provide technical user support on a 24/7 basis using a "Follow the Sun" model, unless otherwise prohibited by this contract, including remote technical user support from locations outside the United States. If the Contractor's product, service, or offering can be configured to utilize United States data centers only as the designated data storage facilities for such product, service, or offering, Contractor shall only store State Data in such data centers. Contractor will provide purchasers with information to enable the purchaser to select the Contractor products, services, or offerings that are able to store and maintain data only in data centers in the United States. Contractor agrees that no State Data will be processed on or transferred to any portable or laptop computing device or any portable storage medium, except for devices that are FIPS 140-2 compliant that encrypt such data and/or are registered in Contractor's mobile device management (MDM) program.

5. **State Data Encryption:** Contractor agrees to store all State Data provided to Contractor in encrypted form, using no less than 128 bit key, or in highly secure data center facilities, including all State Data backups as part of a designated backup and recovery process.

6. **Password Protection:** Contractor agrees that any portable or laptop computer that has access to the Eligible Users or State of Utah networks, or stores any State Data is equipped with strong and secure password protection.

7. **State Data Re-Use:** Contractor agrees that any State Data exchanged shall be used expressly and solely as set forth in this Contract and the applicable service or offer description applicable to the Cisco product, service, or offering. Contractor further agrees that no State Data of any kind shall be transmitted, exchanged, or otherwise passed to other contractors or interested parties except as necessary for the for the delivery of the services or offering.

8. **State Data Destruction:** The Contractor agrees that upon written request at expiration or termination of this Contract it shall erase, destroy, or render unreadable all State Data from all non-state computer systems and backups, and upon written request certify in writing that these actions have been completed within thirty (30) days of the request of the Eligible User,. It is understood by the parties that the Eligible User's written directive may request that certain data be preserved in accordance with applicable law.

9. **Performance of Services Within United States:** Contractor shall make available for review by Eligible Users information to enable Eligible Users to select Services that process State Data that will be performed by Contractor and Subcontractor(s) within the borders and jurisdiction of the United States.

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30. SECURITY INCIDENT OR DATA BREACH NOTIFICATION: Contractor shall immediately (not to exceed 48 hours) inform an Eligible User of any Security Incident or Data Breach.

1. **Incident Response:** Contractor may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement and seeking external expertise. Discussing Security Incidents with the Eligible User should be handled on an urgent as-needed basis, as part of Contractor's communication and mitigation processes, defined by law or contained in this Contract.

2. **Security Incident Reporting Requirements:** Contractor shall report a Security Incident to the Eligible User immediately, not to exceed 48 hours, of confirmation if Contractor reasonably believes there has been a Security Incident.

3. **Breach Reporting Requirements:** If Contractor has actual knowledge of a confirmed Data Breach that affects the security of any State Data that is subject to applicable data breach notification law, Contractor shall: (a) promptly notify the Eligible User within 48 hours or sooner, unless shorter time is required by applicable law; (b) take commercially reasonable measures to address the Data Breach in a timely manner; and (c) be responsible for its Data Breach responsibilities, as provided in the next Section.

31. DATA BREACH RESPONSIBILITIES: This Section only applies when a Data Breach occurs. Contractor agrees to comply with all applicable laws that require the notification of individuals in the event of a Data Breach or Security Incidents as defined in Section 1. In the event of a Data Breach or other event requiring notification under applicable law (Utah Code § 13-44-101 thru 301 et al), Contractor shall: (a) cooperate with the Eligible User by sharing information relevant to the Data Breach; (b) promptly implement necessary remedial measures, if necessary; and (c) document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in relation to the Data Breach. If the Data Breach requires public notification, all communication that references a specific Eligible User shall be coordinated with the Eligible User. To the extent Contractor is at fault for the Data Breach, shall be responsible for the actual and reasonable costs of notifying the affected individuals as required under the applicable law (including Utah Code§ 13-44-101 thru 301 et al).

32. STATE INFORMATION TECHNOLOGY POLICIES: Intentionally Omitted.

33. PUBLIC INFORMATION: Contractor agrees that this Contract, any related purchase orders, related invoices, related pricing lists will be public documents, and may be available for distribution in accordance with the State of Utah's Government Records Access and Management Act (GRAMA). Contractor gives the Division, the Eligible Users, and the State of Utah express permission to make copies of this Contract, any related purchase orders, related invoices, related pricing lists in accordance with GRAMA. Except for portions identified in writing in Contractors claim of business confidentiality forms, Contractor also agrees that Contractor's Proposal and other responses to the solicitation are public documents and may be released in accordance with GRAMA. The Division, the Eligible Users, or the State of Utah will not inform Contractor of any request for a copy of this Contract, including any related purchase orders, related invoices, related pricing lists, or the Proposal (excepting portions identified in the claim of business confidentiality form).

34. DELIVERY: Delivery shall be as outlined in the NASPO ValuePoint Master Agreement AR3227 Attachment A section 14.

35. ELECTRONIC DELIVERY: Contractor may electronically deliver any Good or Custom Deliverable to Eligible Users or provide any Good and Custom Deliverable for download from the Internet. Contractor should take all reasonable and necessary steps to ensure that the confidentiality of those electronic deliveries is preserved in the electronic delivery process, and are reminded that failure to do so may constitute a breach of obligations owed to the Eligible Users under this Contract. Contractor will take reasonable efforts to ensure that all electronic deliveries will be free of known, within reasonable industry standards, malware, bugs, Trojan horses, etc. Any electronic delivery that includes State Data that Contractor processes or stores must be delivered within the specifications of this Contract.

36. ACCEPTANCE PERIOD: The acceptance period shall be as outlined in the NASPO ValuePoint Master Agreement AR3227 Attachment A section 16.

37. ORDERING AND INVOICING: Ordering and invoicing shall be as outlined in the NASPO ValuePoint Master Agreement AR3227 Attachment A section 13.

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38. PROMPT PAYMENT DISCOUNT: Contractor may, at its discretion, quote a prompt payment discount based upon early payment. Contractor shall list such payment discount terms on invoices. The prompt payment discount will apply to payments made with purchasing cards and checks. The date from which discount time is calculated will be the date a correct invoice is received.

39. PAYMENT:

1. Payments will be made within thirty (30) days from the date a correct invoice is received. After sixty (60) days from the date a correct invoice is received by the appropriate State official, the Contractor may assess interest on overdue, undisputed account charges up to a maximum of the interest rate paid by the IRS on taxpayer refund claims, plus two percent, computed similarly as the requirements of Section 15-6-3, Utah Prompt Payment Act of Utah Code, as amended. The IRS interest rate is adjusted quarterly, and is applied on a per annum basis, on the invoice amount that is overdue.

2. Unless otherwise stated in this Contract, all payments to Contractor will be remitted by mail, by electronic funds transfer, or by the Eligible User's purchasing card (major credit card). The Division will not allow Contractor to charge electronic payment fees of any kind.

3. Contractor agrees that if during, or subsequent to the Contract an audit determines that payments were incorrectly reported or paid by the Eligible Users to Contractor, then Contractor shall, upon written request, immediately refund to the Eligible Users any such overpayments.

40. INDEMNIFICATION – INTELLECTUAL PROPERTY: Contractor will defend and indemnify Eligible Users from claims of intellectual property infringement as set forth in NASPO ValuePoint Master Agreement AR3227 Attachment A section 40(b).

41. OWNERSHIP IN INTELLECTUAL PROPERTY: The parties each recognize that each has no right, title, or interest, proprietary or otherwise, in or to the name or any logo, or intellectual property owned or licensed by the other. Each agree that, without prior written consent of the other or as described in this Contract, it shall not use the name, any logo, or intellectual property owned or licensed by the other.

42. OWNERSHIP IN CUSTOM DELIVERABLES: In the event that Contractor provides Custom Deliverables to the Eligible Users, pursuant to this Contract and as such Customer Deliverables are specifically described and identified in a signed statement of work or other signed writing, Contractor grants the ownership in Custom Deliverables, which have been developed and delivered by Contractor exclusively for Eligible Users and are specifically within the framework of fulfilling Contractor's contractual obligations under this contract. Custom Deliverables shall be deemed work made for hire, such that all intellectual property rights, title and interest in the Custom Deliverables shall pass to the Eligible Users, to the extent that the Custom Deliverables are not recognized as work made for hire, Contractor hereby assigns to the Eligible Users any and all copyrights in and to the Custom Deliverables, subject to the following:

1. Contractor has received payment for the Custom Deliverables,

2. Each party will retain all rights to patents, utility models, mask works, copyrights, trademarks, trade secrets, and any other form of protection afforded by law to inventions, models, designs, technical information, and applications ("Intellectual Property Rights") that it owned or controlled prior to the effective date of this contract or that it develops or acquires from activities independent of the services performed under this contract ("Background IP"), and

3. Contractor will retain all right, title, and interest in and to all Intellectual Property Rights in or related to the Goods, Services, and other services, or tangible components thereof, including but not limited to (a) all know-how, intellectual property, methodologies, processes, technologies, algorithms, software, or development tools used in performing the Services or developing Goods (collectively, the "Utilities"), and (b) such ideas, concepts, know-how, processes and reusable reports, designs, charts, plans, specifications, documentation, forms, templates, or output which are supplied or otherwise used by or on behalf of Contractor in the course of performing the Services, developing Goods, or creating the Custom Deliverables, other than portions that specifically incorporate proprietary or Confidential Information or Custom Deliverables of Eligible Users (collectively, the "Residual IP"), even if embedded in the Custom Deliverables.

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4. Custom Deliverables, not including Contractor's Intellectual Property Rights, Background IP, and Residual IP, may not be marketed or distributed without written approval by the Eligible Users.

Contractor agrees to grant to the Eligible Users a royalty-free license to use Contractor's Background IP, Utilities, and Residual IP, as defined above, solely for the Eligible Users and the State of Utah to use the Custom Deliverables for the time period agreed to for the Customer Deliverables. The Eligible Users reserves a royalty-free, nonexclusive, license to reproduce, publish, or otherwise use and to authorize others to use, for the Eligible User's internal purposes, such Custom Deliverables. The Eligible User and the Division may not participate in the transfer or sale of, create derivative works from, or in any way exploit Contractor's Intellectual Property Rights, in whole or in part.

- 43. OWNERSHIP, PROTECTION AND USE OF RECORDS:** Except for confidential medical records held by direct care providers, the Eligible Users shall own exclusive title to all information gathered, reports developed, and conclusions reached in performance of this Contract. Contractor may not use, except in meeting its obligations under this Contract or to improve its products or services or develop new products or services, information gathered, reports developed, or conclusions reached in performance of this Contract without the express written consent of the Eligible User. Contractor agrees to maintain the confidentiality of records it holds for the Eligible Users as required by applicable federal, state, or local laws. Eligible Users shall own and retain unlimited rights to use, disclose, or duplicate all information and data (copyrighted or otherwise) developed, derived, documented, stored, or furnished by Contractor under this Contract. Except as provided herein, Contractor, and any Subcontractors under its control, expressly agrees not to use an Eligible User's confidential data without prior written permission from Eligible User.
- 44. PROTECTION, AND USE OF CONFIDENTIAL FEDERAL, STATE, OR LOCAL GOVERNMENT INTERNAL BUSINESS PROCESSES AND PROCEDURES:** In the event that the Eligible User provides Contractor with confidential federal or state business processes, policies, procedures, or practices, pursuant to this Contract, Contractor agrees to hold such information in confidence in accordance with the provisions set forth in NASPO ValuePoint Master Agreement AR3227 Attachment A section 30. The improper use or disclosure by any party of protected internal federal or state business processes, policies, procedures, or practices is prohibited. Confidential federal or state business processes, policies, procedures, or practices shall not be divulged by Contractor or its Subcontractors, except for the performance of this Contract, unless prior written consent has been obtained in advance from the Eligible User.
- 45. PROTECTION, AND RETURN OF DOCUMENTS AND DATA UPON CONTRACT TERMINATION OR COMPLETION:** All State Data pertaining to work required by this Contract will be the property of the Eligible Users, and upon written request, must be delivered to the Eligible Users within thirty (30) working days after termination or expiration of this Contract, regardless of the reason for contract termination, and without restriction or limitation to their future use. The costs for returning documents and data to the Eligible Users are included in this Contract.
- 46. CONFIDENTIALITY:** Confidentiality shall be as outlined in the NASPO ValuePoint Master Agreement AR3227 Attachment A section 30. Contractor shall be responsible for any breach of this duty of confidentiality contract by any of their officers, agents, subcontractors at any tier, and any of their respective representatives, including any required remedies and/or notifications under applicable law (Utah Code Section 13-44-101 thru 301 et al). This duty of confidentiality shall be ongoing and survive the term of this Contract.
- 47. ASSIGNMENT/SUBCONTRACT:** Assignment and subcontracting shall be as outlined in the NASPO ValuePoint Master Agreement AR3227 Attachment A section 32.
- 48. DEFAULT AND REMEDIES:** Incidences of defaults and remedies shall be as provided in in the NASPO ValuePoint Master Agreement AR3227 Attachment A section 37.
- 49. TERMINATION UPON DEFAULT:** Incidences of defaults and remedies shall be as provided in in the NASPO ValuePoint Master Agreement AR3227 Attachment A section 37.
- 50. FORCE MAJEURE:** Neither party to this Contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The Division and the Eligible Users may immediately terminate this Contract after determining such delay will reasonably prevent successful performance of this Contract.

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- 51. PROCUREMENT ETHICS:** Contractor understands that a person who is interested in any way in the sale of any supplies, services, products, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan, or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State of Utah, or who in any official capacity participates in the procurement of such supplies, services, products, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization.
- 52. CONTRACTOR'S INSURANCE RESPONSIBILITY.** Contractor's insurance responsibility shall be as outlined in the NASPO ValuePoint Master Agreement AR3227 Attachment A section 28
- 53. RESERVED**
- 54. CONFLICT OF TERMS:** Contractor terms and conditions that apply must be in writing and attached to this Contract. No other terms and conditions will apply to this Contract including terms listed or referenced on a Contractor's website, terms listed in a Contractor quotation/sales order, purchase orders, etc. In the event of any conflict in the contract terms and conditions, the order of precedence shall be as outlined in the NASPO ValuePoint Master Agreement AR3227 Attachment A section 1.
- 55. ENTIRE AGREEMENT:** This Contract shall constitute the entire agreement between the parties, and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written.
- 56. SURVIVORSHIP:** This paragraph defines the specific contractual provisions that will remain in effect after expiration of, the completion of, or termination of this Contract, for whatever reason: (a) Contract Jurisdiction, Choice of Law, and Venue; (b) Secure Protection and Handling of State Data; (c) Data Breach Responsibilities; (d) Ownership in Custom Deliverables; (e) Ownership, Protection, and Use of Records, including Residuals of such records; and (f) Ownership, Protection, and Use of Confidential Federal, State, or Local Government Internal Business Processes, including Residuals of such confidential business processes; (g) Ownership, Protection, and Return of Documents and Data Upon Contract Termination or Completion; (h) Confidentiality; (i) Conflict of Terms; and (j) any other terms that by their nature would survive the expiration of, completion, or termination of this contract.
- 57. WAIVER:** The waiver by either party of any provision, term, covenant, or condition of this Contract shall not be deemed to be a waiver of any other provision, term, covenant, or condition of this Contract nor any subsequent breach of the same or any other provision, term, covenant, or condition of this Contract.
- 58. CONTRACT INFORMATION:** During the duration of this Contract, the Division of Purchasing is required to make available contact information of Contractor to the State of Utah Department of Workforce Services. The State of Utah Department of Workforce Services may contact Contractor during the duration of this Contract to inquire about Contractor's job vacancies.
- 59. COMPLIANCE WITH ACCESSIBILITY STANDARDS:** Contractor shall comply with and adhere to Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973 For Custom Deliverables developed specifically for the State of Utah, Contractor must also adhere to Utah Administrative rule R895-14-1-3-3, which states that vendors developing new websites or applications are required to meet accessibility guidelines subject to rule R895 and correct any items that do not meet these guidelines at no cost to the agency; and Rule R895-14-1-4-2, which states that vendors proposing IT products and services shall provide Voluntary Product Accessibility Template® (VPAT™) documents.
- 60. RIGHT TO AUDIT:** Audit rights shall be as set forth in the NASPO ValuePoint Master Agreement AR3227 Attachment A section 29.
- 61. LARGE VOLUME DISCOUNT PRICING:** Eligible Users may seek to obtain additional volume discount pricing for large orders provided Contractor is willing to offer additional discounts for large volume orders. No amendment to this Contract is necessary for Contractor to offer discount pricing to an Eligible User for large volume purchases.
- 62. ELIGIBLE USER PARTICIPATION:** Participation under this Contract by Eligible Users is voluntarily determined by each Eligible User. Contractor agrees to supply each Eligible User with Goods based upon the same terms, conditions and prices of this Contract.



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63. **INDIVIDUAL CUSTOMERS:** Each Eligible User that purchases Goods from this Contract will be treated as if they were individual customers. Each Eligible User will be responsible to follow the terms and conditions of this Contract. Contractor agrees that each Eligible User will be responsible for their own charges, fees, and liabilities. Contractor shall apply the charges to each Eligible User individually. The Division is not responsible for any unpaid invoice.
64. **QUANTITY ESTIMATES:** The Division does not guarantee any purchase amount under this Contract. Estimated quantities are for Solicitation purposes only and are not to be construed as a guarantee.
65. **ORDERING:** Orders will be placed by the using Eligible User directly with Contractor or its authorized Fulfillment Partners. All orders will be shipped promptly in accordance with the terms of this Contract.
66. **REPORTS AND FEES:**
1. **Administrative Fee:** Contractor agrees to provide a quarterly administrative fee to the State in the form of a check, EFT or online payment through the Division's Automated Vendor Usage Management System. Checks will be payable to the "State of Utah Division of Purchasing" and will be sent to State of Utah, Division of Purchasing, 3150 State Office Building, Capitol Hill, PO Box 141061, Salt Lake City, UT 84114. The Administrative Fee will be one quarter of one percent (or 0.25%) and will apply to all purchases (net of any returns, credits, or adjustments) made under this Contract.
 2. **Quarterly Reports:** Contractor agrees to provide a quarterly utilization report, reflecting net sales to the State during the associated reporting period. The report will show the dollar volume of purchases by each Eligible User. The quarterly report will be provided in secure electronic format through the Division's Automated Vendor Usage Management System found at: <https://statecontracts.utah.gov/Vendor>.
 3. **Report Schedule:** Quarterly utilization reports shall be made in accordance with the following schedule:

<u>Period End</u>	<u>Reports Due</u>
March 31	April 30
June 30	July 31
September 30	October 31
December 31	January 31
 4. **Fee Payment:** After the Division receives the quarterly utilization report it will send Contractor an invoice for the total quarterly administrative fee owed to the Division. Contractor shall pay the quarterly administrative fee within thirty (30) days from receipt of invoice.
 5. **Timely Reports and Fees:** If the quarterly administrative fee is not paid by thirty (30) days of receipt of invoice or quarterly utilization reports are not received by the report due date, then Contractor will be in material breach of this Contract.

If Services are applicable to this Contract, the following terms and conditions apply to this Contract:

67. [RESERVED]

68. **PERFORMANCE EVALUATION:** The Division may conduct a performance evaluation of Contractor's Services, including Contractor's Subcontractors, if any. Results of any evaluation may be made available to the Contractor upon Contractor's request.

69. [RESERVED]

70. **STANDARD OF CARE:** The Services of Contractor and its Subcontractors shall be performed in accordance with the warranty set forth in in NASPO ValuePoint Master Agreement AR3227 Attachment A section 18(d).

71. **STATE REVIEWS, LIMITATIONS:** The Division reserves the right to perform plan checks, plan reviews, other reviews, and/or comment upon the Services of Contractor.

72. **TRAVEL COSTS:** The following will apply unless otherwise agreed to in the contract: All travel costs associated with the delivery of Services under this Contract will be paid according to the rules and per diem rates found in the Utah Administrative Code R25-7. Invoices containing travel costs outside of these rates will be returned to the Contractor for correction.



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8. **Lease Agreements and Alternative Financing Methods**: Contractor’s Master Agreement which allows for leasing under Section 45 is approved for use by the Participating State. The terms and conditions of the capital lease or financing arrangement will be separately negotiated and set forth in an agreement between the Eligible User and either Cisco Capital or its designated and/or approved financing partner.

9. **Subcontractors**: Contractor and Fulfillment Partners authorized in the State of Utah, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to Purchasing Entities under this Addendum to the NASPO ValuePoint Master Agreement. The Fulfillment Partners participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

Subject to approval of the Participating State, and at the sole discretion of Contractor, Contractor may add Fulfillment Partners at any time during the term of this Participating Addendum. Contractor may designate a minimum or maximum number of Fulfillment Partners to provide sales and services support . Contractor, in its sole discretion, is not required to add Fulfillment Partners. Notwithstanding the foregoing, Contractor may remove, at its sole discretion, upon ten (10) business days advance written notice, any Fulfillment Partner who does not meet Contractor’s established qualifying criteria, or where the addition of the Fulfillment Partner would violate any state or federal law or regulation.

10. **Orders**: The Master Agreement number and the Participating Addendum Number must appear on every Purchase Order placed under this Participating Addendum. Purchasers may place orders directly only through Contractor’s approved Fulfillment Partners or through Contractor (only on an as-needed basis) for products or services as authorized under this Participating Addendum. Only those Fulfillment Partners approved and listed during the term of Participating Addendum at Contractor’s website are authorized to directly provide quotes, receive purchase orders, invoice Customers, and receive payment from purchasers on Contractor’s behalf.

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

11. **Notices**: Notwithstanding anything contained in the Master Agreement to the contrary, all notices required or permitted under this Participating Addendum will be in writing and will be deemed given: (a) when delivered personally; (b) when sent by confirmed facsimile or electronic mail (in the case of Cisco to Agreement-notice@cisco.com); (c) three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or





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(d) one (1) day after deposit with a commercial express courier specifying next day delivery, with written verification of receipt. All communications will be sent to the addresses set forth Section 3 of this Participating Addendum (and notices to Cisco shall be further addressed to the Office of the General Counsel, Attn: Contract Notice) or such other address as may be designated by a party by giving written notice to the other party pursuant to this paragraph, or, in the absence of such an address from Customer, to the address to which the last invoice under this Participating Addendum was sent before notice is served.

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

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

Participating Entity: State of Utah Division of Purchasing & General Services	Contractor: Cisco Systems, Inc.
Signature: 	Signature: 
Name: Christopher Hughes	Name: Jenn Pate
Title: Chief Procurement Officer	Title: Authorized Signatory
Date: 10/23/2020	Date: October 19, 2020

APPROVED BY LEGAL

For questions on executing a participating addendum, please contact:

NASPO ValuePoint: info@naspovaluepoint.org