



PARTICIPATING ADDENDUM

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

Participating State:

Participating State Name	State of Wyoming
Office/Department Name:	Procurement Services
Primary Business Address:	Herschler Building, 2 nd Floor East, 122 West 25 th Street, Cheyenne, WY 82002
<i>Participating Addendum</i> State Contract ID #:	WSCA AR-233
Other (Group / Award) ID #:	

Contractor:

Contractor Name:	Cisco Systems Inc. ("Contractor" or "Cisco") 170 West Tasman Drive San Jose, California 95314
<i>Participating Addendum</i> Cisco Contract ID #:	# 67634 (No. of WSCA Master Agreement)

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

1. Authority & Scope

As an inducement to Cisco to enter into this agreement, the Participating State hereby warrants and represents to Cisco its legal authority to enter into this *Participating*

Addendum for the purposes and upon the terms set forth herein.

The State of Wyoming, acting through the Department of Administration and Information, General Services Division, Procurement Section is a member of the Western States Contracting Alliance and has legal authority to execute this Participating Addendum pursuant to Wyoming Statute 9-2-1016(b) (xiv).

State of Wyoming, various state agencies, departments, educational institutions, municipalities, schools, and any other political subdivisions thereof (“Purchaser”) may purchase Cisco Products available in the then current WSCA product offering, which reflects a discount off of retail prices. This agreement is not a purchase order, nor does it guarantee any purchases to be made by the State of Wyoming, various state agencies, departments, educational institutions, municipalities, schools, and any other political subdivision thereof.

2. State-Specific Constitutional & Statutory Requirements

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

3. Incorporation of WSCA Master Agreement

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

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

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

4. State-Specific Purchasing Guidelines

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

5. Cisco Fulfillment Partners

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

provisioning.

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

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

6. Ordering/Invoices

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

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

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

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

7. Cancellation of Orders

Provided that the Purchaser submits a written request to cancel a Purchase Order to the Fulfillment Partner at least 10 days prior to the original scheduled shipping date, and provided, in the case of custom Products, that Cisco has not yet begun manufacturing the custom Products, and except in cases where Products are purchased with implementation Services (including but not limited to design, customization or installation

services), then Cisco will reschedule or accept cancellation of the Purchaser's Purchase Order on an exception basis, with no cancellation charge. In all other cases where the Purchaser cancels a Purchase Order, a cancellation charge will apply in accordance with the WSCA Master Agreement, Attachment C, section 3.4.

8. Product & Services Offering

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

9. Primary Point of Contact

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

10. Term

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

11. Entire Agreement/Amendment

This *Agreement* constitutes the entire agreement between the parties concerning the subject matter of this *Agreement* and replaces any prior oral or written communications between the parties, all of which are excluded. There are no conditions, understandings, agreements, representations or warranties, expressed or implied, that are not specified herein. This *Agreement* may be modified only by a written document executed by the parties hereto.

12. Notices

Notwithstanding anything contained in the Agreement to the contrary, all notices required or permitted under this Agreement will be in writing and will be deemed given: (a) when delivered personally; (b) when sent by confirmed facsimile or electronic mail (in the case of Cisco to Agreement-notice@cisco.com), (provided that the original document is placed in air mail/air courier or delivered personally, within seven days of the facsimile electronic notice); (c) three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid (or six (6) days for international mail); or (d) one (1) day after deposit with a commercial express courier specifying next day

delivery (or two (2) days for international courier packages specifying 2-day delivery), with written verification of receipt. All communications will be sent to the addresses set forth on the cover sheet of this *Agreement* (and notices to Cisco shall be further addressed to the Office of the General Counsel, Attn: Contract Notice) or such other address as may be designated by a party by giving written notice to the other party pursuant to this paragraph, or, in the absence of such an address from Customer, to the address to which the last invoice under this *Agreement* was sent before notice is served.

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

13. Governing Law and Venue

This *Participating Addendum* and any dispute under the WSCA Master Agreement based upon a performance under this Participating Addendum, shall be governed by the laws of the State of Wyoming. Venue for any claim, dispute or action concerning an order placed against this Participating Addendum or the effect of this Participating Addendum shall be in the State of Wyoming.

14. Evaluation Equipment

On a case-by-case basis, Cisco agrees to provide demonstration or evaluation equipment to an individual subdivision or other authorized entity of the State, pursuant to a separate agreement, executed by that entity and Cisco, substantially in the form of the "Cisco Demo Loaner Agreement" or "Try and Buy Agreement" attached to the WSCA Master Agreement, Attachment C, Exhibit.

15. Third Party Beneficiary Rights

The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations obtained in this Agreement shall operate only between the parties to this Agreement (such parties being understood to include, as applicable, in the case of the State, the eligible Purchaser entities defined in Section 1, and, in the case of Cisco, its Fulfillment Partners as set forth in Section 5), and shall inure solely to the benefit of the parties to this Agreement. The provisions of this Agreement are intended only to assist the parties in determining and expressly agree that only parties signatory to this Agreement shall have any legal or equitable right to seek to enforce this Agreement, to seek any remedy arising out of a

party's performance or failure to perform any term or condition of this Agreement, or to bring an action for the breach of this Agreement.

16. Titles Not Controlling

Titles of sections or paragraphs are for reference only, and shall not be used to construe the language in this Agreement.

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

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

Cisco Systems, Inc.

STATE OF WYOMING

By: Ted Hull

By: [Signature]

Printed Name: Ted Hull

Printed Name: MAE LANDEY

Title: VP-CSP

Title: PROCUREMENT MANAGER

Date: 12/15/2008

Date: 12/15/08

APPROVED AS TO FORM:
Office of the Attorney General
BY: [Signature]
DATE: 11/19/08
#26840



Appendix A

1. Year 2000 Date Change Immunity.

In accordance with Wyo. Stat. § 1-39-121, the State of Wyoming and its agencies share immunity from any civil action arising from in whole or part from computational, operational or interpretive errors, malfunctions or failure generated by computer or information system hardware or software or any other such device controlled or operated by the State of Wyoming, its agencies or its employees arising from or in connection with the Year 2000 date change as defined by Wyo. Stat. § 1-39-103(a)(vii).

2. Payment and Interest

The payment terms set forth in the WSCA Master Agreement, including net-30 payment terms, shall apply to purchases under this Participating Addendum, except that any sum not paid by Purchaser when due shall bear interest on the unpaid balance at the rate set forth in Wyo. Stat. § 16-6-602 (one and one-half percent (1 1/2%) per month) from the forty-fifth (45th) day after the invoice date until the account is paid in full. The individual Purchaser entity, as defined in Section 1, is solely responsible for payment.

3. Sovereign Immunity

Except as noted herein, State does not waive sovereign immunity by entering into this Agreement, and specifically retains immunity and all defenses available to it as sovereign pursuant to Wyo. Stat. Sec. 1-39-104(a). Contractor (as defined in the WSCA Master Agreement, Sec. 1.2) and State retain the right to enforce their rights under this Agreement. State waives sovereign immunity in the event Contractor brings an action to exercise its rights of enforcement.

4. Prior approval

This Agreement shall not be binding upon either party, no services shall be performed under the terms of this Agreement, and the Wyoming State Auditor shall not draw warrants for payment on this Agreement, until this Agreement has been reduced to writing, approved as to form by the Office of the Attorney General, filed with and approved by the Department of Administration and Information, and approved by the Governor of the State of Wyoming if required by Wyo. Stat. § 9-2-1016(b)(iv)(D). The State agrees that all such approvals will be obtained before this Participating Addendum is signed on behalf of the State.



Appendix B

State -Specific Purchasing Guidelines

Not applicable.



Appendix C

WSCA Master Agreement Primary Points of Contact

State of Wyoming

Dean Jeffries, Senior Buyer
State/Political Entity: State of Wyoming
Address: Herschler Building,
2nd Floor east
122 West 25th Street
City, State,Zip: Cheyenne, WY 82002
Phone: (307) 777-6718
Fax: (307) 777-5852
Email: djeffr@state.wy.us

Cisco Systems, Inc.

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