



Contract #: AR3232

## STATE OF UTAH COOPERATIVE CONTRACT

1. CONTRACTING PARTIES: This contract is between the Utah Division of Purchasing and the following Contractor:

Juniper Networks (US), Inc.

Name

1133 Innovation

Street Address

Sunnyvale

California

94089

City

State

Zip

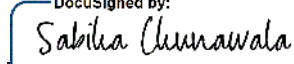
Vendor # VC0000182225 Commodity Code #: 920-05 Legal Status of Contractor: For-Profit Corporation

Contact Name: Roxanne Bieniek Phone Number: 978-589-0636 Email: rbieniek@juniper.net

2. CONTRACT PORTFOLIO NAME: Data Communications Products and Services.
3. GENERAL PURPOSE OF CONTRACT: Provide Data Communications Products and Services for the Award Categories provided in Attachment B – Scope of Work..
4. PROCUREMENT: This contract is entered into as a result of the procurement process on FY2018, Solicitation# SK18001
5. CONTRACT PERIOD: Effective Date: Tuesday, October 01, 2019. Termination Date: Monday, September 30, 2024 unless terminated early or extended in accordance with the terms and conditions of this contract. Renewal Options: Two (2) one year renewal options.
6. Administrative Fee (if any): Contractor shall pay to NASPO ValuePoint, or its assignee, a NASPO ValuePoint Administrative Fee of one-quarter of one percent (0.25% or 0.0025) of contract sales no later than 60 days following the end of each calendar quarter. The NASPO ValuePoint Administrative Fee shall be submitted quarterly and is based on sales of the Services
7. Prompt Payment Discount Details (if any): N/A.
8. ATTACHMENT A: NASPO ValuePoint Master Terms and Conditions  
 ATTACHMENT B: Scope Awarded to Contractor  
 ATTACHMENT C: Pricing Discounts and Value Added Services  
 ATTACHMENT D: Service Offering EULAs, SLAs
- Any conflicts between Attachment A and the other Attachments will be resolved in favor of Attachment A.**
9. DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:
- All other governmental laws, regulations, or actions applicable to the goods and/or services authorized by this contract.
  - Utah Procurement Code, Procurement Rules, and Contractor's response to solicitation # SK18001.
10. Each signatory below represents that he or she has the requisite authority to enter into this contract.

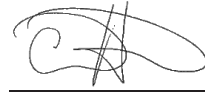
IN WITNESS WHEREOF, the parties sign and cause this contract to be executed. Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract shall be the date provided within Section 5 above.

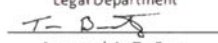
### CONTRACTOR

DocuSigned by:  
  
 4D96F32B90D348D...  
 Sabiha Chunawala  
 August 12, 2019  
 Date

Vice President & Deputy General Counsel  
 \_\_\_\_\_  
 Type or Print Name and Title

### DIVISION OF PURCHASING

  
 Director, Division of Purchasing  
 Aug 13, 2019  
 Date

Juniper Networks, Inc.  
 Legal Department  
  
 Approved As To Form  
 Tim Duntig  
 MA-OB-00810-2019

Internal Contract Tracking #:AR229

Solicitation #: SK18001

Vendor #: VC0000182225



## **Attachment A: NASPO ValuePoint Master Agreement Terms and Conditions**

### **1. Master Agreement Order of Precedence**

a. Any Order placed under this Master Agreement shall consist of the following documents:

- (1) A Participating Entity's Participating Addendum ("PA");
- (2) NASPO ValuePoint Master Agreement Terms & Conditions;
- (3) A Purchase Order issued against the Master Agreement, including a Service Level Agreement;
- (4) The Solicitation; and
- (5) Contractor's response to the Solicitation, as revised (if permitted) and accepted by the Lead State.

b. These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to this Master Agreement as an Exhibit or Attachment.

**2. Definitions** - Unless otherwise provided in this Master Agreement, capitalized terms will have the meanings given to those terms in this Section.

**Acceptance** is defined by the applicable commercial code, except Acceptance shall not occur before the completion of delivery in accordance with the Order, installation if required, and a reasonable time for inspection of the Product.

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

**Data** means all information, whether in oral or written (including electronic) form, created by or in any way originating with a Participating Entity or Purchasing Entity, and all information that is the output of any computer processing, or other electronic manipulation, of any information that was created by or in any way originating with a Participating Entity or Purchasing Entity, in the course of using and configuring the Services provided under this Agreement.

**Data Breach** means any actual or reasonably suspected non-authorized access to or acquisition of computerized Non-Public Data or Personal Data that compromises the security, confidentiality, or integrity of the Non-Public Data or Personal Data, or the

ability of Purchasing Entity to access the Non-Public Data or Personal Data.

**Disabling Code** means computer instructions or programs, subroutines, code, instructions, data or functions, (including but not limited to viruses, worms, date bombs or time bombs), including but not limited to other programs, data storage, computer libraries and programs that self-replicate without manual intervention, instructions programmed to activate at a predetermined time or upon a specified event, and/or programs purporting to do a meaningful function but designed for a different function, that alter, destroy, inhibit, damage, interrupt, interfere with or hinder the operation of the Purchasing Entity's software, applications and/or its end users processing environment, the system in which it resides, or any other software or data on such system or any other system with which it is capable of communicating.

**Embedded Software** means one or more software applications which permanently reside on a computing device.

**Fulfillment Partner** means a third-party contractor qualified and authorized by Contractor, and approved by the Participating State under a Participating Addendum, who may, to the extent authorized by Contractor, fulfill any of the requirements of this Master Agreement including but not limited to providing Services under this Master Agreement and billing Customers directly for such Services. Contractor may, upon written notice to the Participating State, add or delete authorized Fulfillment Partners as necessary at any time during the contract term. Fulfillment Partner has no authority to amend this Master Agreement or to bind Contractor to any additional terms and conditions.

**Intellectual Property** means any and all patents, copyrights, service marks, trademarks, trade secrets, trade names, patentable inventions, or other similar proprietary rights, in tangible or intangible form, and all rights, title, and interest therein.

**Lead State** means the State centrally administering any resulting Master Agreement(s).

**Master Agreement** means the underlying agreement executed by and between the Lead State, acting on behalf of the NASPO ValuePoint program, and the Contractor, as now or hereafter amended.

**NASPO ValuePoint** is the NASPO Cooperative Purchasing Organization LLC, doing business as NASPO ValuePoint, a 501(c)(3) limited liability company that is a subsidiary organization the National Association of State Procurement Officials (NASPO), the sole member of NASPO ValuePoint. NASPO ValuePoint facilitates administration of the NASPO cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states, the District of Columbia, and territories of the United States. NASPO ValuePoint is identified in the Master Agreement as the recipient of reports and may perform contract administration functions relating to collecting and

receiving reports as well as other contract administration functions as assigned by the Lead State.

**Order or Purchase Order** means any purchase order, sales order, contract or other document used by a Purchasing Entity to order the Products.

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

**Participating Entity** means a state, or other legal entity, properly authorized to enter into a Participating Addendum.

**Participating State** means a state, the District of Columbia, or one of the territories of the United States that is listed in the Request for Proposal as intending to participate. Upon execution of the Participating Addendum, a Participating State becomes a Participating Entity; however, a Participating State listed in the Request for Proposal is not required to participate through execution of a Participating Addendum.

**Personal Data** means data alone or in combination that includes information relating to an individual that identifies the individual by name, identifying number, mark or description can be readily associated with a particular individual and which is not a public record. Personal Information may include the following personally identifiable information (PII): government-issued identification numbers (e.g., Social Security, driver's license, passport); financial account information, including account number, credit or debit card numbers; or Protected Health Information (PHI) relating to a person.

**Product** means any equipment, software (including embedded software), documentation, service or other deliverable supplied or created by the Contractor pursuant to this Master Agreement. The term Products, supplies and services, and products and services are used interchangeably in these terms and conditions.

**Purchasing Entity** means a state (as well as the District of Columbia and U.S territories), city, county, district, other political subdivision of a State, and a nonprofit organization under the laws of some states if authorized by a Participating Addendum, that issues a Purchase Order against the Master Agreement and becomes financially committed to the purchase.

**Services** mean any of the specifications described in the Scope of Services that are supplied or created by the Contractor pursuant to this Master Agreement.

**Security Incident** means the possible or actual unauthorized access to a Purchasing Entity's Non-Public Data and Personal Data the Contractor believes could reasonably result in the use, disclosure or theft of a Purchasing Entity's Non-Public Data within the possession or control of the Contractor. A Security Incident also includes a major

security breach to the Contractor's system, regardless if Contractor is aware of unauthorized access to a Purchasing Entity's Non-Public Data. A Security Incident may or may not turn into a Data Breach.

**Service Level Agreement (SLA)** means a written agreement between both the Purchasing Entity and the Contractor that is subject to the terms and conditions in this Master Agreement and relevant Participating Addendum unless otherwise expressly agreed in writing between the Purchasing Entity and the Contractor. SLAs should include: (1) the technical service level performance promises, (i.e. metrics for performance and intervals for measure), (2) description of service quality, (3) identification of roles and responsibilities, (4) remedies, such as credits, and (5) an explanation of how remedies or credits are calculated and issued.

**Solicitation** means the documents used by the State of Utah, as the Lead State, to obtain Contractor's Proposal.

**Statement of Work** means a written statement in a solicitation document or contract that describes the Purchasing Entity's service needs and expectations.

## **NASPO ValuePoint Program Provisions**

### **3. Term of the Master Agreement**

a. The initial term of this Master Agreement is for five (5) years. This Master Agreement may be extended beyond the original contract period for two (2) additional years at the Lead State's discretion and by mutual agreement and upon review of requirements of Participating Entities, current market conditions, and Contractor performance.

b. The Master Agreement may be extended for a reasonable period of time, not to exceed six months, if in the judgment of the Lead State a follow-on, competitive procurement will be unavoidably delayed (despite good faith efforts) beyond the planned date of execution of the follow-on master agreement. This subsection shall not be deemed to limit the authority of a Lead State under its state law otherwise to negotiate contract extensions.

### **4. Amendments**

The terms of this Master Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written agreement of the Lead State and Contractor.

### **5. Participants and Scope**

a. Contractor may not deliver Products under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed. The NASPO ValuePoint Master Agreement Terms and Conditions are applicable to any Order by a Participating Entity (and other Purchasing Entities covered by their Participating Addendum), except to the extent altered, modified, supplemented or

amended by a Participating Addendum. By way of illustration and not limitation, this authority may apply to unique delivery and invoicing requirements, confidentiality requirements, defaults on Orders, governing law and venue relating to Orders by a Participating Entity, indemnification, and insurance requirements. Statutory or constitutional requirements relating to availability of funds may require specific language in some Participating Addenda in order to comply with applicable law. The expectation is that these alterations, modifications, supplements, or amendments will be addressed in the Participating Addendum or, with the consent of the Purchasing Entity and Contractor, may be included in the ordering document (e.g. purchase order or contract) used by the Purchasing Entity to place the Order.

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

c. Obligations under this Master Agreement are limited to those Participating Entities who have signed a Participating Addendum and Purchasing Entities within the scope of those Participating Addenda. States or other entities permitted to participate may use an informal competitive process to determine which Master Agreements to participate in through execution of a Participating Addendum. Financial obligations of Participating Entities who are states are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating Entities who are states incur no financial obligations on behalf of other Purchasing Entities. Contractor shall email a fully executed PDF copy of each Participating Addendum to [PA@naspovaluepoint.org](mailto:PA@naspovaluepoint.org) to support documentation of participation and posting in appropriate data bases.

d. NASPO Cooperative Purchasing Organization LLC, doing business as NASPO ValuePoint, is not a party to the Master Agreement. It is a nonprofit cooperative purchasing organization assisting states in administering the NASPO cooperative purchasing program for state government departments, institutions, agencies and political subdivisions (e.g., colleges, school districts, counties, cities, etc.) for all 50 states, the District of Columbia and the territories of the United States.

e. Participating Addenda shall not be construed to amend the following provisions in this Master Agreement between the Lead State and Contractor that prescribe NASPO ValuePoint Program requirements: Term of the Master Agreement; Amendments; Participants and Scope; Administrative Fee; NASPO ValuePoint Summary and Detailed Usage Reports; NASPO ValuePoint Cooperative Program Marketing and Performance Review; NASPO ValuePoint eMarketCenter; Right to Publish; Price and Rate Guarantee Period; and Individual Customers. Any such language shall be void and of no effect.

f. Participating Entities who are not states may under some circumstances sign their own Participating Addendum, subject to the consent to participation by the Chief Procurement Official of the state where the Participating Entity is located. Coordinate requests for such participation through NASPO ValuePoint. Any permission to participate through execution of a Participating Addendum is not a determination that procurement authority exists in the Participating Entity; they must ensure that they have the requisite procurement authority to execute a Participating Addendum.

g. **Resale.** "Resale" means any payment in exchange for transfer of tangible goods, software, or assignment of the right to services. Subject to any specific conditions included in the solicitation or Contractor's proposal as accepted by the Lead State, or as explicitly permitted in a Participating Addendum, Purchasing Entities may not resell Products (the definition of which includes services that are deliverables). Absent any such condition or explicit permission, this limitation does not prohibit: payments by employees of a Purchasing Entity for Products; sales of Products to the general public as surplus property; and fees associated with inventory transactions with other governmental or nonprofit entities and consistent with a Purchasing Entity's laws and regulations. Any sale or transfer permitted by this subsection must be consistent with license rights granted for use of intellectual property.

## **6. Administrative Fees**

a. The Contractor shall pay to NASPO ValuePoint, or its assignee, a NASPO ValuePoint Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than sixty (60) days following the end of each calendar quarter. The NASPO ValuePoint Administrative Fee shall be submitted quarterly and is based on all sales of products and services under the Master Agreement (less any charges for taxes or shipping). The NASPO ValuePoint Administrative Fee is not negotiable. This fee is to be included as part of the pricing submitted with proposal.

b. Additionally, some states may require an additional fee be paid directly to the state only on purchases made by Purchasing Entities within that state. For all such requests, the fee level, payment method and schedule for such reports and payments will be incorporated into the Participating Addendum that is made a part of the Master Agreement. The Contractor may adjust the Master Agreement pricing accordingly for purchases made by Purchasing Entities within the jurisdiction of the state. All such agreements shall not affect the NASPO ValuePoint Administrative Fee percentage or the prices paid by the Purchasing Entities outside the jurisdiction of the state requesting the additional fee. The NASPO ValuePoint Administrative Fee in subsection 6a shall be based on the gross amount of all sales (less any charges for taxes or shipping) at the adjusted prices (if any) in Participating Addenda.

## **7. NASPO ValuePoint Summary and Detailed Usage Reports**

In addition to other reports that may be required by this solicitation, the Contractor shall provide the following NASPO ValuePoint reports.

a. Summary Sales Data. The Contractor shall submit quarterly sales reports directly to

NASPO ValuePoint using the NASPO ValuePoint Quarterly Sales/Administrative Fee Reporting Tool found at <http://calculator.naspovaluepoint.org>. Any/all sales made under this Master Agreement shall be reported as cumulative totals by state. Even if Contractor experiences zero sales during a calendar quarter, a report is still required. Reports shall be due no later than thirty (30) days following the end of the calendar quarter (as specified in the reporting tool).

b. Detailed Sales Data. Contractor shall also report detailed sales data by: (1) state; (2) entity/customer type, e.g. local government, higher education, K12, non-profit; (3) Purchasing Entity name; (4) Purchasing Entity bill-to and ship-to locations; (4) Purchasing Entity and Contractor Purchase Order identifier/number(s); (5) Purchase Order Type (e.g. sales order, credit, return, upgrade, determined by industry practices); (6) Purchase Order date; (7) Ship Date; (8) and line item description, including product number if used. The report shall be submitted in any form required by the solicitation. Reports are due on a quarterly basis and must be received by the Lead State and NASPO ValuePoint Cooperative Development Team no later than thirty (30) days after the end of the reporting period. Reports shall be delivered to the Lead State and to the NASPO ValuePoint Cooperative Development Team electronically through a designated portal, email, CD-ROM, flash drive or other method as determined by the Lead State and NASPO ValuePoint. Detailed sales data reports shall include sales information for all sales under Participating Addenda executed under this Master Agreement. The format for the detailed sales data report is in shown in Attachment H.

c. Reportable sales for the summary sales data report and detailed sales data report includes sales to employees for personal use where authorized by the solicitation and the Participating Addendum. Report data for employees should be limited to ONLY the state and entity they are participating under the authority of (state and agency, city, county, school district, etc.) and the amount of sales. No personal identification numbers, e.g. names, addresses, **social security numbers or any other numerical identifier**, may be submitted with any report.

d. Contractor shall provide the NASPO ValuePoint Cooperative Development Coordinator with an executive summary each quarter that includes, at a minimum, a list of states with an active Participating Addendum, states that Contractor is in negotiations with and any Participating Addendum roll out or implementation activities and issues. NASPO ValuePoint Cooperative Development Coordinator and Contractor will determine the format and content of the executive summary. The executive summary is due thirty (30) days after the conclusion of each calendar quarter.

e. Timely submission of these reports is a material requirement of the Master Agreement. The recipient of the reports shall have exclusive ownership of the media containing the reports. The Lead State and NASPO ValuePoint shall have a perpetual, irrevocable, non-exclusive, royalty free, transferable right to display, modify, copy, and otherwise use reports, data and information provided under this section.



## **8. NASPO ValuePoint Cooperative Program Marketing, Training, and Performance Review**

- a. Contractor agrees to work cooperatively with NASPO ValuePoint personnel. Contractor agrees to present plans to NASPO ValuePoint for the education of Contractor's contract administrator(s) and sales/marketing workforce regarding the Master Agreement contract, including the competitive nature of NASPO ValuePoint procurements, the Master agreement and participating addendum process, and the manner in which qualifying entities can participate in the Master Agreement.
- b. Contractor agrees, as Participating Addendums become executed, if requested by ValuePoint personnel to provide plans to launch the program within the participating state. Plans will include time frames to launch the agreement and confirmation that the Contractor's website has been updated to properly reflect the contract offer as available in the participating state.
- c. Contractor agrees, absent anything to the contrary outlined in a Participating Addendum, to consider customer proposed terms and conditions, as deemed important to the customer, for possible inclusion into the customer agreement. Contractor will ensure that their sales force is aware of this contracting option.
- d. Contractor agrees to participate in an annual contract performance review at a location selected by the Lead State and NASPO ValuePoint, which may include a discussion of marketing action plans, target strategies, marketing materials, as well as Contractor reporting and timeliness of payment of administration fees.
- e. Contractor acknowledges that the NASPO ValuePoint logos may not be used by Contractor in sales and marketing until a logo use agreement is executed with NASPO ValuePoint.
- f. The Lead State expects to evaluate the utilization of the Master Agreement at the annual performance review. Lead State may, in its discretion, terminate the Master Agreement pursuant to section 28, or not exercise an option to renew, when Contractor utilization does not warrant further administration of the Master Agreement. The Lead State may exercise its right to not renew the Master Agreement if vendor fails to record or report revenue for three consecutive quarters, upon 60-calendar day written notice to the Contractor. Termination based on nonuse or under-utilization will not occur sooner than two years after award (or execution if later) of the Master Agreement. This subsection does not limit the discretionary right of either the Lead State or Contractor to terminate the Master Agreement pursuant to section 28 or to terminate for default pursuant to section 30.
- g. Contractor agrees, within 30 days of their effective date, to notify the Lead State and NASPO ValuePoint of any contractual most-favored-customer provisions in third-part contracts or agreements that may affect the promotion of this Master Agreements or whose terms provide for adjustments to future rates or pricing based on rates, pricing in,

or Orders from this master agreement. Upon request of the Lead State or NASPO ValuePoint, Contractor shall provide a copy of any such provisions.

## **9. NASPO ValuePoint eMarket Center**

a. In July 2011, NASPO ValuePoint entered into a multi-year agreement with SciQuest, Inc. (doing business as JAGGAER) whereby JAGGAER will provide certain electronic catalog hosting and management services to enable eligible NASPO ValuePoint's customers to access a central online website to view and/or shop the goods and services available from existing NASPO ValuePoint Cooperative Contracts. The central online website is referred to as the NASPO ValuePoint eMarket Center.

b. The Contractor will have visibility in the eMarket Center through Ordering Instructions. These Ordering Instructions are available at no cost to the Contractor and provide customers information regarding the Contractors website and ordering information. The Contractor is required at a minimum to participate in the eMarket Center through Ordering Instructions.

c. At a minimum, the Contractor agrees to the following timeline: NASPO ValuePoint eMarket Center Site Admin shall provide a written request to the Contractor to begin Ordering Instruction process. The Contractor shall have thirty (30) days from receipt of written request to work with NASPO ValuePoint to provide any unique information and ordering instructions that the Contractor would like the customer to have.

d. If the solicitation requires either a catalog hosted on or integration of a punchout site with eMarket Center, or either solution is proposed by a Contractor and accepted by the Lead State, the provisions of the eMarket Center Appendix to these NASPO ValuePoint Master Agreement Terms and Conditions apply.

## **10. Right to Publish**

Throughout the duration of this Master Agreement, Contractor must secure from the Lead State prior approval for the release of information that pertains to the potential work or activities covered by the Master Agreement. This limitation does not preclude publication about the award of the Master Agreement or marketing activities consistent with any proposed and accepted marketing plan. The Contractor shall not make any representations of NASPO ValuePoint's opinion or position as to the quality or effectiveness of the services that are the subject of this Master Agreement without prior written consent. Failure to adhere to this requirement may result in termination of the Master Agreement for cause.

## **11. Price and Rate Guarantee Period**

All pricing must be guaranteed for the first year of the Master Agreement.

Following the guarantee period, any request for price increases must be for an equal guarantee period (1 year), and must be submitted to the Lead State at least thirty (30) calendar days prior to the effective date. Contractor may increase its MSRP prices at any time provided that the prices Participating Entity will pay do not increase, except for

an approved annual increase. The Lead State will review a documented request for an MSRP price list increase only after the Price Guarantee Period.

Requests for price increases must include sufficient documentation supporting the request and demonstrating a reasonableness of the adjustment when comparing the current price list to the proposed price list. Documentation may include: the manufacturers national price increase announcement letter, a complete and detailed description of what products are increasing and by what percentage, a complete and detailed description of what raw materials and/or other costs have increased and provide proof of increase, index data and other information to support and justify the increase. The price increase must not produce a higher profit margin than the original contract, and must be accompanied by sufficient documentation and nationwide notice of price adjustment to the published commercial price list.

No retroactive price increases will be allowed.

Price Reductions. In the event of a price decrease in any category of product at any time during the contract in an OEM's published commercial price list, including renewal options, the Lead State shall be notified immediately. All published commercial price list price reductions shall be effective upon the notification provided to the Lead State.

## **12. Individual Customers**

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

## **Administration of Orders**

### **13. Ordering**

a. Master Agreement order and purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.

b. Purchasing Entities may define entity or project-specific requirements and informally compete the requirement among companies having a Master Agreement on an "as needed" basis. This procedure may also be used when requirements are aggregated or other firm commitments may be made to achieve reductions in pricing. This procedure may be modified in Participating Addenda and adapted to the Purchasing Entity's rules and policies. The Purchasing Entity may in its sole discretion determine which Master Agreement Contractors should be solicited for a quote. The Purchasing Entity may

select the quote that it considers most advantageous, cost and other factors considered.

c. Each Purchasing Entity will identify and utilize its own appropriate purchasing procedure and documentation. Contractor is expected to become familiar with the Purchasing Entities' rules, policies, and procedures regarding the ordering of supplies and/or services contemplated by this Master Agreement.

d. Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document under the law of the Purchasing Entity.

e. Orders may be placed consistent with the terms of this Master Agreement during the term of the Master Agreement.

f. All Orders pursuant to this Master Agreement, at a minimum, shall include:

- (1) The services or supplies being delivered;
- (2) The place and requested time of delivery;
- (3) A billing address;
- (4) The name, phone number, and address of the Purchasing Entity representative;
- (5) The price per hour or other pricing elements consistent with this Master Agreement and the contractor's proposal;
- (6) A ceiling amount of the order for services being ordered; and
- (7) The Master Agreement identifier.

g. All communications concerning administration of Orders placed shall be furnished solely to the authorized purchasing agent within the Purchasing Entity's purchasing office, or to such other individual identified in writing in the Order.

h. Orders must be placed pursuant to this Master Agreement prior to the termination date thereof, but may have a delivery date or performance period up to 120 days past the then-current termination date of this Master Agreement. Maintenance agreements may have terms as prescribed in section 27. Contractor is reminded that financial obligations of Purchasing Entities payable after the current applicable fiscal year are contingent upon agency funds for that purpose being appropriated, budgeted, and otherwise made available.

i. Notwithstanding the expiration or termination of this Master Agreement, Contractor agrees to perform in accordance with the terms of any Orders then outstanding at the time of such expiration or termination. Contractor shall not honor any Orders placed after the expiration or termination of this Master Agreement, or otherwise inconsistent with its terms. Orders from any separate indefinite quantity, task orders, or other form of indefinite delivery order arrangement priced against this Master Agreement may not be placed after the expiration or termination of this Master Agreement, notwithstanding the term of any such indefinite delivery order agreement.

## **14. Shipping and Delivery**

a. The prices are the delivered price to any Purchasing Entity. All deliveries shall be F.O.B. destination, freight pre-paid, with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage shall remain the Contractor's until final inspection and acceptance when responsibility shall pass to the Purchasing Entity except as to latent defects, fraud and Contractor's warranty obligations. The minimum shipment amount, if any, will be found in the special terms and conditions. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an Order to be shipped without transportation charges that is back ordered shall be shipped without charge.

b. All deliveries will be "Inside Deliveries" as designated by a representative of the Purchasing Entity placing the Order. Inside Delivery refers to a delivery to other than a loading dock, front lobby, or reception area. Specific delivery instructions will be noted on the order form or Purchase Order. Any damage to the building interior, scratched walls, damage to the freight elevator, etc., will be the responsibility of the Contractor. If damage does occur, it is the responsibility of the Contractor to immediately notify the Purchasing Entity placing the Order.

c. All products must be delivered in the manufacturer's standard package. Costs shall include all packing and/or crating charges. Cases shall be of durable construction, good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipping carton shall be marked with the commodity, brand, quantity, item code number and the Purchasing Entity's Purchase Order number.

## **15. Laws and Regulations**

Any and all Products offered and furnished shall comply fully with all applicable Federal and State laws and regulations.

## **16. Inspection and Acceptance**

a. Where the Master Agreement or an Order does not otherwise specify a process for inspection and Acceptance, this section governs. This section is not intended to limit rights and remedies under the applicable commercial code.

b. All Products are subject to inspection at reasonable times and places before Acceptance. Contractor shall provide right of access to the Lead State, or to any other authorized agent or official of the Lead State or other Participating or Purchasing Entity, at reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance requirements under this Master Agreement. Products that do not meet specifications may be rejected. Failure to reject upon receipt, however, does not relieve the contractor of liability for material (nonconformity that substantially impairs value) latent or hidden defects subsequently revealed when goods are put to use. Acceptance of such goods may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor is liable for any resulting expense

incurred by the Purchasing Entity related to the preparation and shipping of Product rejected and returned, or for which Acceptance is revoked.

c. If any services do not conform to contract requirements, the Purchasing Entity may require the Contractor to perform the services again in conformity with contract requirements, at no increase in Order amount. When defects cannot be corrected by re-performance, the Purchasing Entity may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and reduce the contract price to reflect the reduced value of services performed.

d. The warranty period shall begin upon Acceptance.

e.

## **17. Payment**

Payment after Acceptance is normally made within 30 days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance, unless a different late payment amount is specified in a Participating Addendum, Order, or otherwise prescribed by applicable law. Payments will be remitted by mail. Payments may be made via a State or political subdivision "Purchasing Card" with no additional charge.

## **18. Warranty**

Warranty provisions govern where specified elsewhere in the documents that constitute the Master Agreement; otherwise this section governs. The Contractor warrants for a period of one year from the date of Acceptance that: (a) the Product performs according to all specific claims that the Contractor made in its response to the solicitation, (b) the Product is suitable for the ordinary purposes for which such Product is used, (c) the Product is suitable for any special purposes identified in the solicitation or for which the Purchasing Entity has relied on the Contractor's skill or judgment, (d) the Product is designed and manufactured in a commercially reasonable manner, and (e) the Product is free of defects. Upon breach of the warranty, the Contractor will repair or replace (at no charge to the Purchasing Entity) the Product whose nonconformance is discovered and made known to the Contractor. If the repaired and/or replaced Product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.

## **19. Title of Product**

Upon Acceptance by the Purchasing Entity, Contractor shall convey to Purchasing Entity title to the Product free and clear of all liens, encumbrances, or other security interests. Transfer of title to the Product shall include an irrevocable and perpetual license to use any Embedded Software in the Product. If Purchasing Entity

subsequently transfers title of the Product to another entity, Purchasing Entity shall have the right to transfer the license to use the Embedded Software with the transfer of Product title. A subsequent transfer of this software license shall be at no additional cost or charge to either Purchasing Entity or Purchasing Entity's transferee.

## **20. License of Pre-Existing Intellectual Property**

Contractor grants to the Purchasing Entity a nonexclusive, perpetual, royalty-free, irrevocable, license to use, publish, translate, reproduce for Purchasing Entity's own use, transfer with any sale of tangible media or Product, perform, display, and dispose of the Intellectual Property, and its derivatives, used or delivered under this Master Agreement, but not created under it ("Pre-existing Intellectual Property"). The Contractor shall be responsible for ensuring that this license is consistent with any third party rights in the Pre-existing Intellectual Property.

**21. No Guarantee of Service Volumes:** The Contractor acknowledges and agrees that the Lead State and NASPO ValuePoint makes no representation, warranty or condition as to the nature, timing, quality, quantity or volume of business for the Services or any other products and services that the Contractor may realize from this Master Agreement, or the compensation that may be earned by the Contractor by offering the Services. The Contractor acknowledges and agrees that it has conducted its own due diligence prior to entering into this Master Agreement as to all the foregoing matters.

**22. Purchasing Entity Data:** Purchasing Entity retains full right and title to Data provided by it and any Data derived therefrom, including metadata. Contractor shall not collect, access, or use user-specific Purchasing Entity Data except as strictly necessary to provide Service to the Purchasing Entity. No information regarding Purchasing Entity's use of the Service may be disclosed, provided, rented or sold to any third party for any reason unless required by law or regulation or by an order of a court of competent jurisdiction. The obligation shall extend beyond the term of this Master Agreement in perpetuity.

Contractor shall not use any information collected in connection with this Master Agreement, including Purchasing Entity Data, for any purpose other than fulfilling its obligations under this Master Agreement.

**23. System Failure or Damage:** In the event of system failure or damage caused by Contractor or its Services, the Contractor agrees to use its best efforts to restore or assist in restoring the system to operational capacity.

**24. Title to Product:** If access to the Product requires an application program interface (API), Contractor shall convey to Purchasing Entity an irrevocable and perpetual license to use the API.

**25. Data Privacy:** The Contractor must comply with all applicable laws related to data privacy and security, including IRS Pub 1075. Prior to entering into a SLA with a Purchasing Entity, the Contractor and Purchasing Entity must cooperate and hold a

meeting to determine the Data Categorization to determine what data the Contractor will hold, store, or process. The Contractor must document the Data Categorization in the SLA or Statement of Work.

## **26. Transition Assistance:**

a. The Contractor shall reasonably cooperate with other parties in connection with all Services to be delivered under this Master Agreement, including without limitation any successor service provider to whom a Purchasing Entity's Data is transferred in connection with the termination or expiration of this Master Agreement. The Contractor shall assist a Purchasing Entity in exporting and extracting a Purchasing Entity's Data, in a format usable without the use of the Services and as agreed by a Purchasing Entity, at no additional cost to the Purchasing Entity. Any transition services requested by a Purchasing Entity involving additional knowledge transfer and support may be subject to a separate transition Statement of Work.

b. A Purchasing Entity and the Contractor shall, when reasonable, create a Transition Plan Document identifying the transition services to be provided and including a Statement of Work if applicable.

c. The Contractor must maintain the confidentiality and security of a Purchasing Entity's Data during the transition services and thereafter as required by the Purchasing Entity.

**27. Performance and Payment Time Frames that Exceed Contract Duration:** All maintenance or other agreements for services entered into during the duration of an SLA and whose performance and payment time frames extend beyond the duration of this Master Agreement shall remain in effect for performance and payment purposes (limited to the time frame and services established per each written agreement). No new leases, maintenance or other agreements for services may be executed after the Master Agreement has expired. For the purposes of this section, renewals of maintenance, subscriptions, and other service agreements, shall not be considered as "new."

## **General Provisions**

### **28. Insurance**

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



b. Coverage shall be written on an occurrence basis. The minimum acceptable limits shall be as indicated below:

(1) Commercial General Liability covering premises operations, independent contractors, products and completed operations, blanket contractual liability, personal injury (including death), advertising liability, and property damage, with a limit of not less than \$1 million per occurrence/\$3 million general aggregate;

(2) Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.

c. Contractor shall pay premiums on all insurance policies. Contractor shall provide notice to a Participating Entity who is a state within five (5) business days after Contractor is first aware of expiration, cancellation or nonrenewal of such policy or is first aware that cancellation is threatened or expiration, nonrenewal or expiration otherwise may occur.

d. Prior to commencement of performance, Contractor shall provide to the Lead State a written endorsement to the Contractor's general liability insurance policy or other documentary evidence acceptable to the Lead State that (1) names the Participating States identified in the Request for Proposal as additional insureds, (2) provides that written notice of cancellation shall be delivered in accordance with the policy provisions, and (3) provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of any Participating State as secondary and noncontributory. Unless otherwise agreed in any Participating Addendum, other state Participating Entities' rights and Contractor's obligations are the same as those specified in the first sentence of this subsection except the endorsement is provided to the applicable state.

e. Contractor shall furnish to the Lead State copies of certificates of all required insurance in a form sufficient to show required coverage within thirty (30) calendar days of the execution of this Master Agreement and prior to performing any work. Copies of renewal certificates of all required insurance shall be furnished within thirty (30) days after any renewal date to the applicable state Participating Entity. Failure to provide evidence of coverage may, at the sole option of the Lead State, or any Participating Entity, result in this Master Agreement's termination or the termination of any Participating Addendum.

f. Coverage and limits shall not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Purchase Order.

## **29. Records Administration and Audit**

a. The Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Agreement and Orders placed by Purchasing Entities under it to the extent and in such detail as shall adequately reflect performance and administration of payments and fees. Contractor shall permit the Lead State, a Participating Entity, a Purchasing Entity, the federal government (including its grant

awarding entities and the U.S. Comptroller General), and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of six (6) years following termination of this Agreement or final payment for any order placed by a Purchasing Entity against this Agreement, whichever is later, or such longer period as is required by the Purchasing Entity's state statutes, to assure compliance with the terms hereof or to evaluate performance hereunder.

b. Without limiting any other remedy available to any governmental entity, the Contractor shall reimburse the applicable Lead State, Participating Entity, or Purchasing Entity for any overpayments inconsistent with the terms of the Master Agreement or Orders or underpayment of Administrative Fees found as a result of the examination of the Contractor's records.

c. The rights and obligations herein exist in addition to any quality assurance obligation in the Master Agreement requiring the Contractor to self-audit contract obligations and that permits the Lead State to review compliance with those obligations.

### **30. Confidentiality, Non-Disclosure, and Injunctive Relief**

a. Confidentiality. Contractor acknowledges that it and its employees or agents may, in the course of providing a Product under this Master Agreement, be exposed to or acquire information that is confidential to Purchasing Entity or Purchasing Entity's clients. Any and all information of any form that is marked as confidential or would by its nature be deemed confidential obtained by Contractor or its employees or agents in the performance of this Master Agreement, including, but not necessarily limited to (1) any Purchasing Entity's records, (2) personnel records, and (3) information concerning individuals, is confidential information of Purchasing Entity ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated in the same manner as the Confidential Information. Confidential Information does not include information that (1) is or becomes (other than by disclosure by Contractor) publicly known; (2) is furnished by Purchasing Entity to others without restrictions similar to those imposed by this Master Agreement; (3) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (4) is obtained from a source other than Purchasing Entity without the obligation of confidentiality, (5) is disclosed with the written consent of Purchasing Entity or; (6) is independently developed by employees, agents or subcontractors of Contractor who can be shown to have had no access to the Confidential Information.

b. Non-Disclosure. Contractor shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under this Master

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

c. Injunctive Relief. Contractor acknowledges that breach of this section, including disclosure of any Confidential Information, will cause irreparable injury to Purchasing Entity that is inadequately compensable in damages. Accordingly, Purchasing Entity may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Purchasing Entity and are reasonable in scope and content.

d. Purchasing Entity Law. These provisions shall be applicable only to extent they are not in conflict with the applicable public disclosure laws of any Purchasing Entity.

e. The rights granted Purchasing Entities and Contractor obligations under this section shall also extend to Confidential Information, defined to include Participating Addenda, as well as Orders or transaction data relating to Orders under this Master Agreement that identify the entity/customer, Order dates, line item descriptions and volumes, and prices/rates. This provision does not apply to disclosure to the Lead State, a Participating State, or any governmental entity exercising an audit, inspection, or examination pursuant to section 29. To the extent permitted by law, Contractor shall notify the Lead State of the identify of any entity seeking access to the Confidential Information described in this subsection.

### **31. Public Information**

This Master Agreement and all related documents are subject to disclosure pursuant to the Purchasing Entity's public information laws.

### **32. Assignment/Subcontracts**

a. Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Master Agreement, in whole or in part, without the prior written approval of the Lead State.

b. The Lead State reserves the right to assign any rights or duties, including written assignment of contract administration duties to NASPO Cooperative Purchasing Organization LLC, doing business as NASPO ValuePoint and other third parties.

### **32. Changes in Contractor Representation**

The Contractor must notify the Lead State of changes in the Contractor's key administrative personnel managing the Master Agreement in writing within 10 calendar days of the change. The Lead State reserves the right to approve changes in key personnel, as identified in the Contractor's proposal. The Contractor agrees to propose replacement key personnel having substantially equal or better education, training, and experience as was possessed by the key person proposed and evaluated in the Contractor's proposal.

### **33. Independent Contractor**

The Contractor shall be an independent contractor. Contractor shall have no authorization, express or implied, to bind the Lead State, Participating States, other Participating Entities, or Purchasing Entities to any agreements, settlements, liability or understanding whatsoever, and agrees not to hold itself out as agent except as expressly set forth herein or as expressly agreed in any Participating Addendum.

### **34. Termination**

Unless otherwise stated, this Master Agreement may be terminated by either Lead State or Contractor upon 60 days written notice prior to the effective date of the termination. Further, any Participating Entity may terminate its participation upon 30 days written notice, unless otherwise limited or stated in the Participating Addendum. Termination may be in whole or in part. Any termination under this provision shall not affect the rights and obligations attending orders outstanding at the time of termination, including any right of a Purchasing Entity to indemnification by the Contractor, rights of payment for Products delivered and accepted, rights attending any warranty or default in performance in association with any Order, and requirements for records administration and audit. Termination of the Master Agreement due to Contractor default may be immediate.

### **35. Force Majeure**

Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, unusually severe weather, other acts of God, or war which are beyond that party's reasonable control. The Lead State may terminate this Master Agreement after determining such delay or default will reasonably prevent successful performance of the Master Agreement.

### 36. Defaults and Remedies

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

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

b. Upon the occurrence of an event of default, the Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of 15 calendar days in which Contractor shall have an opportunity to cure the default. The Lead State shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure shall not diminish or eliminate Contractor's liability for damages, including liquidated damages to the extent provided for under this Master Agreement.

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

- (1) Exercise any remedy provided by law; and
- (2) Terminate this Master Agreement and any related Contracts or portions thereof; and
- (3) Impose liquidated damages as provided in this Master Agreement; and
- (4) Suspend Contractor from being able to respond to future bid solicitations; and
- (5) Suspend Contractor's performance; and
- (6) Withhold payment until the default is remedied.

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

Participating Addendum with respect to an Order placed by the Purchasing Entity. Nothing in these Master Agreement Terms and Conditions shall be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.

### **37. Waiver of Breach**

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

### **38. Debarment**

The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. This certification represents a recurring certification made at the time any Order is placed under this Master Agreement. If the Contractor cannot certify this statement, attach a written explanation for review by the Lead State.

### **39. Indemnification**

a. The Contractor shall defend, indemnify and hold harmless NASPO, NASPO Cooperative Purchasing Organization LLC (doing business as NASPO ValuePoint), the Lead State, Participating Entities, and Purchasing Entities, along with their officers and employees, from and against third-party claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to tangible property arising from act(s), error(s), or omission(s) of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to the performance under the Master Agreement.

b. Indemnification – Intellectual Property. The Contractor shall defend, indemnify and hold harmless NASPO, NASPO Cooperative Purchasing Organization LLC (doing business as NASPO ValuePoint), the Lead State, Participating Entities, Purchasing Entities, along with their officers and employees ("Indemnified Party"), from and against claims, damages or causes of action including reasonable attorneys' fees and related costs arising out of the claim that the Product or its use, infringes Intellectual Property rights ("Intellectual Property Claim") of another person or entity.

(1) The Contractor's obligations under this section shall not extend to any combination of the Product with any other product, system or method, unless the Product, system or method is:

(a) provided by the Contractor or the Contractor's subsidiaries or affiliates;

(b) specified by the Contractor to work with the Product; or

(c) reasonably required, in order to use the Product in its intended manner, and the infringement could not have been avoided by substituting another reasonably available product, system or method capable of performing the same function; or

(d) It would be reasonably expected to use the Product in combination with such product, system or method.

(2) The Indemnified Party shall notify the Contractor within a reasonable time after receiving notice of an Intellectual Property Claim. Even if the Indemnified Party fails to provide reasonable notice, the Contractor shall not be relieved from its obligations unless the Contractor can demonstrate that it was prejudiced in defending the Intellectual Property Claim resulting in increased expenses or loss to the Contractor. If the Contractor promptly and reasonably investigates and defends any Intellectual Property Claim, it shall have control over the defense and settlement of it. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible. The Indemnified Party shall furnish, at the Contractor's reasonable request and expense, information and assistance necessary for such defense. If the Contractor fails to vigorously pursue the defense or settlement of the Intellectual Property Claim, the Indemnified Party may assume the defense or settlement of it and the Contractor shall be liable for all costs and expenses, including reasonable attorneys' fees and related costs, incurred by the Indemnified Party in the pursuit of the Intellectual Property Claim. Unless otherwise agreed in writing, this section is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement.

#### **40. No Waiver of Sovereign Immunity**

In no event shall this Master Agreement, any Participating Addendum or any contract or any Purchase Order issued thereunder, or any act of the Lead State, a Participating Entity, or a Purchasing Entity be a waiver of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

This section applies to a claim brought against the Participating Entities who are states only to the extent Congress has appropriately abrogated the state's sovereign immunity and is not consent by the state to be sued in federal court. This section is also not a waiver by the state of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

#### **41. Governing Law and Venue**

a. The procurement, evaluation, and award of the Master Agreement shall be governed by and construed in accordance with the laws of the Lead State sponsoring and administering the procurement. The construction and effect of the Master Agreement after award shall be governed by the law of the state serving as Lead State. The construction and effect of any Participating Addendum or Order against the Master Agreement shall be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's State.

b. Unless otherwise specified in the RFP, the venue for any protest, claim, dispute or action relating to the procurement, evaluation, and award is in the Lead State. Venue for any claim, dispute or action concerning the terms of the Master Agreement shall be in the state serving as Lead State. Venue for any claim, dispute, or action concerning any Order placed against the Master Agreement or the effect of a Participating Addendum shall be in the Purchasing Entity's State.

c. If a claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for (in decreasing order of priority): the Lead State for claims relating to the procurement, evaluation, award, or contract performance or administration if the Lead State is a party; a Participating State if a named party; the state where the Participating Entity or Purchasing Entity is located if either is a named party.

#### **42. Assignment of Antitrust Rights**

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

#### **43. Contract Provisions for Orders Utilizing Federal Funds**

Pursuant to Appendix II to 2 Code of Federal Regulations (CFR) Part 200, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, Orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the Order is placed or upon delivery. These federal requirements may be proposed by Participating Entities in Participating Addenda and Purchasing Entities for incorporation in Orders placed under this Master Agreement.

#### **44. Leasing or Alternative Financing Methods**

The procurement and other applicable laws of some Purchasing Entities may permit the use of leasing or alternative financing methods for the acquisition of Products under this Master Agreement. Where the terms and conditions are not



otherwise prescribed in an applicable Participating Addendum, the terms and conditions for leasing or alternative financing methods are subject to negotiation between the Contractor and Purchasing Entity.

**45. Entire Agreement:** This Master Agreement, along with any attachment, contains the entire understanding of the parties hereto with respect to the Master Agreement unless a term is modified in a Participating Addendum with a Participating Entity. No click-through, or other end user terms and conditions or agreements required by the Contractor (“Additional Terms”) provided with any Services hereunder shall be binding on Participating Entities or Purchasing Entities, even if use of such Services requires an affirmative “acceptance” of those Additional Terms before access is permitted.

## eMarket Center Appendix

a. This Appendix applies whenever a catalog hosted by or integration of a punchout site with eMarket Center is required by the solicitation or either solution is proposed by a Contractor and accepted by the Lead State.

b. Supplier's Interface with the eMarket Center. There is no cost charged by JAGGAER to the Contractor for loading a hosted catalog or integrating a punchout site.

c. At a minimum, the Contractor agrees to the following:

(1) Implementation Timeline: NASPO ValuePoint eMarket Center Site Admin shall provide a written request to the Contractor to begin enablement process. The Contractor shall have fifteen (15) days from receipt of written request to work with NASPO ValuePoint and JAGGAER to set up an enablement schedule, at which time JAGGAER's technical documentation shall be provided to the Contractor. The schedule will include future calls and milestone dates related to test and go live dates. The contractor shall have a total of Ninety (90) days to deliver either a (1) hosted catalog or (2) punch-out catalog, from date of receipt of written request.

(2) NASPO ValuePoint and JAGGAER will work with the Contractor, to decide which of the catalog structures (either hosted or punch-out as further described below) shall be provided by the Contractor. **Whether hosted or punch-out, the catalog must be strictly limited to the Contractor's awarded contract offering (e.g. products and/or services not authorized through the resulting cooperative contract should not be viewable by NASPO ValuePoint Participating Entity users).**

(a) Hosted Catalog. By providing a hosted catalog, the Contractor is providing a list of its awarded products/services and pricing in an electronic data file in a format acceptable to JAGGAER, such as Tab Delimited Text files. In this scenario, the Contractor must submit updated electronic data no more than once per 30 days to the eMarket Center for the Lead State's approval to maintain the most up-to-date version of its product/service offering under the cooperative contract in the eMarket Center.

(b) Punch-Out Catalog. By providing a punch-out catalog, the Contractor is providing its own online catalog, which must be capable of being integrated with the eMarket Center as a. Standard punch-in via Commerce eXtensible Markup Language (cXML). In this scenario, the Contractor shall validate that its online catalog is up-to-date by providing a written update no more than once per 30 days to the Lead State stating they have audited the offered products/services and pricing listed on its online catalog. The site must also return detailed UNSPSC codes (as outlined in line 3) for each line item. Contractor also agrees to provide e-Quote functionality to facilitate volume discounts.

d. Revising Pricing and Product Offerings: Any revisions to product/service offerings (new products, altered SKUs, new pricing etc.) must be pre-approved by the Lead State and shall be subject to any other applicable restrictions with respect to the frequency or

amount of such revisions. However, no cooperative contract enabled in the eMarket Center may include price changes on a more frequent basis than once per year (see required Price Guarantee Period section 11). The following conditions apply with respect to hosted catalogs:

(1) Updated pricing files are required each calendar month of the month and shall go into effect in the eMarket Center on as approved by the Lead State contract administrator.

(2) Lead State-approved price changes are not effective until implemented within the eMarket Center. Errors in the Contractor's submitted pricing files will delay the implementation of the price changes in eMarket Center.

e. Supplier Network Requirements: Contractor shall join the JAGGAER Supplier Network (SQSN) and shall use JAGGAER's Supplier Portal to import the Contractor's catalog and pricing, into the JAGGAER system, and view reports on catalog spend and product/pricing freshness. The Contractor can receive orders through electronic delivery (cXML) or through low-tech options such as fax. More information about the SQSN can be found at: [www.sciquest.com](http://www.sciquest.com) or call the JAGGAER Supplier Network Services team at 800-233-1121.

f. Minimum Requirements: Whether the Contractor is providing a hosted catalog or a punch-out catalog, the Contractor agrees to meet the following requirements:

(1) Catalog must contain the most current pricing, including all applicable administrative fees and/or discounts, as well as the most up-to-date product/service offering the Contractor is authorized to provide in accordance with the cooperative contract; and

(2) The accuracy of the catalog must be maintained by Contractor throughout the duration of the cooperative contract; and

(3) The Catalog must include a Lead State contract identification number; and

(4) The Catalog must include detailed product line item descriptions; and

(5) The Catalog must include pictures when possible; and

(6) The Catalog must include any additional NASPO ValuePoint and Participating Addendum requirements. Although suppliers in the SQSN normally submit one (1) catalog, it is possible to have multiple contracts applicable to different NASPO ValuePoint Participating Entities. For example, a supplier may have different pricing for state government agencies and Board of Regents institutions. Suppliers have the ability and responsibility to submit separate contract pricing for the same catalog if applicable. The system will deliver the appropriate contract pricing to the user viewing the catalog.

g. Order Acceptance Requirements: Contractor must be able to accept Purchase Orders via fax or cXML. The Contractor shall provide positive confirmation via phone or email within 24 hours of the Contractor's receipt of the Purchase Order. If the Purchasing Order is received after 3pm EST on the day before a weekend or holiday, the Contractor must provide positive confirmation via phone or email on the next business day.

h. UNSPSC Requirements: Contractor shall support use of the United Nations Standard Product and Services Code (UNSPSC). UNSPSC versions that must be adhered to are driven by JAGGAER for the suppliers and are upgraded every year. NASPO ValuePoint reserves the right to migrate to future versions of the UNSPSC and the Contractor shall be required to support the migration effort. All line items, goods or services provided under the resulting statewide contract must be associated to a UNSPSC code. All line items must be identified at the most detailed UNSPSC level indicated by segment, family, class and commodity.

i. Applicability: Contractor agrees that NASPO ValuePoint controls which contracts appear in the eMarket Center and that NASPO ValuePoint may elect at any time to remove any supplier's offering from the eMarket Center.

j. The Lead State reserves the right to approve the pricing on the eMarket Center. This catalog review right is solely for the benefit of the Lead State and Participating Entities, and the review and approval shall not waive the requirement that products and services be offered at prices (and approved fees) required by the Master Agreement.

k. Several NASPO ValuePoint Participating Entities currently maintain separate JAGGAER eMarketplaces, these Participating Entities do enable certain NASPO ValuePoint Cooperative Contracts. In the event one of these entities elects to use this NASPO ValuePoint Cooperative Contract (available through the eMarket Center) but publish to their own eMarketplace, the Contractor agrees to work in good faith with the entity and NASPO ValuePoint to implement the catalog. NASPO ValuePoint does not anticipate that this will require substantial additional efforts by the Contractor; however, the supplier agrees to take commercially reasonable efforts to enable such separate JAGGAER catalogs.

**(December 2017)**

## **Attachment B – Scope Awarded to Contractor**

### **I. Data Communications Award Categories**

The scope for this contract is as provided below. Contractor may offer products (i.e. white box, artificial intelligence, etc.) and services within the Categories it received an award in. Each category also allows for Internet of Things (IoT) products. These products must be an IoT product that can be deployed within, upon, or integrated into a government agency's physical asset to address government line of business needs. Proposals are expected to include IoT products designed to support common government lines of business in specific subcategories i.e. routers, switches, end points, etc. IoT products can only be provided in categories that the vendor is awarded in and can include endpoints that support items in that category.

#### **Category 1.2: NETWORKING**

##### **1.2.1 Network Application Services.**

Application networking solutions and technologies that enable the successful and secure delivery of applications to local, remote, and branch-office users using technology to accelerate, secure, and increase availability of both application traffic and computing resources.

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

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

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

- CIFS (Common Internet File System) acceleration
- Data Compression
- SSL encryption/decryption for acceleration (Optional)
- Layer 4-7 visibility
- Application Specific optimization
- Network analysis tools (solutions utilized to collect, classify, analyze, and securely store log messages).

##### **1.2.2 Networking Software.**

Software that runs on a server, or within the Cloud, and enables the server to manage data, users, groups, security, applications, and other networking functions. The network operating system is designed to allow

transfer of data among multiple computers in a network, typically a local area network (LAN), a private network or to other networks. Networking software capabilities should include:

- Restartable Process
- High availability options
- Targeted operating systems, i.e. DC, campus, core, wan, etc.
- Operating System Efficiencies
- Network analysis tools (solutions utilized to collect, classify, analyze, and securely store log messages).

**1.2.2.1 Network Management and Automation** — Software products and solutions for network automation, cloud computing, and IT systems management.

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

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

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

### **1.2.3 Network Optimization and Acceleration.**

Devices and tools for increasing data-transfer efficiencies across wide-area networks.

**1.2.3.1 Data Analytics** — Appliance for improving network management by more effectively factoring in issues related to congestion, such as utilization, service consumption and routing. Provides real-time insights into network traffic to determine the value of different portions of that traffic.

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

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

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

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

### **1.2.4 Optical Networking.**

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

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

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

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

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

### **Category 1.3: ROUTERS, SWITCHES, SECURITY, AND NETWORKING STORAGE**

#### **1.3.1 Routers.**

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

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

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

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

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

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

#### **1.3.2 Security.**

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

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

- Non-disruptive in-line bump-in-the-wire configuration
- Standard first-generation firewall capabilities, e.g., network-address translation (NAT), stateful protocol inspection (SPI) and virtual private networking (VPN), etc.
- Application awareness, full stack visibility and granular control
- Capability to incorporate information from outside the firewall, e.g., directory-based policy, blacklists, white lists, etc.
- Upgrade path to include future information feeds and security threats
- SSL decryption to enable identifying undesirable encrypted applications (Optional)

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

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

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

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

**1.3.2.7 On-premise and Cloud-based services for Network Communications Integrity** — Solutions that provide threat protection, data loss prevention, message level encryption, acceptable use and application control capabilities to secure web and email communications. This could include cloud access security brokers (CASBs) and DNS security.

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

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

### **1.3.3 Storage Networking.**

High-speed network of shared storage devices connecting different types of storage devices with data servers.

**1.3.3.1 Director Class SAN (Storage Area Network) Switches and Modules** — A scalable, high-performance, and protocol-independent designed primarily to fulfill the role of core switch in a core-edge Fibre Channel (FC), FCOE or similar SAN topology. A Fibre Channel director is, by current convention, a



switch with at least 128 ports. It does not differ from a switch in core FC protocol functionality. Fibre Channel directors provide the most reliable, scalable, high-performance foundation for private cloud storage and highly virtualized environments.

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

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

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

#### **1.3.4: Switches.**

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

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

1. Security
  - a. SSHv2 (Secure Shell Version 2)
  - b. 802.1X (Port Based Network Access Control)
  - c. Port Security
  - d. DHCP (Dynamic Host Configuration Protocol) Snooping
2. VLANs
3. Fast Ethernet/Gigabit Ethernet
4. PoE (Power over Ethernet)
5. link aggregation
6. 10 Gb support
7. Port mirroring
8. Span Taps
9. Support of IPv6 and IPv4
10. Standards-based rapid spanning tree
11. Netflow Support (Optional).

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

- High bandwidth
- Low latency
- Hot swappable power supplies and fans

- Security
  - SSHv2
  - MacSec encryption
  - Role-Based Access Control Lists (ACL)
- Support of IPv6 and IPv4
- 1/10/40/100 Gbps support
- IGP (Interior Gateway Protocol) routing
- EGP (Exterior Gateway Protocol) routing
- VPLS (Virtual Private LAN Service) Support
- VRRP (Virtual Router Redundancy Protocol) Support
- Netflow Support.

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

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

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

- High bandwidth
- Low latency
- Hot swappable power supplies and fans
- Ultra-low latency through wire-speed ports with nanosecond port-to-port latency and hardware-based Inter-Switch Link (ISL) trunking
- Load Balancing across Trunk group able to use packet based load balancing scheme
- Bridging of Fibre Channel SANs and Ethernet fabrics
- Jumbo Frame Support
- Plug and Play Fabric formation that allows a new switch that joins the fabric to automatically become a member

- Ability to remotely disable and enable individual ports
- Support NetFlow or equivalent

**1.3.4.5 Software Defined Networks (SDN)** — An application in SDN that manages flow control to enable intelligent networking.

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

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

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

- Designed for Metro Ethernet networks
- Designed for video and other high bandwidth applications
- Supports a variety of interface types, especially those commonly used by Service Providers

Capabilities should include:

- Redundant Processors
- Redundant Power
- IPv4 and IPv6 unicast and multicast
- High bandwidth
- Low latency
- Hot swappable power supplies and fans
- MPLS (Multiprotocol Label Switching)
- BGP (Border Gateway Protocol)
- Software router virtualization and/or multiple routing tables
- Policy based routing
- Layer 2 functionality
  - Per VLAN Spanning Tree
  - Rapid Spanning Tree
  - VLAN IDs up to 4096
  - Layer 2 Class of Service (IEEE 802.1p)
  - Link Aggregation Control Protocol (LACP)
  - QinQ (IEEE 802.1ad)

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

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

## II. Value Added Services

For each Award Category above, the following valued services should also be available for procurement at the time of product purchase or anytime afterwards. This provided list of value added services is not intended to be exhaustive, and may be updated pursuant to the terms of the resulting Master Agreement

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

### 2.2 Professional Services

- a. Deployment Services
  - i. Survey/ Design Services — Includes, but not limited to, discovery, design, architecture review/validation, and readiness assessment.
  - ii. Implementation Services — Includes, but not limited to, basic installation and configuration or end-to-end integration and deployment.
  - iii. Optimization — Includes, but not limited to, assessing operational environment readiness, identify ways to increase efficiencies throughout the network, and optimize Customer's infrastructure, applications and service management.
- b. Remote Management Services — Includes, but not limited to, continuous monitoring, incident management, problem management, change management, and utilization and performance reporting that may be on a subscription basis.
- c. Consulting/Advisory Services — Includes, but not limited to, assessing the availability, reliability, security and performance of Customer's existing solutions.
- d. Data Communications Architectural Design Services — Developing architectural strategies and roadmaps for transforming Customer's existing network architecture and operations management.
- e. Statement of Work (SOW) Services — Customer-specific tasks to be accomplished and/or services to be delivered based on Customer's business and technical requirements.
- f. Testing Services — Includes, but not limited to, testing the availability, reliability, security and performance of Customer's existing solutions

**2.3 Partner Services** — Provided by Contractor’s Authorized Partners/Resellers.

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

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

**III. Product Line Additions**

During the contract term Contractor may submit a request to update product catalog that falls within the scope listed in herein this Attachment B as new technology is introduced, updated or removed from the market. Lead State will evaluate requests and update the contract offering as appropriate. New product additions must utilize the same pricing structure as was used for services falling into the same service category.

A. Minimum Discount %

The Minimum Discount % off List shall be firm fixed for the duration of the contract. However, the list prices may fluctuate through the life of the contract, as provided within Attachment A. Contractor may offer increased discounts upon achievement of contract volume milestones. Minimum guaranteed contract discounts do not preclude Contractor and/or its authorized resellers from providing deeper or additional, incremental discounts at their sole discretion. Purchasing entities shall benefit from any promotional pricing offered by the Contractor to similar customers. Promotional pricing shall not be cause for a permanent price change.

**Attachment C - Pricing Discounts & Value Added Services**

Contractor Juniper Networks (US), Inc.

**Section 1: Pricing Notes**

1. % discounts are based on minimum discounts off Contractor's commercially published pricelists versus fixed pricing. Nonetheless, Orders will be fixed-price or fixed-rate and not cost reimbursable contracts. Contractor has the ability to update and refresh its respective price catalog, as long as the agreed-upon discounts are fixed.
2. Minimum guaranteed contract discounts do not preclude an Offeror and/or its authorized resellers from providing deeper or additional, incremental discounts at their sole discretion.
3. Purchasing entities shall benefit from any promotional pricing offered by Contractor to similar customers. Promotional pricing shall not be cause for a permanent price change.
4. Contractor's price catalog shall include the price structures of all products, services and value added items (i.e., Maintenance Services, Professional Services, Etc.) that it intends to provide under its contract. Pricing shall all-inclusive of infrastructure and software costs and management of infrastructure, network, OS, and software.

Section 2: Minimum Discount % off List	
<b>Category 1.2 Networking</b>	
Hardware and Software (on premise)	45.00%
Cloud Services	45% (Product) 15% (Service)
Service Packages (i.e., Maintenance, etc.)	15.00%
<b>Category 1.3 Routers, Switches, Security, and Networking Storage</b>	
Hardware and Software (on premise)	45.00%
Cloud Services	45% (Product) 15% (Service)
Service Packages (i.e., Maintenance, etc.)	15.00%

**Section 3: Value Added Services**

Provide the title, job description for each title, and associated hourly rate. Add additional rows as necessary.

Title	Job Description	Hourly Rates					
		Weekday		Weekend		State Holiday	
		Onsite	Remote	Onsite	Remote	Onsite	Remote
Maintenance Services	Maintenance Services are provided as part of the product sale at different annual program levels and sku's by product. See price list	Not priced hourly	Not priced hourly	Not priced hourly	Not priced hourly	Not priced hourly	Not priced hourly
Professional Services	Remote Managed Services are delivered under annual contracts - not via an hourly rate structure	Not priced hourly	Not priced hourly	Not priced hourly	Not priced hourly	Not priced hourly	Not priced hourly
Professional Services	Standard Consulting Rate - Network Design, Integration & Security SKU=Pro-Consult-Sec2 sold as a Daily Rate Not including T&E at \$2750/Day discounted by 10%	\$385/ hour based on discounted daily rate plus on average \$600 per day for Travel divided by 8 hours	\$310/ hour based on discounted daily rate / 8hrs per day	\$385/ hour based on discounted daily rate plus on average \$600 per day for Travel divided by 8 hours	\$310/ hour based on discounted daily rate / 8hrs per day	\$385/ hour based on discounted daily rate plus on average \$600 per day for Travel divided by 8 hours	\$310/ hour based on discounted daily rate / 8hrs per day
Professional Services	Standard NMS Consulting Rate - Network Management and Software Customization SKU=Pro-Consult-APP2 Sold as a Daily Rate Not Including T&E \$2475/Day discounted by 10%	\$354/ hour based on discounted daily rate plus on average \$600 per day for Travel divided by 8 hours	\$278/ hour based on discounted daily rate / 8hrs per day	\$354/ hour based on discounted daily rate plus on average \$600 per day for Travel divided by 8 hours	\$278/ hour based on discounted daily rate / 8hrs per day	\$385/ hour based on discounted daily rate plus on average \$600 per day for Travel divided by 8 hours	\$278/ hour based on discounted daily rate / 8hrs per day
Project Management	Project Management - Standard Rate SKU=PRO-PM2-DAILY sold as a Daily Rate for Remote Services not including T&E at \$2400 discounted by 10%	Custom Service Offering	\$270/ hour based on discounted daily rate / 8hrs per day	Custom Service Offering	\$270/ hour based on discounted daily rate / 8hrs per day	Custom Service Offering	\$270/ hour based on discounted daily rate / 8hrs per day

**Attachment C - Pricing Discounts & Value Added Services**

Contractor Juniper Networks (US), Inc.

Deployment Services	Deployment Services associated with the integration our products are typically defined as Rack and Stack Services. Juniper only provides these services on a fixed price based and usually after a site survey has been performed. No hourly pricing available at this time.	Not Applicable /NA	Not Applicable /NA	Not Applicable /NA	Not Applicable /NA	Not Applicable /NA	Not Applicable /NA
Consulting Advisory Services	Typically fixed project based and based on Consulting area and skills required on a project basis	Custom Service Offering	Custom Service Offering	Custom Service Offering	Custom Service Offering	Custom Service Offering	Custom Service Offering
Architectural Design Services	Architectural Consulting Rate - Network Design, Integration & Security SKU=PRO-CONSULT-SEC1 sold as a Daily Rate Not including T&E at \$3190/Day discounted by 10%	\$434/ hour based on discounted daily rate plus on average \$600 per day for Travel divided by 8 hours	\$359/ hour based on discounted daily rate / 8hrs per day	\$434/ hour based on discounted daily rate plus on average \$600 per day for Travel divided by 8 hours	\$359/ hour based on discounted daily rate / 8hrs per day	\$434/ hour based on discounted daily rate plus on average \$600 per day for Travel divided by 8 hours	\$359/ hour based on discounted daily rate / 8hrs per day
Statement of Work Services	Fixed Priced SOW based Services are not Hourly Rate based but are available - SKU - Pro_Custom	Custom Service Offering	Custom Service Offering	Custom Service Offering	Custom Service Offering	Custom Service Offering	Custom Service Offering
Partner Services	No expected partnered services at this time and they are typically contracted on a per project and fixed price basis	Not Applicable /NA	Not Applicable /NA	Not Applicable /NA	Not Applicable /NA	Not Applicable /NA	Not Applicable /NA
Training Deployment Services	Formal Training is sold separately, but as part of a project delivery we do provide Knowledge Transfer Workshops where both content development as well as delivery would be part of any pricing. Delivered by under our Standard Consulting Rate, SKU=Pro-Consult-Sec2 sold as a Daily Rate Not including T&E at \$2750/Day discounted by 10%	\$385/ hour based on discounted daily rate plus on average \$600 per day for Travel divided by 8 hours	\$310/ hour based on discounted daily rate / 8hrs per day	\$385/ hour based on discounted daily rate plus on average \$600 per day for Travel divided by 8 hours	\$310/ hour based on discounted daily rate / 8hrs per day	\$385/ hour based on discounted daily rate plus on average \$600 per day for Travel divided by 8 hours	\$310/ hour based on discounted daily rate / 8hrs per day
[add any additional Value Added Services]							



JUNIPER NETWORKS  
END USER SUPPORT AGREEMENT

**READ THIS JUNIPER NETWORKS END USER SUPPORT AGREEMENT (“EUSA”) CAREFULLY. IT SETS FORTH THE LEGALLY BINDING RIGHTS AND OBLIGATIONS OF THE END USER PURCHASER OF ANY JUNIPER CARE, JUNIPER CARE PLUS OR OTHER PURCHASABLE JUNIPER NETWORKS SERVICES CONTRACT WHOSE SERVICES DESCRIPTION DOCUMENT IS POSTED AT <http://www.juniper.net/support/guidelines.html> AND REFERS TO THIS END USER SUPPORT AGREEMENT. END USER CONSENTS TO BE BOUND BY THIS END USER SUPPORT AGREEMENT EITHER (I) BY WRITTEN ACCEPTANCE OF THESE TERMS AND CONDITIONS, (II) BY CONTACTING AND USING JUNIPER NETWORKS FOR TECHNICAL SUPPORT AND/OR HARDWARE REPAIR/REPLACEMENT SERVICES, (III) BY ACCESSING JUNIPER NETWORKS’ CUSTOMER SUPPORT CENTER, (IV) BY REGISTERING END USER PRODUCT WITH JUNIPER NETWORKS CUSTOMER SERVICES ORGANIZATION, (V) BY RECEIVING, DOWNLOADING OR DEPLOYING ANY SOFTWARE FURNISHED IN CONNECTION WITH SERVICES OR (VI) BY OTHERWISE RECEIVING OR TAKING ADVANTAGE OF THE SERVICES (INCLUDING SOFTWARE) OFFERED OR IN ANY OTHER WAY EXPRESSING END USER’S AGREEMENT TO THE TERMS CONTAINED HEREIN. AT ANY TIME PRIOR TO ANY SUCH ACCEPTANCE, END USER MAY CONTACT THE AUTHORIZED RESELLER FROM WHOM IT PURCHASED THE JUNIPER NETWORKS SERVICES CONTRACT INDICATE ITS REJECTION OF THE SERVICES CONTRACT AND REQUEST REFUND OF FEES PAID FOR THE SERVICES.**



## 1. Definitions:

In this Agreement, the following definitions shall apply:

- a. *"Agreement"* means (1) this End User Support Agreement; (2) Services Description Documents posted at <http://www.juniper.net/support/guidelines.html> for the Juniper Networks Services purchased, as they may be amended from time to time in accordance with Section 8.I, below, and (3) Online Policies, Guidelines and Procedures, defined below.
- b. *"Authorized Reseller"* means a reseller of Juniper Products that sells Juniper Products and Service Contracts to End Users pursuant to a valid contract with Juniper Networks to conduct such resale activities.
- c. *"End User"* means the person or organization that originally purchases, leases or licenses Product and Services from Juniper Networks or an Authorized Reseller for use in such person's or organization's own business operations and not for further distribution or sale.
- d. *"EOL/EOS Policies"* means policies and guidelines published at <https://www.juniper.net/support/eol/#> pertaining to product end of life notifications, last order date, end of engineering support, end of support, and like product end of life milestones for Juniper products.
- e. *"Juniper Networks"* means: (a) Juniper Networks (US), Inc. and/or its authorized service representative(s) if Services will be provided for Products located in North America, Central America or South America; (b) Juniper Networks International BV and/or its authorized service representative(s) if Services will be provided for Products located in Europe (excluding the United Kingdom), the Middle East, Africa or Asia; (c) Juniper Networks (UK) Limited and/or its authorized service representative(s) if Services will be provided for Products in the United Kingdom; and in each case, any Juniper Affiliate of the applicable Juniper Networks entity to whom this Agreement may be assigned. As used in connection with the provision of Services, the term "Juniper Networks" or "Juniper" under this Agreement may include authorized services representatives of Juniper.
- f. *"Online Policies, Guidelines and Procedures"* means Customer Services policies and guidelines applicable to Service Contracts or referenced in this EUSA or applicable SDDs and that are posted at Juniper Networks' website, [www.juniper.net](http://www.juniper.net). They include, among others, EOL/EOS Policies, defined above, [RMA Repair and Return Policy and Procedure](#) and [Juniper Support Inspection and Reinstatement Policy](#).
- g. *"Product(s)"* means the Juniper Networks hardware products and software license products, or any part thereof, that End User purchases or licenses from Juniper Networks or an Authorized Reseller.
- h. *"SDD"* means a Services Description Document posted at <http://www.juniper.net/support/guidelines.html> and referencing this EUSA as governing terms for the services described therein.
- i. *"Service Contract"* means a bundle of Services described in an SDD and purchased by End User for a set term from Juniper Networks or Authorized Resellers. Service Contracts excludes Resident Engineering, Resident Consultant or other on-site professional services, which are covered under separate professional services terms and conditions. As described in applicable SDD's, a Services Contract may also include a license of certain software for the Services Contract term subject to the terms of the Juniper Networks End User License Agreement current as of the date of commencement of the Services Contract term (or renewal term, as applicable).
- j. *"Services"* means services for maintenance and support of Products purchasable by End User from Juniper Networks or an Authorized Reseller and to be rendered by Juniper Networks for End User and which are described in a Services Description Document posted at <http://www.juniper.net/support/guidelines.html> that refers to this Agreement. For avoidance of doubt, Services do not include Resident Engineering, Resident Consultant or other on-site

professional services offerings and does not include Support Services Specialists services sold by Support Services Specialists to End Users.

## **2. Juniper Networks' Support Obligations.**

- a. Initial Term. Subject to the payment of applicable fees set forth in Section 3.a and conditioned upon Juniper Networks' acceptance of a valid purchase order ("PO") from the End User or an Authorized Reseller, the initial term of a Service Contract will begin on (i) the date of PO acceptance plus three days if the PO does not include the associated Hardware (if any) or the Service Contract is for Software only, or (ii) the date the Hardware is deemed delivered by Juniper plus three days if the PO for the Service Contract includes associated Hardware; or (iii) the date as agreed to in writing between the parties (including as quoted by Juniper and listed in the purchase order).
- b. Renewal Term. Subject to the payment of applicable fees set forth in Section 3.a and conditioned upon Juniper Networks' acceptance of a valid purchase order ("PO") from the End User or an Authorized Reseller, the start date of the Service Contract following the initial term of the Services (and any subsequent renewal terms) will begin on the day after the previous Service Contract expired.

## **3. Support Fees.**

- a. Support Fees. In consideration for the Service Contract, End User shall pay an agreed upon fee either to Authorized Reseller, or if purchasing directly, to Juniper Networks. By issuing a purchase order to an Authorized Reseller or Juniper Networks (as applicable) for the Service Contract, End User agrees to be bound by the terms and conditions of this Agreement.
- b. Renewal. Subject to EOL/EOS Policies then applicable, no less than 60 days prior to the expiration of the initial and subsequent Service Contract term, a notice of expiration and a quotation for the fees for the new Service Contract will be provided to End User or Authorized Reseller. If End User wishes to purchase further Services, then End User shall provide a purchase order to an Authorized Reseller or Juniper Networks, as per the quote, to match the quotation on or before the expiration date. Upon receipt, End User or an Authorized Reseller placing the order on behalf of the End User shall be invoiced in accordance with the terms of this Agreement.
- c. Subcontracting. Juniper Networks may subcontract with, or assign to, its affiliates or other third parties the obligations for performance of any Services.
- d. Purchase Orders. Terms and conditions contained in End User and/or Authorized Reseller purchase orders shall have no binding effect on Juniper Networks without regard for whether such purchase order matches the quotation. In the event there is no quotation, the terms of the Juniper Networks Order Acknowledgement shall govern the terms and conditions of the order.
- e. Payment Terms. If End User is buying pass-through Services from Authorized Reseller, End User will pay all fees based on Authorized Reseller's invoice. In the event that End User is purchasing Services directly from Juniper Networks, End User will pay to Juniper Networks the Services fee based on Juniper Networks' invoice within thirty (30) days of the invoice date.
- f. Taxes. All prices payable under this Agreement are exclusive of tax. If applicable, valid exemption documentation for each taxing jurisdiction shall be provided to Juniper Networks prior to invoicing, and End User shall promptly notify Juniper Networks if their exemption is revoked or modified. All payments made by End User shall be net of any applicable withholding tax. End User will provide reasonable assistance to Juniper Networks by promptly: providing Juniper Networks with valid tax receipts and other required documentation of End User's payment of any withholding taxes;

applying for reduced tax rates; and notifying and assisting Juniper Networks in any audit or tax proceeding, related to transactions hereunder. End User shall comply with all applicable tax laws and regulations, and End User will promptly indemnify, defend and otherwise pay or reimburse Juniper Networks for all costs and damages related to any liability incurred by Juniper Networks as a result of End User's non-compliance or delay with its responsibilities herein. End User's obligations under this Section 3.f shall survive termination or expiration of this Agreement.

#### **4. Confidential Information.**

Confidential Information means all information disclosed to the other in (i) tangible form and which is designated "Confidential" or "Proprietary"; (ii) disclosed orally, and summarized in writing and delivered to the other party within 30 days of disclosure; or (iii) which by the nature of the information and the circumstances of the disclosure, the receiving party should reasonably infer to be confidential or proprietary. Confidential Information does not include information which: (a) is or becomes generally known through no fault of the receiving party, (b) is known to the receiving party at the time of disclosure, as evidenced by its records, (c) is hereafter furnished to the receiving party by a third party as a matter of right and without restriction on disclosure; (d) is independently developed by the receiving party without any breach of this Agreement; or (e) is disclosed in response to a valid order of a court or other governmental body or is otherwise required by law to be disclosed, provided the responding party gives sufficient notice to the other party to enable it to take protective measures.

Each party will use a reasonable degree of care to maintain all Confidential Information of the other in confidence and neither will disclose to any third party nor use Confidential Information of the other for any unauthorized purpose. Each party may only disclose Confidential Information to those recipients, employees and representatives as may have a need to know to accomplish the purposes of this Agreement and who are legally bound by confidentiality obligations consistent with this Agreement. No rights or licenses to intellectual property in Confidential Information is granted by either party under this Agreement, whether express, implied or otherwise the obligations imposed on the receiving party shall survive until such time as the Confidential Information of the other party becomes publicly available and/or made generally known through no action of the receiving party. All Confidential Information will be returned (or destroyed) immediately to the disclosing party after the receiving party's need for it has expired or upon request of the disclosing party or termination of this Agreement. Each party agrees that the violation of the confidentiality provisions will cause irreparable injury to the other entitling the other party to immediate injunctive or other equitable relief, in addition to, and not in lieu of, any other remedies such party may be entitled to. The disclosure of Confidential Information will be governed by this Agreement, which supersedes any previous confidentiality or nondisclosure agreement executed by or on behalf of the parties. Any such Confidential Information will be treated as if it were disclosed under this Agreement (and this Agreement were in effect) as of the date of such exchange.

Nothing in this Agreement shall prohibit or limit either party's use or disclosure of the U.S. Federal income tax treatment and U.S. Federal income tax structure of any transaction contemplated by this Agreement and all materials of any kind (including opinions or other tax analyses) that are provided to it relating to such tax treatment or tax structure, except where confidentiality is necessary to comply with applicable federal or state securities laws.

#### **5. Proprietary Materials; Information Provided by Others.**

- a. End-User acknowledges that it is receiving the benefit of Juniper Networks' experience with supporting, maintaining and developing Juniper Networks products and documentation for Juniper

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Networks end users worldwide. Any and all inventions, derivative works, improvements, developments, feedback or other intellectual property rights generated by Juniper Networks and provided to End User in the course of performing Services ("Juniper Services IP") shall be the sole and exclusive property of Juniper; provided however, (i) Juniper hereby grants End User a non-transferrable non-exclusive, perpetual internal use license to any materials (other than Software) developed by Juniper Networks specifically for End User in the course of providing the Services; and (ii) that such Juniper Services IP are not based upon and will not include End-User's Confidential Information. The Services will not be performed as a work-for-hire but shall instead be subject to these terms. Any use of the Juniper's Software shall remain subject to the end user licensing terms under which such Software was licensed. Furthermore End User hereby grants to Juniper Networks an irrevocable, perpetual, sub-licensable license, for no fee and with the right to sublicense, modify, adapt, translate, and otherwise use, on a worldwide basis, any feedback and ideas shared with Juniper Networks in the course of the Services and the rights to create and own derivative works from such feedback or ideas without the right of attribution.

- b. Subject to the limitations set forth below in this Section 5, End User hereby grants to Juniper Networks, and Juniper Networks hereby accepts, access to and use of End User's and/or its third party licensor's proprietary materials (the "Licensed Materials") solely for purposes of providing Support during the term of the Support Contract and for archival purposes. End User warrants and represents that it has, or will use commercially reasonable efforts to obtain, the right and authority to grant such access to and use of all Licensed Materials to Juniper Networks hereunder. Juniper Networks shall not make any copies, distribute, reproduce, modify, transmit, reverse engineer, disassemble, decompile, prepare derivative works, of the Licensed Materials, except as necessary to provide Support and as approved by End User.
- c. Juniper Networks agrees not to remove, obscure or obliterate any copyright notice, trademark or other proprietary rights notices placed on or contained in any Licensed Materials.
- d. Juniper Networks will be entitled to rely on the timeliness, accuracy and completeness of information prepared and/or provided by End User. Juniper Networks shall not be liable to End User or any third party for any injury or loss arising from errors, omissions, or inaccuracies in documents or other information that is provided by End User or for delays by End User or third parties in providing required information.

**6. LIMITATION OF LIABILITY.** JUNIPER NETWORKS' LIABILITY ARISING OUT OF THIS AGREEMENT AND/OR SALE OF THE PRODUCTS OR SERVICES SHALL BE LIMITED TO THE AMOUNT PAID AND PAYABLE BY THE END USER FOR THE SERVICE CONTRACT THAT IS THE SUBJECT OF THE CLAIM, UP TO A MAXIMUM OF \$100,000 U.S. dollars. TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT SHALL JUNIPER NETWORKS HAVE ANY LIABILITY FOR ANY LOST PROFITS, LOSS OF DATA OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR FOR ANY SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT, UNDER ANY THEORY OF LIABILITY, INCLUDING, WITHOUT LIMITATION, THOSE RESULTING FROM THE USE OF PRODUCT OR SERVICES PURCHASED (OR LICENSED) HEREUNDER, OR FOR ANY OTHER REASON. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

**7. Term and Termination.**

- a. Term. This Agreement shall be binding upon Juniper Networks, and the initial term of this Agreement shall commence, on the date that a valid purchase order for Services is accepted by Juniper Networks. This Agreement will terminate upon the expiration of the End User's last remaining active Service Contract.

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- b. Reinstatement of Services. If with respect to a Product where (i) the standard warranty has ended, (ii) End User's Juniper Networks Service Contract has expired (but not terminated), or (iii) there has been a transfer of Product ownership, then Services for that Product must undergo Juniper Networks inspection and payment of a reinstatement fee before Juniper Networks, at its discretion reinstates Services under a new Juniper Networks Service Contract. Rules for eligibility for reinstatement and applicable fees are set forth in Juniper's Support Services Inspection and Reinstatement Policy (<http://www.juniper.net/support/guidelines.html> ) and is subject to change under Section 8.I. Any fee charged for inspection or reinstatement is non-refundable and does not apply against the purchase price of the new Service Contract.
- c. Termination for Breach. If either party breaches a provision of this Agreement and fails to cure such breach within thirty (30) days after receiving written notice of the breach, the non-breaching party shall have the right to terminate this Agreement at any time; provided if a breach cannot be cured within 30 days but is capable of cure, the breaching party shall not be in default if, within 30 days of receiving notice of breach, in good faith, it begins and continues to attempt to cure the breach. In such case, the breaching party shall have a reasonable time to cure the breach before being in default. Notwithstanding anything to the contrary herein, End User's breach of payment obligation constitutes a default the date the payment is due and Juniper Networks shall have the right to terminate this Agreement immediately
- d. Termination for Insolvency. Either party may terminate this Agreement, effective immediately upon written notice, if the other party becomes the subject of a voluntary or involuntary petition in bankruptcy or any proceeding relating to insolvency, receivership, liquidation or composition for the benefit of creditors, if that petition or proceeding is not dismissed with prejudice within sixty (60) days after filing.
- e. Survival. The provisions of Sections 1, 3.e and f, 4, 5, 6, 7 and 8 shall survive termination hereof for any reason.

**8. Miscellaneous**

- a. Governing Law. This Agreement shall be interpreted and governed by the laws of the State of California without reference to conflict of law principles. The parties specifically agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.
- b. Venue. For any disputes arising out of or in connection with this Agreement with regards to Services Contracts in the United States, the parties consent to the personal and exclusive jurisdiction of, and venue in, the state and federal courts within Santa Clara County, California, except that either party may seek equitable relief in any court of competent jurisdiction to protect its Confidential Information from misappropriation or disclosure by the other party. Any other dispute or controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be determined by arbitration administered by the International Centre for Dispute Resolution in accordance with its International Arbitration Rules. The number of arbitrators shall be three, the place of arbitration shall be Santa Clara County, California, U.S.A., and the language of the arbitration shall be English. Any award of the arbitral tribunal shall be final and binding on the parties. The arbitral award may be enforced in any court of competent jurisdiction. Nothing in the preceding clause (dispute resolution) shall preclude any party from seeking interim relief or orders for interim preservation in any court of competent jurisdiction. Any such application to a court shall not be considered demonstrating an intention to act inconsistently in any way with the agreement to settle disputes by arbitration in accordance with the preceding clause.
- c. Entire Agreement. The terms and conditions contained in this Agreement and its attachments constitute the entire agreement between the parties with respect to the subject matter hereof and supersede all previous agreements and understandings, whether oral or written, between the

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parties hereto with respect to the subject matter of this Agreement and no agreement or understanding varying or extending the same shall be binding upon either party unless in a written document signed by both parties.

- d. Force Majeure. Except for payment obligations contained herein, neither party will be responsible for any failure or delay in performance due, in whole or in part, directly or indirectly, to any contingency, delay, failure, or cause of any nature beyond its reasonable control, including, without in any way limiting the generality of the foregoing, fire, terrorism, epidemic, earthquake, storm, flood or other weather, unavailability of necessary utilities or raw materials, strike, lockout, unavailability of components, war, riot, acts of God, regulation, ordinance, or instructions of government or other public authorities, or judgment or decree of a court of competent jurisdiction (not arising out of breach by such party of this Agreement) or other event that is traditionally recognized by California courts as an event of force majeure.
- e. Assignment. End User may not assign or delegate or otherwise transfer its licenses, rights or duties under this Agreement except with prior written consent of Juniper Networks. Any prohibited assignment will be void. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties thereto and successors and assigns.
- f. Compliance with Laws; Export Requirements. End User shall comply with all applicable laws and regulations. End User acknowledges and agrees that it and Juniper Networks are subject to statutory and regulatory measures of the US government and of the governments of numerous other countries controlling on export, import and use of encryption products, software and technology. Among other things, Juniper may not be able to furnish services of any kind for such product that may have re-exported to a country in violation of applicable US re-export controls. This may arise, for example, (i) if a product is located in an embargoed territory, such as Cuba, Iran, North Korea, Syria or Sudan or the Crimea region of Ukraine, (ii) if the party actually using the Juniper product supported is on a sanctioned parties list published by the US government or by another government with jurisdiction over the transaction by which the End User received the product, (iii) if the party actually using the Juniper product is a government end user in a country for which US law requires export license for certain specially controlled encryption items or (iv) if End User is using any Product to support activities in support of development, manufacture or use of nuclear fuel or weapons, missiles, or chemical or biological weapons. End User represents to Juniper that it has no reason to believe that it has either received any Product through any export or re-export in violation of US or other applicable laws or regulations nor that the product has been installed or used in any manner identified in any of clauses (i) through (iv) above. End User agrees that it will immediately notify Juniper if at any time it has reason to believe that any such representation if made at such time would no longer be accurate. End User agrees that End User will not export, either directly or indirectly, any Products without first obtaining any and all necessary approvals from the U.S. Department of Commerce or any other agency or department of the United States Government is required. End User further agrees that as part of Juniper's export compliance program, Juniper may from time to time impose certain conditions and restrictions on Services as reasonably necessary to avoid violations of encryption controls or other legal requirements. End User agrees to cooperate with all Juniper requests for information, documentation or commitments reasonably required to fulfill requirements of its encryption control program.
- g. Litigation Expenses. In any suit or proceeding relating to this Agreement, the prevailing party will have the right to recover from the other its costs and reasonable fees and expenses of attorneys, accountants, and other professionals incurred in connection with the suit or proceeding, including costs, fees and expenses upon appeal.
- h. Notice. All notices or other communications required or permitted hereunder shall be in writing and shall be deemed to have been given if sent by facsimile (followed by mailing of the original in the manner described herein), by personal delivery, by express courier service, or if mailed, postage

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prepaid first class certified, return receipt requested, on the third day after mailing to the addresses first indicated in this Agreement for End User and the address indicated below for Juniper Networks, or to such other address a party may designate to the other in writing.

For notices to Juniper Networks (US) Inc., End User shall send notices to 1133 Innovation Way, Sunnyvale, CA 94089 USA, Attn: Legal; for notices to Juniper Networks International, B.V., End User shall send notices to Boeing Avenue 240 1119 PZ Schiphol Rijk Amsterdam NL, Attn: Legal; and for notices to Juniper Networks (UK) Limited, End User shall send notices to Building 1 Aviator Park, Station Road, Addlestone, Surrey, K15 2PG, United Kingdom, Attn: Legal.

For notices to End User: [*see address for End User on signature page of this Agreement or, if none, then, at Juniper Networks' election, End User's address on the purchase order for the Services Contract or End User's address indicated when End User registers at Juniper Networks' CSC.*]

In addition to the notice methods specified above, any notification of changes under Section 1)a)i) or ii) herein may be given by posting as specified in Section 1)a)iii).

- i. **No Waiver.** The failure of any party to enforce any of the terms of this Agreement shall not constitute a waiver of that party's right thereafter to enforce each and every term of this Agreement.
- j. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be an original instrument, but all of which shall constitute one and the same agreement.
- k. **Invalidity.** If any portion of this Agreement is held invalid, the parties agree that such invalidity shall not affect the validity of the remaining portions of this Agreement, and the parties shall seek in good faith to agree to substitute for invalid provisions a valid provision that most closely approximates the economic effect and intent of the invalid provision.
- l. **Complete Agreement; Modifications.** This Agreement, including documents incorporated herein by reference, constitutes the entire understanding and contract between the parties and supersedes all prior agreements, commitments or representations, oral or written related to the provision of Juniper Networks Services to End User. The terms and conditions of this Agreement will supersede all pre-printed terms and conditions contained on any purchase order or other business form submitted by either party to the other from the Effective Date forward. Except as otherwise provided in subsections i) or ii), below, this Agreement may not be amended or modified except by a writing executed by the duly authorized representatives of both parties.
  - i) **SDD changes.** Juniper Network may at any time modify, add or delete any SDD or the Juniper Networks Services listing at <http://www.juniper.net/us/en/products-services/technical-services/> effective upon written or electronic notice to End User; provided that no such modification shall affect the terms of any Juniper Networks Service Contract ordered and accepted prior to the effective date of such modification, nor of any renewal of a Juniper Networks Service Contract that becomes effective prior to the effective date of such modification.
  - ii) **Online Policies, Guidelines and Procedures.** Juniper Networks may at any time modify any other online policies, guidelines and procedures referenced in this Agreement effective written or electronic notice to End User, provided that no such modification shall affect the Juniper Networks Services under the then-current term of any Juniper Networks Services Contract ordered and accepted prior to the effective date of such modification.
  - iii) Juniper Networks' posting of any changes regarding Juniper Networks Services shall, when appearing at <http://www.juniper.net/us/en/products-services/technical-services/> or of any changes regarding other online policies and procedures referenced in this Agreement, will be deemed adequate notice of change for purposes of such changes.

**READ THIS AGREEMENT BEFORE DOWNLOADING, INSTALLING, OR USING THE SOFTWARE. JUNIPER NETWORKS IS WILLING TO LICENSE THE SOFTWARE TO YOU OR THE ENTITY YOU REPRESENT (COLLECTIVELY “YOU”) AND MAKE AVAILABLE ASSOCIATED MAINTENANCE SERVICES ONLY IF YOU ACCEPT ALL OF THE TERMS OF THIS AGREEMENT.**

**YOU SHALL HAVE NO RIGHT TO INSTALL OR USE THE SOFTWARE OR TO RECEIVE ANY MAINTENANCE SERVICES THAT YOU MAY HAVE ORDERED UNLESS YOU HAVE RECEIVED A COPY OF THE SOFTWARE FROM JUNIPER NETWORKS OR A JUNIPER NETWORKS-AUTHORIZED RESELLER (COLLECTIVELY, AN “APPROVED SOURCE”), AND (II) YOU ACCEPT ALL TERMS OF THIS AGREEMENT.**

**IF YOU DO NOT AGREE TO ALL TERMS OF THE AGREEMENT, OR IF YOU HAVE ORDERED THE SOFTWARE FROM SOMEONE WHO IS NOT AN APPROVED SOURCE, THEN (A) DO NOT DOWNLOAD, INSTALL, OR USE THE SOFTWARE (and, if the software was delivered to You embedded in a Juniper hardware product, DO NOT INSTALL OR USE THAT HARDWARE PRODUCT) OR REQUEST ANY MAINTENANCE SERVICES, AND (B) WITHIN 30 DAYS AFTER PLACING YOUR ORDER FOR THE SOFTWARE (AND, IF APPLICABLE, THE HARDWARE PRODUCT IN WHICH IT WAS DELIVERED EMBEDDED), EITHER (I) RETURN THE HARDWARE PRODUCT, IF APPLICABLE, RETURN OR DESTROY ALL COPIES OF THE SOFTWARE AND REQUEST FULL REFUND OF THE SOFTWARE LICENSE FEE (AND, IF APPLICABLE, ASSOCIATED SOFTWARE MAINTENANCE SERVICE FEE AND THE PURCHASE PRICE OF THE HARDWARE PRODUCT) FROM THE PARTY THAT FURNISHED YOU THE SOFTWARE. By installing or using any software, using the hardware product in which it was delivered embedded, if applicable, or by using any maintenance services You will be deemed to have accepted this Agreement.**

**IF YOU AND JUNIPER NETWORKS HAVE SIGNED A SEPARATE WRITTEN AGREEMENT COVERING YOUR RIGHTS AND DUTIES WITH RESPECT TO THE SOFTWARE, THEN THAT WRITTEN AGREEMENT TAKES PRECEDENCE OVER ANY CONFLICTING TERMS OF THIS AGREEMENT.**

## END USER LICENSE AGREEMENT

(May 2016 Release)

This Juniper End User License Agreement (“**Agreement**”) governs Your rights and duties with respect to the Software. Capitalized terms used in this Agreement are defined in Section 28 (**Definitions**).

### 1. License Grant.

- a. When You purchase or rightfully receive a license to a Software product, Juniper grants You a worldwide, non-exclusive, non-transferrable right to install and use that Software for the term stated in Your Proof of Entitlement.
- b. As long as Your use of the Software does not exceed the quantity of License Metric units that You purchased, You may copy, install and use the Software on any device that supports it (and you may move the Software from one device to another), EXCEPT (i) for operating system software (and any separately licensable Software products that may be included along with the operating system software in the object code image you receive from Juniper) and its Updates, all of which may only be installed and used on a replacement Juniper Platform (obtained from Juniper or an Approved Source) in the event of a hardware failure (with prompt notice to Juniper); (ii) for Software and its Updates accessed by You through a Commercial Cloud Service provider acting as an Authorized Reseller or other Juniper-authorized Commercial Cloud Service provider in which case You shall be entitled to access and use only such Software instance(s) as may be provisioned for You in the Commercial Cloud Service environment and your right to access and use shall be solely through the Commercial Cloud Service; or (iii) as otherwise agreed to in a written amendment to this Agreement. .

2. **Trust Based Licensing Model.** Most Software offered by Juniper employs no programmatic license enforcement. It is Your responsibility to both monitor Your usage level, and purchase sufficient License Metric units to meet Your Software usage.

3. **License Name.** Each Software product is identified by unique name. This name, when combined with a Version number corresponds to a specific base set of product features and functionality identified to that Version of the Software in Juniper’s Feature Documentation <http://pathfinder.juniper.net/feature-explorer/>.

### 4. Term of License.

- a. **Subscriptions.** If Your license is a Subscription, then the term of the Subscription shall be 12 months unless Your Proof of Entitlement states otherwise. You may, however, renew or reinstate Your Subscription subject to the terms of the Applicable SDD. Subscription renewals are subject to terms of Juniper’s then-current EOL and EOS policies and procedures (see <http://juniper.net/support/eol/>) (“EOL/EOS Policies”),
- b. **Special Purpose Licenses.** If Your license is a Special Purpose License (see Section 6, below), then its term shall be that stated in Your Proof of Entitlement. If You have no Proof of Entitlement or if Your Proof of Entitlement fails to state a license term, then the term of Your license shall be 90 days from date that You first received the Software, whether via download or otherwise.
- c. **Perpetual Licenses.** If You have a valid Proof of Entitlement that states that Your license is “Perpetual,” then, except as stated below, Your license is perpetual, subject only to termination for nonpayment of license fees or other breach of this Agreement. An otherwise Perpetual License to operating system software (as well as any separately licensable Software products that may be included along with the operating system software in the object code image you receive from Juniper) and its Updates nonetheless terminates if and when You sell or otherwise transfer the Juniper Platform on which You use it, or when Your lease to that Juniper Platform terminates.

### 5. License Metrics. License Metrics include the following:

- a. **Core** – the number of Cores available for any instance of Software to operate on, where “Core” means an individual processing unit that is embedded in a computer processor. A processor may contain multiple Cores. If one or more instances of Software is installed for use on a virtual machine, then the number of Cores assigned to the virtual machine will be counted as available for such instance(s) of Software.



## Attachment D - Service Offering EULAs, SLAs

- b. **CPU Socket** – the number of CPU Sockets available for any instance of Software to operate on, where “CPU Socket” means a mechanical component that provides electrical connectivity between a microprocessor and a printed circuit board. If one or more instances of Software is installed for use on a virtual machine, then the number of CPU Sockets assigned to the virtual machine will be counted as available for such instance(s) of Software.
  - c. **Events per Second** - the maximum rate of Events per second that the Software, as deployed, is capable of detecting, logging, recording, monitoring, analyzing or otherwise acting upon or processing. For purposes of this metric, “Event” means a condition or state in the network, including a condition or state in a data path in the network, in an element of the network or in a device connected to the network. If multiple instances of the Software are used, then total Events per Second is the sum of the maximum rates across all such instances.
  - d. **Flows per Second** - the maximum rate of sequences of packets per second from a source device to a destination that the Software, as deployed, is capable of detecting, logging, recording, monitoring, analyzing or otherwise acting upon or processing. If multiple instances of the Software are used, then total Flows per Second is the sum of the maximum rates across all such instances.
  - e. **Managed Users** – the number of individuals to which You and Your direct customers grant access for one or more services furnished, managed, or provisioned by any instance of the Software. A Managed User who accesses such services through multiple devices is nonetheless counted as a single Managed User.
  - f. **Network Element** – the number of physical or virtual devices that are recognizable by any instance of the Software as devices that it may administer, monitor, manage, provision, or otherwise act upon.
  - g. **100Mbps** – the maximum rate of total bits of throughput (inbound or outbound) per second (measured in 100Mbps per second units) that the Software, as deployed, is capable of detecting, monitoring, or otherwise acting upon or processing. If multiple instances of the Software are used, then total 100Mbps is the sum of the maximum rates across all such instances.
  - h. **Gbps** - the maximum rate of total bits of throughput (inbound or outbound) per second (measured in Gbps per second units) that the Software, as deployed, is capable of detecting, monitoring, or otherwise acting upon or processing. If multiple instances of the Software are used, then total Gbps is the sum of the maximum rates across all such instances.
  - i. **Other Forms of License.** Other License Metrics may be defined for specific Software products in a “Software-Specific Entitlement Addendum” (“SSEA”).
- 6. Special Purpose Licenses.** Special Purpose Licenses may not be used for any production or commercial application. License Metric limitations do not apply to Special Purpose Licenses.
- a. **Demonstration Use-based License.** If Your Proof of Entitlement for certain Software (or a separate written agreement with Juniper) identifies Your license as “Demonstration Use” or with words of like meaning, AND if You are a Juniper-authorized distributor or reseller, then for the license term You may use the Software but only to demonstrate features and performance of the Software to prospective buyers and only while You remain a Juniper-authorized distributor or reseller.
  - b. **Research and Development Use-based License.** If Your Proof of Entitlement for certain Software (or a separate written agreement with Juniper) identifies Your license as “Research and Development Use” or “Lab Use” or with words of like meaning, then for the license term You may install and use the Software but only for internal research and development.
  - c. **Evaluation Use-based License.** If Your Proof of Entitlement for certain Software (or a separate written agreement with Juniper) identifies Your license as “Evaluation Use” or with words of like meaning, or if You have no Proof of Entitlement, then for the license term (Section 4, above) You may install and use the Software but only for internal evaluation of the Software.
  - d. **Education Use-based License.** If Your Proof of Entitlement for certain Software (or a separate written agreement with Juniper) identifies Your license as “Educational Use, “Training Use” or with words of like meaning, then for the license term You may install and use the Software solely as a training tool in a Juniper-authorized class that You conduct in the use of that Software. You may so use the Software only while You are operating under a valid and active Global Academic Alliance agreement or Authorized Education Partner agreement with Juniper. You may not, however, allow anyone to access the software other than the instructor and the students duly enrolled in the class, and You may not allow students to copy or download or remove any copy of Software or to use the Software other than for conduct of coursework.
- 7. Maintenance Services; Updates.**
- a. **General.** Subject to its EOL/EOS Policies, Juniper makes available the maintenance services (the “**Maintenance Services**”) described in the “**Applicable SDD**”, which means (i) for Software other than operating system software, the Juniper Care Software Advantage Service Description Document at <https://www.juniper.net/support/guidelines.html>, or (ii) for operating system software, the Juniper Care Service Description Document at <https://www.juniper.net/support/guidelines.html>. All Maintenance Services are subject to the terms and conditions of this EULA and the Applicable SDD.
  - b. **Subscriptions.** If Your Software is licensed under a Subscription, then during the term of the Subscription, Juniper shall provide Maintenance Services for that Software at no additional charge.
  - c. **Special Purpose Licenses.** Juniper has no obligation to furnish Maintenance Services of any kind for Software licensed under Special Purpose License.
  - d. **Maintenance Contracts for Licenses other than Subscriptions.**
    - i) If your license is not a Subscription or a Special Purpose License, then Maintenance Services are available only if you purchase them at an additional fee.
    - ii) If Your license is not a Subscription or a Special Purpose License, then You must purchase and pay for a support contract that meets all of the following requirements:
      - A. The contract must be for at least the initial twelve (12) months of Your license.
      - B. The contract must cover all of Your License Metric Units of the Software;
      - C. The contract must provide at least for the Maintenance Services as described in the Applicable SDD or their substantial equivalent;
AND

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- D. The contract must either be purchased from Juniper or its Approved Sources, or from a Juniper-authorized Support Service Specialist; provided that if you purchase the contract from a Support Service Specialist, you acknowledge and agree that
- (1) Support Service Specialist has **not** entered into or performed under that contract either as a partner, joint venturer, employee or agent of Juniper and
  - (2) Your sole recourse for any breach of such contract or damage or loss arising out of or relating to such contract shall be solely against the Support Service Specialist.
- e. Updates. Updates are available to You only as a part of Maintenance Services. By downloading, taking delivery of or using any Update, Your rights with respect to the Update are subject to the terms the latest revision of this Agreement posted at the time of Your receipt or first use of the Update, any applicable SSEA, the then-current Applicable SDD, then-current EOL/EOS Policies, and Your Proof of Entitlement for the Software. Your rights to use the Update are also subject to Your ceasing all use of the replaced Software (or, as the case may be, the replaced portion of the Software in the case and Update is provided in form of a patch). Certain License Restrictions, Limitations and Prohibitions.
8. This Section 8 supersedes any contrary provision elsewhere in this Agreement and applies to all varieties of licenses, whether Special Purpose Licenses, Subscriptions, Perpetual or otherwise:
- a. No Rights or Licenses Implied. Licenses or rights in the Software not expressly granted in this Agreement shall not arise by implication or otherwise.
  - b. Approved Source. You shall have no right or license in the Software unless You rightfully received the Software from an Approved Source.
  - c. No Sublicensing or Assignment. You may not sublicense, transfer or assign, whether voluntarily or by operation of law, any right or license in or to the Software or under any Proof of Entitlement. Any attempted sublicense, transfer or assignment shall be void.  
If You are a party to a transaction (or related series of transactions) involving a merger, consolidation or other corporate reorganization (collectively, a "Restructure") where You do not survive the transaction(s), the transaction(s) shall also be deemed a prohibited transfer.
  - d. You are Sole Licensee. No rights or licenses in the Software or any Maintenance Services shall arise under this Agreement in favor of anyone other than You.
  - e. Separately Licensable Software. The software image that contains Software product that You license from Juniper or its Approved Sources might also include additional unlicensed features or functionality that You may not use unless You purchase a separate license at an additional fee. Features and functionality are not included in your license to the Version of the Software product you licensed unless a published Juniper feature description for that Version of the Software identifies those features and functionality as being included. <http://pathfinder.juniper.net/feature-explorer/>
  - f. Restrictions on charging a fee for access or use. You shall not allow any customer or other third party to grant anyone else access for a fee or other consideration to services, content or resources that are generated, managed, distributed, provisioned, billed or enabled by the Software.
  - g. Any duty that Juniper might have to deliver a copy of the Software to You is subject to Juniper's ability to deliver such copy to You in compliance with all applicable export control laws and regulations.
  - h. Commercial Cloud Services. Your right of access and use of the Software provision as part of Commercial Cloud Services is subject to the ongoing validity and your compliance with the applicable Commercial Cloud Service terms of use imposed by the Commercial Cloud Service provider. Termination, suspension or unavailability of the Commercial Cloud Service is at your own risk and You acknowledge that Juniper shall no liability or duty arising out of any such termination, suspension or unavailability. You further understand that in order to use the Software, you may have to purchase license rights to and install third party software that is compatible with the Software operating in the Commercial Cloud Services environment, and Juniper disclaims all warranties, representations or assurances regarding suitability of such third party software.
  - i. Source Code. In the limited event that Software includes source code, such source code is provided for reference purposes only unless expressly licensed otherwise by Juniper or its licensors.
  - j. Java Related Software Terms. You acknowledge Oracle owns the Java trademark and all Java-related trademarks, logos and icons including the Coffee Cup and Duke ("Java Marks") and agree to: (a) comply with the Java Trademark Guidelines at <http://www.oracle.com/us/legal/third-partytrademarks/index.html>; (b) not do anything harmful to or inconsistent with Oracle's rights in the Java Marks; and (c) assist Oracle in protecting those rights, including assigning to Oracle any rights acquired by the End User in any Java Mark. Furthermore, Commercial Features that are not included in the licensed Java Software included in the Software will require an additional license from Oracle. "Commercial Features" means those features identified in Table 1-1 (Commercial Features In Java SE Product Editions) of the Program Documentation accessible at <http://www.oracle.com/technetwork/java/javase/documentation/index.html>.
  - k. Other Use Restrictions and Prohibitions. You shall **not**, directly or indirectly:
    - Decompile, disassemble or reverse engineer the Software or modify, change, unbundle, or create derivative works based on the Software, except as expressly permitted by applicable law without the possibility of contractual waiver. If the law requires Juniper to provide interface information to You to adapt the Software, Juniper, at its option, may either (A) provide the information to You subject to Your acceptance of non-disclosure and use limitation terms that Juniper reasonably requires, or (B) perform that adaptation itself at a reasonable charge for services.
    - Copy the Software except for archival purposes or as necessary for You to install and make use of the Software as expressly licensed by Juniper.
    - Detach or separate any libraries, files, modules or other components embedded within a Software product or within a particular software image you have received even if that any such library, file, module or other component is separately licensable, or use any such modules, files or other components separately from the Software product or software image in which it is embedded (except to the extent that a documented feature of the Software product is implemented by doing so);
    - Furnish any copy of the Software or other means of access to the Software to any third party other than to Your contractor(s) (including but not limited to Your Commercial Cloud Service providers) solely for Your benefit in performing its contract services for You and in

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that case only if that contractor has agreed to adhere to the terms of this Agreement. If You do furnish Software or access to Software to Your contractor(s), You shall remain fully and primarily responsible to Juniper for compliance with all provisions of this Agreement;

- Remove (or, if the license includes the right to make copies of the Software, fail to include in those copies) any readme files notices, disclaimers, marks and labels included in the Software as delivered by Juniper; or
- Use or allow use of the Software in violation of any applicable law or regulation or to support or facilitate any illegal activity.

**9. License and Maintenance Contract fees; Taxes.**

- a. Fees. Unless otherwise specified in an SSEA, Your Proof of Entitlement or a separate written agreement between You and Juniper, License fees, Subscription fees and fees for Maintenance Services contracts are due and payable in advance upon acceptance of Your purchase order. Juniper reserves the right to contract order processing and invoicing for fees owed to Juniper with licensing, subscription or Maintenance Services for Software to any third party. For example, in the case of a Commercial Cloud Services license granted for Your access and use of Software in a Commercial Cloud Services environment administered by a third party Commercial Cloud Services provider, such order processing and invoicing may be conducted by such Commercial Cloud Services provider or its agents or affiliates. In such case, You agree to pay all amounts duly invoiced as instructed without any right of counterclaim or offset in respect of claims You might have against such contract party.
- b. Taxes. All prices and fees payable in respect of any license to Software (including any Subscription) or any Maintenance Services contract entered into with Juniper are exclusive of tax. You shall be responsible for paying taxes arising from the licensing or delivery of Software (including any Subscription) or purchase of Maintenance Services. If applicable, valid exemption documentation for each taxing jurisdiction shall be provided to Juniper prior to invoicing, and You shall promptly notify Juniper if Your exemption is revoked or modified. All payments that You make shall be net of any applicable withholding tax. You will provide reasonable assistance to Juniper in connection with such withholding taxes by promptly providing Juniper with valid tax receipts and other required documentation showing Your payment of any withholding taxes; completing appropriate applications that could reduce the amount of withholding tax to be paid; applying for reduced tax rates; and notifying and assisting Juniper in any audit or tax proceeding related to transactions hereunder. You shall comply with all applicable tax laws and regulations, and You will promptly pay or reimburse Juniper for all costs and damages related to any liability incurred by Juniper Networks as a result of Your non-compliance or delay with its responsibilities herein. Neither party shall be liable for taxes or assessments on the other party's net income, gross income, capital, net worth, franchise, privilege, property, or any similar taxes or assessments. Your obligations under this Section 9.b shall survive termination or expiration of this Agreement.

**10. Termination.**

- a. Early Termination for Breach. If at any time You
  - i) fail to make timely payment of any applicable fees due in respect of Software licensed or Maintenance Services, or
  - ii) use the Software in excess of Your purchased License Metric units but fail timely to notify Juniper of such excess use and purchase and pay for additional License Metric units as required under subsection 11.b, below, or
  - iii) otherwise breach any term of this Agreement or the Applicable SDD,
 then Juniper may, in addition to any other remedy to which it may be entitled, terminate Your license to the Software and any rights You may have to Maintenance Services.
- b. Termination for Insolvency. Either party may terminate the SVC Contract or Subscription, effective immediately upon written notice, if the other party becomes the subject of a voluntary or involuntary petition in bankruptcy or any proceeding relating to insolvency, receivership, liquidation or composition for the benefit of creditors, if that petition or proceeding is not dismissed with prejudice within sixty (60) days after filing.
- c. Effect of Termination or Expiration. If Your license term expires without renewal or reinstatement or otherwise terminates, then You shall promptly destroy or return to Juniper all copies of the Software and related documentation in Your possession or control.
- d. Survival. The provisions of Sections 7 through 28 shall survive termination or expiration of this Agreement.

**11. Recordkeeping and Audit.**

- a. Your Duty to Monitor Use. You agree to monitor Your use of all Software and generate accurate, complete and auditable records of levels of that use.
- b. Reports of Excess Use; Purchase of Additional License Metric Units. If at any time Your maximum level of use of the Software exceeds the number of License Metric units You have purchased, then on or before ten days after the last day of the calendar quarter in which Your level of use first exceeded that limit, You shall (i) notify Juniper in writing of Your maximum level of use and (ii) order and purchase sufficient License Metric units (in increments of the applicable minimum allowable number of License Metric units) to meet or exceed the maximum level of use of the Software during such calendar quarter,. Your SSEA, Proof of Entitlement or separate written agreement with Juniper may require You to report on Your usage more often. Failure either to timely report such excess use or to timely purchase and pay for the required additional License Metric units in accordance with this subsection 11.b shall be a material breach of this Agreement.
- c. Juniper's Right to Audit. In order to enable Juniper to verify Your compliance with this Agreement, You shall, throughout the term of the license and for three years thereafter, provide to Juniper and its professional advisors access to such facilities, personnel, records and reports as reasonably necessary for it to validate compliance with this Agreement. Such right of inspection and copying includes without limitation
  - i) all Software monitoring records generated and maintained under this Section 11, and
  - ii) all other written or electronic data and reports that You generate or receive relevant to a determination of whether You have complied with this Agreement.
- d. You hereby irrevocably consent and agree to execute and deliver to Juniper all documentation and to perform all such other acts including furnishing such waivers and releases, at Juniper's request and (subject to subsection 11.e, below) expense to enable Juniper to have access to all documents and records otherwise subject to inspection and audit under subsection 11.c, above but in the custody of any third party.

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- e. If any inspection under subsection 11.c discloses that You used the Software in excess of applicable License Metric units and failed timely to comply with subsection 11.b, then on notice of the inspection results, You shall immediately
- i) purchase and pay for sufficient additional License Metric units (in increments of the applicable minimum allowable License Metric units) to meet or exceed Your maximum level of use of the Software d have been required to Your use from at any time exceeding Your purchase License Metric units;
  - ii) purchase and pay for contracts for Maintenance Services sufficient to cover Your new total number of License Metric units;
  - iii) pay late payment fees accruing on the purchase price of such additional License Metric units and on the amount of underpayment in respect of contracts purchased or required for Maintenance Services at a rate of 1% per month for each calendar month since the month on which Your use first exceeded Your License Metric units; and
  - iv) pay the reasonable costs incurred by Juniper in conducting the audit.

The remedy stated in this Section 11.e. is cumulative with and in addition to any other remedy Juniper may otherwise have.

**12. Statements of Product Direction, Benchmarking Results.**

- a. Juniper may from time to time disclose information related to its development and plans for future products, features or enhancements (“SOPD”). SOPD information is subject to change at any time, without notice. Except as may be set forth in definitive agreements for the potential transaction, Juniper provides no assurances, and assumes no responsibility, that future products, features or enhancements will be introduced. Except as may be set forth in definitive agreements for the potential transaction, You should not base purchasing decisions upon reliance of timeframes or specifics outlined in an SOPD, because Juniper may delay or never introduces the future products, features or enhancements.
- b. “Confidential Information” includes any SOPD, any results of any benchmarking or other testing You perform on the Software or any information disclosed by one party to the other relating to the Software or any Maintenance Services (i) in tangible form if it is designated “Confidential” or “Proprietary”; (ii) orally, if also summarized in writing and delivered to the other party within 30 days of disclosure; or (iii) that by the nature of the information and the circumstances of the disclosure, the receiving party should reasonably infer to be confidential or proprietary. Confidential Information does not include information that: (a) is or becomes generally known through no fault of the receiving party, (b) is known to the receiving party at the time of disclosure, as evidenced by its records, (c) is hereafter furnished to the receiving party by a third party as a matter of right and without restriction on disclosure; (d) is independently developed by the receiving party without any breach of this Agreement; or (e) is disclosed in response to a valid order of a court or other governmental body or is otherwise required by law to be disclosed, provided the responding party gives sufficient notice to the other party to enable it to take protective measures.
- c. Each party will use a reasonable degree of care to maintain all Confidential Information of the other in confidence and neither will disclose to any third party nor use Confidential Information of the other for any unauthorized purpose. Each party may only disclose Confidential Information to those of its employees and representatives that both (i) may have a need to know for purposes of internal evaluation in the case of any SOPD or otherwise for Your internal purposes in configuring, installing, using or supporting the Software and (ii) are legally bound by confidentiality obligations no less stringent than those of this Agreement. No rights or licenses to intellectual property in Confidential Information are granted by either party under this Agreement, whether express, implied or otherwise.
- d. All Confidential Information will be returned immediately to the disclosing party after the receiving party’s need for it has expired or upon request of the disclosing party or termination of this Agreement. Each party agrees that the violation of the confidentiality provisions will cause irreparable injury to the other entitling the other party to immediate injunctive or other equitable relief, in addition to, and not in lieu of, any other remedies such party may be entitled to.
- e. Nothing in this Agreement shall prohibit or limit either party's use or disclosure of the U.S. Federal income tax treatment and U.S. Federal income tax structure of any transaction contemplated by this Agreement and all materials of any kind (including opinions or other tax analyses) that are provided to it relating to such tax treatment or tax structure, except where confidentiality is necessary to comply with applicable federal or state securities laws.

**13. Your Data.** Unless Juniper otherwise agrees in a signed writing, You shall not disclose or provide Juniper access to any personally-identifiable information, whether in data or any other form. You shall be solely responsible for all consequences of any such disclosure or grant of access.

**14. Ownership.** Juniper and Juniper’s licensors, respectively, retain exclusive ownership of all right, title, and interest of all intellectual property in and to the Software. Nothing in this Agreement constitutes a sale or other transfer or conveyance of any right, title, or interest in the Software.

**15. Limited Warranty.**

- a. SOFTWARE LICENSED FOR RESEARCH AND DEVELOPMENT USE, EVALUATION USE, DEMONSTRATION USE OR EDUCATIONAL USE ARE FURNISHED “AS IS” WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, EXPRESSLY OR IMPLIED. For any other license of Software under this Agreement, Juniper warrants for Your sole benefit that for a period of ninety (90) days from the commencement of the license term (herein, the “*Warranty Period*”), the media on which Software is delivered, shall be free from defects in material and workmanship under normal authorized use consistent with the product instructions. You may not make a warranty claim after lapse of the Warranty Period. YOUR SOLE AND EXCLUSIVE REMEDY AND THE ENTIRE LIABILITY OF JUNIPER FOR BREACH OF ANY WARRANTY UNDER THIS SECTION 15 SHALL BE THE REPLACEMENT OF THE MEDIA CONTAINING THE SOFTWARE.
- b. Restrictions: No warranty will apply if the Software (or the hardware on which the Software operates) (i) has been altered, except by Juniper; (ii) has not been installed, operated, repaired, or maintained in accordance with documentation and instructions supplied by Juniper; (iii) has been subjected to unreasonable physical, thermal or electrical stress, misuse, negligence, or accident or (iv) has been licensed solely for Research and Development Use, Lab Use, Evaluation Use or Demonstration Use or if the Software is beta software or otherwise not commercially released. In addition, neither the Software nor any Juniper hardware system on which it may be installed is designed or intended for (i) use in the design, construction, operation or maintenance of any nuclear facility, (ii) navigating or operating aircraft; (iii) operating life-support or life-critical medical equipment or (iv) incorporation in a dwelling or for personal, family, or household purposes or otherwise for use as a consumer product, and Juniper disclaims any express or implied warranty of fitness for such uses. You are solely responsible for backing up its programs

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and data to protect against loss or corruption. **JUNIPER WARRANTY OBLIGATIONS DO NOT INCLUDE INSTALLATION, REINSTALLATION OR MAINTENANCE SERVICES OF ANY KIND.**

- c. JUNIPER DISCLAIMS ANY WARRANTY, REPRESENTATION OR ASSURANCE THAT THE SOFTWARE, OR ANY EQUIPMENT OR NETWORK RUNNING THE SOFTWARE, WILL OPERATE WITHOUT ERROR OR INTERRUPTION, OR WILL BE FREE OF VULNERABILITY TO INTRUSION OR ATTACK.
- d. Disclaimer of All Other Warranties. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 15, TO THE EXTENT PERMITTED BY LAW JUNIPER DISCLAIMS ALL WARRANTIES IN AND TO THE SOFTWARE (WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE), INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, SATISFACTORY QUALITY, NON-INTERFERENCE, ACCURACY OF INFORMATIONAL CONTENT, OR ARISING FROM A COURSE OF DEALING, LAW, USAGE, OR TRADE PRACTICE. TO THE EXTENT AN IMPLIED WARRANTY CANNOT BE EXCLUDED, THAT WARRANTY IS LIMITED IN DURATION TO THE EXPRESS WARRANTY PERIOD. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, THE ABOVE LIMITATION MAY NOT APPLY. THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM JURISDICTION TO JURISDICTION. This disclaimer and exclusion shall apply even if the express warranty fails of its essential purpose.

**16. Limitation of Damages. To the extent permitted by law,**

- a. IN NO EVENT SHALL THE CUMULATIVE LIABILITY OF JUNIPER, ITS DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, SUPPLIERS AND LICENSORS TO YOU FROM ALL CAUSES OF ACTION AND ALL THEORIES OF LIABILITY (WHETHER UNDER CONTRACT OR STATUTE, IN TORT (INCLUDING PRODUCT LIABILITY) OR OTHERWISE), EXCEED THE GREATER OF (I) ONE HUNDRED US DOLLARS (\$100.00) IN THE AGGREGATE OVER ALL COPIES OF ANY AND ALL SOFTWARE LICENSED TO YOU BY JUNIPER OR ANOTHER APPROVED SOURCE; OR (II) THE PRICE PAID TO JUNIPER FOR LICENSED RIGHTS TO THE SOFTWARE, FOR THE SUBSCRIPTION OR FOR THE CONTRACT FOR MAINTENANCE SERVICES, WHICHEVER GAVE RISE TO THE CLAIM.
- b. IN NO EVENT SHALL ANY BREACH BY JUNIPER IN CONNECTION WITH ANY REPRESENTATIONS, WARRANTIES OR COMMITMENTS, EXPRESS OR IMPLIED, RELATING TO THE SOFTWARE OR WITH ANY DUTIES RELATING TO FURNISHING YOU WITH MAINTENANCE SERVICES EXCUSE YOUR UNAUTHORIZED USE OF SOFTWARE OR IMPAIR JUNIPER'S RIGHT TO TERMINATE ANY LICENSE BASED ON YOUR BREACH OF THIS AGREEMENT.
- c. NEITHER JUNIPER NOR ITS DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, SUPPLIERS OR LICENSORS SHALL BE LIABLE FOR ANY LOST PROFITS, LOSS OF DATA, OR COSTS OR PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR FOR ANY SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT OR RELATING TO THE SOFTWARE, TO USE OF THE SOFTWARE OR TO ANY MAINTENANCE SERVICES.
- d. BECAUSE SOME JURISDICTIONS DO NOT ALLOW LIMITATION OR EXCLUSION OF CONSEQUENTIAL OR INCIDENTAL DAMAGES, SOME OR ALL OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.
- e. TO THE EXTENT PERMITTED BY LAW, JUNIPER DISCLAIMS ANY AND ALL LIABILITIES OR OBLIGATIONS WHATSOEVER RELATED TO THE SOFTWARE OR ITS LICENSING TO OR USE BY ANYONE OTHER THAN YOU. You shall defend, indemnify and hold Juniper harmless from and against any liability, damages, loss or cost (including attorneys' fees) arising out of or relating to any dispute, lawsuit, administrative hearing, arbitration or settlement based on any claim by a party other than You relating to that You originally licensed (or relating to a service You offered involving use of the Software).
- f. Juniper has set its prices and entered into this Agreement in reliance upon the disclaimers of warranty and the limitations of liability stated above. Those disclaimers and limitations reflect an allocation of risk between the Parties, and they form an essential basis of the bargain between the Parties.

**17. Compliance with Laws; Export Requirements.** You shall comply with all applicable laws and regulations in connection with Your movement and use of the Software and any Maintenance Services. You warrant and represent that You are not on (and You are not acting on behalf of anyone on) any Denied Persons list, Entity List, Unverified List, Specially Designated Nationals List (nor are You or anyone on whose behalf You might be acting an entity 50% or more owned or controlled, directly or indirectly by anyone on the Specially Designated Nationals List) or on other like list of parties subject to sanctions or to whom or by whom exports or re-exports of products subject to export controls are prohibited or subject to special conditions (such as US Sectoral Sanctions) whether published by the US Government or by the EU. You further warrant and represent that You are not located in (and You agree that neither You nor anyone on whose behalf You are acting will install or use the Software in any of the following: Cuba, Iran, North Korea, Sudan or Syria, or in the region of Crimea or Sevastopol, You warrant and represent that You are not using (and You agree that You will not use or allow use of) any Software or technology furnished hereunder or in connection with any Maintenance Services to further activities in support of development, manufacture or use of nuclear fuel or weapons, missiles, or chemical or biological weapons. You further agree that You will immediately notify Juniper if at any time those warranties and representation become no longer accurate or any commitment made in this section is breached. Regardless of any disclosure You might make to Juniper of an ultimate destination of the Software, You shall not export, either directly or indirectly, any Software without first obtaining any and all necessary approvals under US, EU or other applicable laws or regulations. You further take full responsibility for obtaining all import licenses and use permits that may be required by the country or state in which You install and use the Software. You acknowledge and agree that the Software as well as related technical data and assistance that may be furnished in the course of the Maintenance Services may contain encryption or encryption technology and are all subject to legal and regulatory controls and restrictions on export and re-export, including those of the U.S. Department of Commerce. You understand and agrees that Juniper may without liability or breach terminate this license or withhold or impose certain restrictions and conditions on Maintenance Services in order to avoid risk of any violation of export control or other laws . You understand that prohibited use of the Software includes, among other things, use of the Software to export controlled technical data or software in violation of applicable export control laws or regulations, to engage in unlawful dissemination or exploitation of intrusion software, transport of personal identification information, and You agree to refrain from all such activity.

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- 18. Commercial Computer Software.** The Software is a “commercial item” as defined at Federal Acquisition Regulation (48 C.F.R.) (“FAR”) section 2.101 comprised of “commercial computer software” and “commercial computer software documentation” as those terms are used in FAR 12.212. Consequently, regardless of whether You are the US Government or a department or agency thereof, You shall acquire only those rights with respect to the Software that are set forth in this Agreement and the Proof of Entitlement.
- 19. Third Party Software.** Any licensor of Juniper whose software is embedded in the Software shall be a third party beneficiary with respect to this Agreement, and that licensor shall have the right to enforce this Agreement in its own name as if it were Juniper. In addition, certain third party software may be provided with the Software and is subject to the accompanying license(s), if any, of its respective owner(s). To the extent portions of the Software are distributed under and subject to open source licenses obligating Juniper to make the source code for those portions publicly available (such as the GNU General Public License (“GPL”) or the GNU Lesser General Public License (“LGPL”)), Juniper will make those source code portions (including Juniper modifications, as appropriate) available upon request for a period of up to three years from the date of distribution. You may obtain a copy of the GPL at <http://www.gnu.org/licenses/gpl.html>, and a copy of the LGPL at <http://www.gnu.org/licenses/lgpl.html>. Open source information and information on contacting Juniper can be found at <http://www.juniper.net/support/products/>.
- 20. Governing Law.** This Agreement (including all documents incorporated herein) and the terms of any contract for Maintenance Services with Juniper, shall be governed by the laws of the State of California (without reference to its conflicts of laws principles). The provisions of the U.N. Convention for the International Sale of Goods shall not apply. The provisions of the Uniform Computer Information Transactions Act shall not apply. For any disputes arising under this Agreement or any contract for Maintenance Services that You may have with Juniper, the Parties hereby consent to the personal and exclusive jurisdiction of, and venue in the courts of the state of California (and the US District Court for the district of Northern California).
- 21. Force Majeure.** Except for Your duty to make payment for Software licensed or contracts for Maintenance Services, and except for Your unauthorized installation or use of Software, neither party will be responsible for any failure or delay in its performance due to causes beyond its reasonable control, including, but not limited to, acts of God, war, riot, embargoes, acts of civil or military authorities, fire, floods, earthquakes, accidents, strikes, or fuel crises (“Force Majeure”), provided that the party gives prompt written notice thereof to the other party and uses its diligent efforts to resume performance. Either party shall be entitled to terminate this Agreement if the Force Majeure event continues for a period of one month.
- 22. Applicability of This Agreement.**
- Separate Signed Agreements.** If You and an authorized representative of Juniper have signed a valid separate written agreement governing Your use of any or all Software licensed from Juniper, then with respect to that Software that signed agreement will take precedence over any inconsistent terms of this Agreement.
  - Software-Specific Entitlement Addendum.** As to certain Software, Juniper may post a Software-Specific Entitlement Addendum (“SSEA”) on its website. The terms of that SSEA are incorporated into this Agreement as to the Software addressed by the SSEA. The SSEA shall take precedence over any inconsistent terms of this Agreement as to that Software.
  - Transition Rules.** If You licensed any Software from Juniper under a different End User License Agreement, then this Agreement shall apply to that Software if and when, following posting of this Agreement at <http://www.juniper.net/support/eula.html>, You either purchase additional license metric units for the Software, renew the license at the end of the license term or reinstate the license after the license expires.
- 23. Complete Agreement; Modifications.** This Agreement together with the Applicable SDD, constitutes the entire agreement between the parties regarding its subject matter and supersedes all prior agreements, commitments or representations, oral or written related to the Software and Maintenance Services. The terms and conditions of this Agreement will supersede all pre-printed terms and conditions contained on any purchase order, task order or other business form submitted by either party to the other. Except as otherwise provided in subsection 23.a, this Agreement may not be amended or modified except by a writing executed by the duly authorized representatives of both parties.
- Future Modifications.** Juniper may at any time post on its website (or that of its affiliates) modifications or restatements of this Agreement, any applicable SSEA, Applicable SDD, EOL/EOS Policies or any other policy or guideline referenced in this Agreement or the Applicable SDD. Any such modification shall govern the terms of Your license for any extension or renewal term of the license (or of any Subscription or contract for Maintenance Services, as applicable), but only if that extension or renewal term or reinstatement period starts after posting of the modification. (See also section 7.e., above, regarding application of modifications of this Agreement to Updates.)
- 24. Severability.** If any portion of this Agreement is held invalid, the Parties agree that such invalidity shall not affect the validity of the remainder of this Agreement. This Agreement and associated documentation have been written in the English language, and the Parties agree that the English version will govern.
- 25. Notification.** Except as otherwise provided elsewhere in this Agreement, any report or notice under this Agreement shall be given in a writing, if to Juniper then by email to- or by mail to 1133 Innovation Way , Sunnyvale, CA 94089 USA attn.: EULA Notices provided that the notice identifies You by name, address and email address; or, if to You, by email to Your contact email address (or by mail addressed to Your street address that is associated with Your user account for access to Juniper’s Customer Support Center at [www.juniper.net/customers/support](http://www.juniper.net/customers/support). If You have no such user account, then notification shall be deemed given to You by emailing or mailing notice to any office or contact email address for the Authorized Source from which You acquired Your license.
- 26. Waiver.** The failure of Juniper to require Your performance of any provision of this Agreement shall not affect Juniper’s full right to require such performance at any time thereafter; nor shall its waiver of a breach of any provision hereof be taken to be a waiver of the provision itself.
- 27. Translations.** Several translations of this Agreement may appear at [www.juniper.net/techpubs/software/software-license.html](http://www.juniper.net/techpubs/software/software-license.html). To the extent of any inconsistency between the English version of this Agreement and any non-English version the English version shall govern.
- 28. Definitions.** The following definitions apply to capitalized terms used this Agreement:
- “**Agreement**” means this End User License Agreement.
  - “**Applicable SDD**” is as defined in subsection 7.a, above.
  - “**Approved Source**” is Juniper or a distributor or reseller authorized by Juniper to distribute Software and Maintenance Services in the territory in which You are located.

## Attachment D - Service Offering EULAs, SLAs

- “**Commercial Cloud Services**” means a service offered and administered by Juniper or a third party whereby licensees of Software may without downloading or otherwise taking delivery of a copy of the Software use and access instances of Software running in a virtual machine environment resident in a networked cloud facility or group of facilities.
- “**Confidential Information**” is as defined in Section 12, above.
- “**Customer**” or “**You**” means the individual, other legal entity, or other business, governmental or not-for-profit organization (but excluding any parent, subsidiary or other affiliate of any of the foregoing) that (A) is the original end user purchaser of a license to the Software from an Approved Source, (B) accepts the terms of this Agreement, (C) is identified as “**Customer**” or “**End User**” in the applicable Proof of Entitlement, if any, and (D) has registered by name with Juniper as end user of the Software.
- “**EOL/EOS Policies**” are as defined in Section 4.
- “**Feature Documentation**” for a particular Software Version or Release means Juniper’s published User Guide, Release Notes and feature listings for that Version or Release.
- “**Juniper Networks**” or “**Juniper**” means (a) Juniper Networks International B.V., if You have acquired its license rights to the Software for use in Europe, the Middle East, Africa, Asia or the Pacific Rim (excluding the Americas); or (b) Juniper Networks (U.S.), Inc., if You have acquired its license rights to the Software for use in North America, Central America or South America.
- “**Juniper Platform**” means any hardware router, switch or other network hardware equipment or devices marketed and sold by Juniper.
- “**License Metric**” is a metric defined in Section 5 or, for some Software, in an SSEA.
- “**Maintenance Services**” for Software means the set of software maintenance services described in the Applicable SDD.
- “**Proof of Entitlement**” is a Juniper order confirmation or other Juniper-issued written or electronic confirmation of Juniper’s grant to You of a license. The Proof of Entitlement must identify You, the Software licensed, any applicable License Metric and, if applicable, the number of units of that License Metric that You purchased. The Proof of Entitlement must also indicate whether the license is a Subscription, the term of the license and, if it is a Special Purpose License, the kind of Special Purpose License. If Your license is to operating system software (as well as any separately licensable Software products that may be included along with the operating system software in the object code image you receive from Juniper) and its Updates, proof of Your purchase of the Juniper Platform on which the operating system software runs shall serve as Your Proof of Entitlement but only as long as You own or lease the Juniper Platform.
- A “**Release**” is a particular object code image of a software product that is identified by a Release denomination starting with “x.y” followed by additional image identifying string. Commonly a Release denomination ends with “Rz” where “z” is one, two or more whole numbers each separated by a period. For example, Junos Space Network Director 1.5R1.6 is a Release of the Junos Space Network Director software product.
- “**Software**” means the software product identified in Your Proof of Entitlement, and includes 1) machine-readable instructions and data, 2) components, files, and modules, 3) any accompanying audio-visual content, and 4) accompanying activation keys, if any, and 5) associated documentation. Except where the context otherwise requires, Software includes any Update of that Software that You rightfully receive under a Subscription or contract for Maintenance Services.
- “**Special Purpose License**” means any of the licenses described in Section 6 of the Agreement.
- “**SSEA**” means a Software-Specific Entitlement Addendum to this Agreement that may include non-standard terms and conditions covering only a specified Software product or product group.
- “**Subscription**” means a license to Software for a finite, fixed term of use that includes Your right to receive throughout the term of the Subscription and at no additional charge, support services under the terms of the Applicable SDD.
- “**Update**” means software that is an upgrade, bug fix, patch or other Release of Software licensed hereunder that Juniper makes generally available free of incremental charge to customers purchasing a Subscription or contract for Maintenance Services. An Update may be a Release under a different Version of the Software from that You originally licensed and, therefore, may have a different set of features and functionality.
- “**Version**” means one or more Releases of a particular software product with a common “x.y” denomination in the first two places of the Release identifier. For example, Junos 12.2R1 through Junos 13.2R11 are all Releases under the same Version, whereas Junos 12.2R1 and Junos 12.3R1 are Releases under different Versions.