

PARTICIPATING ADDENDUM



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

Led by the State of Utah

Master Agreement #: AR3227

State of Kansas Contract #: 000000000000000000047258

Contractor: **CISCO SYSTEMS, INC.**

Participating Entity: **STATE OF KANSAS**

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

- *All products and services listed on the Contractor page of the NASPO ValuePoint website and/or Contactor's contract website.*

Master Agreement Terms and Conditions:

1. Scope: This addendum covers the Master Agreement AR3227 led by the State of Utah for use by state agencies and other entities located in the Participating State of Kansas authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official.
2. Participation: This NASPO ValuePoint Master Agreement may be used by all state agencies, institutions of higher institution, political subdivisions and other entities authorized to use statewide contracts in the State of Kansas. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.
3. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor

Name:	Mimi Nguyen-Farr
Address:	170 West Tasman Dr., San Jose, CA 95134
Telephone:	408-527-2627
Fax:	408-608-1802
Email:	nvp-help@cisco.com

Participating Entity

Name:	Neal Farron
Address:	Department of Administration, Office of Procurement and Contracts 900 SW Jackson, Rm 451S Topeka, KS 66612
Telephone:	785-296-3122 or 785-296-2376
Fax:	785-296-7240
Email:	Neal.Farron@ks.gov

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

Led by the State of Utah

**4. PARTICIPATING ENTITY MODIFICATIONS OR ADDITIONS TO THE MASTER
AGREEMENT**

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

Participating Entity must check one of the boxes below.

☐ No changes to the terms and conditions of the Master Agreement are required.

☒ The following changes are modifying or supplementing the Master Agreement terms and conditions.

(a) The laws of the State of Kansas shall govern this Participating Addendum.

(b) State of Kansas Contractual Provisions Attachment, DA-146a attached and incorporated into this Participating Addendum will have prior precedence over the Order of Precedence for the Master Agreement.

(c) Travel expenses if applicable, shall be reimbursed under the same rates and conditions as noted in the "Employee Travel Expense Reimbursement Handbook" found at: <https://admin.ks.gov/offices/chief-financial-officer/travel-information-for-state-employees> - unless otherwise agreed upon with the Purchasing Entity.

(d) Leasing (and alternative financing methods) for State of Kansas agencies is outside the scope of this agreement unless authorized in written prior approval by the State Chief Procurement Official for an individual order. For the avoidance of doubt, the parties acknowledge and agree that this provision is not intended to prevent subscription orders under this Participating Addendum.

(e) Upon request of the Purchasing Entity, Fulfilment partners shall accept a Business Procurement Card (BPC) or other like instrument in lieu of a warrant for payment under this agreement. No additional charges will be allowed for using the P-Card (credit card).

(f) Reports and Administrative Fees:

The Contractor shall submit reports and administrative fees to the Office of Procurement and Contracts for all acquisitions, less returned product ("actual, net invoice sales"), made from this Participating Addendum. These items are to be submitted no later than 75 days following the end of each calendar quarter. The report should include as a minimum the agency name, quantity, description and amount. The report is to be provided electronically to reports@ks.gov. The Administrative Fee is to be one-half of one percent (0.5% or 0.005). A physical check is to be mailed to and be made payable to the State of Kansas – Office of Procurement and Contracts.

(g) All Administrative Fees will be incorporated into the quoted unit prices of this contract.

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

Led by the State of Utah

(h) When the Master Agreement is renewed or extended this Participating Addendum is also renewed and extended.

(i) This contract is not an exclusive contract. The State of Kansas is not precluded from the purchase of goods and services from other sources.

(j) A State of Kansas, Tax Clearance Certificate is required to execute this contract.

(k) The contractor shall sign and submit a "Policy Regarding Sexual Harassment Acknowledgment form" per Executive Order 18-04. This form is required to execute this contract.

(l) The contractor shall sign and submit a "Boycott of Israel certification Form" per HB 2482, 2018 Legislature. This form is required to execute this contract.

(m) The contractor acknowledges the assigned State of Kansas contract number is:
0000000000000000000047258.

5. Lease Agreements: Leasing (and alternative financing methods) for State of Kansas agencies is outside the scope of this agreement unless authorized in written prior approval by the State Chief Procurement Official for an individual order. For the avoidance of doubt, the parties acknowledge and agree that this provision is not intended to prevent subscription orders under this Participating Addendum.

Political subdivisions or educational entities that have the authority may finance the purchases from this Master Agreement. If financing is through a lease agreement, that agreement is solely between the Contractor and the entity.

6. Subcontractors: All contractors, dealers, and resellers authorized in the State of Kansas, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to Purchasing Entities in the NASPO ValuePoint Master Agreement, *e.g. for direct order taking, processing, fulfillment or provisioning*. The contractor's Fulfillment Partners participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

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

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

Led by the State of Utah

The Contractor is to obtain from subcontractors' information and fees as described in section 4, part f and supply to the State of Kansas.

7. Orders: Purchasers may place orders directly only through Contractor's approved Fulfillment Partners or through Contractor (only on an as-needed basis) for products or services as authorized under this Participating Addendum. Only those Fulfillment Partners approved and listed during the term of Participating Addendum at Contractor's website are authorized to directly provide quotes, receive purchase orders, invoice Customers, and receive payment from purchasers on Contractor's behalf.

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

Any order placed by a Participating Entity or Purchasing Entity for a product and/or service under this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to such order. For clarity, sales of Contractor's product or services by Contractor or an authorized reseller made under a separate contract, where the applicable quoting or ordering documents reference that separate contract, are not deemed to be sales under this Master Agreement.

Political Subdivisions are responsible for processing Purchase orders directly with the Contractor.

8. Term: The term of this Participating Addendum shall begin on the date of last signature below. The term shall continue for a period ending on the Termination Date of the Master Agreement or when this Participating Addendum is terminated in accordance with the Master Agreement, whichever shall occur first. When the Master Agreement is renewed or extended this Participating Addendum is also renewed and extended.



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

Led by the State of Utah

9. Notices: Notwithstanding anything contained in the Master Agreement to the contrary, all notices required or permitted under this Participating Addendum will be in writing and will be deemed given: (a) when delivered personally; (b) when sent by confirmed facsimile or electronic mail (in the case of Cisco to Agreement-notice@cisco.com); (c) three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (d) one (1) day after deposit with a commercial express courier specifying next day delivery, with written verification of receipt. All communications will be sent to the addresses set forth Section 3 of this Participating Addendum (and notices to Cisco shall be further addressed to the Office of the General Counsel, Attn: Contract Notice) or such other address as may be designated by a party by giving written notice to the other party pursuant to this paragraph, or, in the absence of such an address from Customer, to the address to which the last invoice under this Participating Addendum was sent before notice is served. Notwithstanding the foregoing, notices regarding changes in pricing, Software license terms, policies or programs may be by posting on Cisco.com or by e-mail or fax.
10. Entire Agreement: This Participating Addendum and the Master Agreement (including all amendments and attachments thereto) constitute the entire agreement between the parties concerning the subject matter of this Participating Addendum and replaces any prior oral or written communications between the parties, all of which are excluded. There are no conditions, understandings, agreements, representations or warranties, expressed or implied, that are not specified herein. This Participating Addendum may be modified only by a written document executed by the parties hereto.

NASPO ValuePoint
PARTICIPATING ADDENDUM



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

Led by the State of Utah

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

Participating Entity: State of Kansas	Contractor:
Signature: 	Signature: 
Name: Richard Beattie	Name: Jenn Pate
Title: Director of Procurements and Contracts	Title: Authorized Signatory
Date: August 21, 2020	Date: August 20, 2020

APPROVED BY LEGAL

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 07-19), which is attached hereto, are hereby incorporated in this contract and made a part thereof.

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the 24th day of Aug - 61, 2020.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least thirty (30) days prior to the end of its current fiscal year and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to ninety (90) days before the end of such fiscal year. *To the extent equipment is leased or financed*, Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such *leased or financed* equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101, *et seq.*).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001, *et seq.*) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111, *et seq.*) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101, *et seq.*) (ADA), and Kansas Executive Order No. 19-02, and to not discriminate against any person because of race, color, gender, sexual orientation, gender identity or expression, religion, national origin, ancestry, age, military or veteran status, disability status, marital or family status, genetic information, or political affiliation that is unrelated to the person's ability to reasonably perform the duties of a particular job or position; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to

include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) Contractor agrees to comply with all applicable state and federal anti-discrimination laws and regulations; (g) Contractor agrees all hiring must be on the basis of individual merit and qualifications, and discrimination or harassment of persons for the reasons stated above is prohibited; and (h) if it is determined that the contractor has violated the provisions of any portion of this paragraph, such violation shall constitute a breach of contract and the contract may be canceled, terminated, or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

6. **Acceptance of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403).
8. **Representative's Authority to Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility for Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101, *et seq.*), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101, *et seq.*
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."
13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.