

NASPO ValuePoint
PARTICIPATING ADDENDUM



DATA COMMUNICATION PRODUCTS & SERVICES (2019-2026)

Led by the State of Utah

Master Agreement #: AR3230

Contractor: **EXTREME NETWORKS, INC.**

Participating Entity: **STATE OF SOUTH DAKOTA – CONTRACT #17573**

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

- *All products and accessories listed on the Contractor page of the NASPO ValuePoint website.*

Master Agreement Terms and Conditions:

1. Scope: This addendum covers the **Data Communication Products & Services** led by the State of Utah for use by state agencies and other entities located in the Participating **State of South Dakota** authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official.

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 South Dakota**. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

For internal use by the State: **Political subdivisions of the State of South Dakota may purchase directly from the Contractor according to their own procurement procedures. Any purchase by state executive branch agencies are subject to the authority and prior approval of the State Chief Information Officer's Office. The State Chief Information Officer means the individual designated by the state Governor within the Executive Branch with enterprise-wide responsibilities for leadership and management of information technology resources of a state. The Contractor will not be responsible to ensure compliance of this requirement.**

The Contractor may, at the Contractor's discretion, extend pricing from this agreement to Indian tribal governments and non-profit organizations in South Dakota. Any sales made to Indian tribes and non-profit organizations from this agreement shall be included in any required reports and shall be subject to the NASPO VALUEPOINT administrative fee.

2. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

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Contractor

Name:	Michael Swierk
Address:	Extreme Networks Inc. 6480 Via Del Oro San Jose, CA 95119
Telephone:	603-952-6909
Fax:	None Available
Email:	mswierk@extremenetworks.com

Participating Entity

Name:	Chuck Clark
Address:	South Dakota Office of Procurement Management 523 East Capitol Avenue Pierre, SD 57501
Telephone:	605-773-4276
Fax:	605-773-4840
Email:	chuck.clark@state.sd.us

3. PARTICIPATING ENTITY MODIFICATIONS OR ADDITIONS TO THE MASTER AGREEMENT

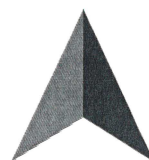
These modifications or additions apply only to actions and relationships within the Participating Entity.

[XX] The following changes are modifying or supplementing the Master Agreement terms and conditions.

South Dakota's state specific contract terms set forth in Attachment A are incorporated by reference into this Participating Addendum.

4. Lease Agreements: Any lease entered into by a State agency, institution, public university, officer, board or commission through this agreement may utilize the lease terms included in the Master Price Agreement at their own discretion. Leases that require authorization by the Office of Procurement Management will be reviewed and approved on a lease by lease basis.
5. Subcontractors: All contactors, dealers, and resellers authorized in the **State of South Dakota**, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the NASPO ValuePoint Master Agreement. The contractor's dealer participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.
6. Orders: Any order placed by a Participating Entity or Purchasing Entity for a product and/or service available from 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.

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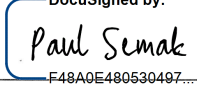
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NASPO

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

Led by the State of Utah

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

Participating Entity: South Dakota	Contractor: Extreme Networks
Signature: 	Signature: DocuSigned by:  F48A0E480530497...
Name: Steven L. Berg	Name: Paul Semak
Title: Director of Procurement	Title: Americas, SVP Sales
Date: 05/17/2021	Date: May 26, 2021 4:55:34 PM PDT

**[Please email fully executed PDF copy of this document to
PA@naspovaluepoint.org
to support documentation of participation and posting in appropriate data bases.]**

ATTACHEMENT A

STATE OF SOUTH DAKOTA CONTRACTUAL PROVISIONS

Important: This form contains mandatory provisions and must be attached to or incorporated into all copies of any contractual agreement with the State of South Dakota. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain all of the following provisions: "THE PROVISIONS FOUND IN THIS STATE OF SOUTH DAKOTA CONTRACTUAL PROVISIONS ATTACHMENT, WHICH IS ATTACHED TO THIS CONTRACT, ARE HEREBY INCORPORATED INTO THIS CONTRACT WITH THE SAME FORCE AND EFFECT AS FULLY SET FORTH IN THE BODY OF THIS CONTRACT."

1. 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 this contract into which this attachment is incorporated.
2. Vendor/contractor acknowledges that the State of South Dakota would not have entered into this contract without the provisions of this Attachment.
3. All contractual agreements are subject to, governed by, and construed in accordance with the laws of the State of South Dakota. Any action, suit, or other proceeding under, pursuant to, or governed by this contract shall be brought and maintained in the Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.
4. The vendor/contractor agrees that the continuation of this contract is dependent on receipt of both an appropriation and expenditure authority from the South Dakota Legislature. In the event that the Legislature does not provide both an appropriation of funds and expenditure authority for any fiscal year, or if funds become unavailable because of federal funds reduction, then and in that event, this contract shall be null and void and shall expire at the end of the last fiscal year in which both funding and expenditure authority shall be available for this contract to the State and the State agency involved. Vendor/contractor agrees that a termination for lack of funds pursuant to this paragraph shall not result in a claim against the State, nor against any State agency, agent, officer, or employee.
5. Neither the State of South Dakota, nor any State agency, agent, officer, or employee shall hold harmless or indemnify any vendor/contractor for any loss or damage beyond the amounts provided for tort claims against the State by South Dakota law. Neither the State, nor any State agency, agent, officer, or employee shall assume liability to any third person by means of a contract or agreement. The State has not, and shall not, waive or give up any immunity or protection afforded to the State of South Dakota by the Eleventh Amendment to the Constitution of the United States, and no provision of this agreement shall be interpreted as, or be deemed as, a waiver of such Amendment, nor of any immunity afforded by it to the State of South Dakota.
6. Vendor/contractor agrees to comply with all federal, state and local laws, regulations, ordinances, guidelines, permits, and requirements applicable to providing goods or services

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pursuant to this agreement, and vendor/contractor will be solely responsible for obtaining current information about such requirements.

7. Notwithstanding any language to the contrary, no interpretation shall be allowed that would find the State of South Dakota or any State agency has agreed to any binding arbitration, nor to the payment of damages or liquidated damages upon occurrence of a contingency. The State of South Dakota does not and shall not agree to pay any attorneys' fees or late charges in excess of those provided for in the South Dakota Prompt Payment Act, SDCL chapter 5-26.

8. By signing this contract, representative of vendor/contractor hereby warrants and represents that such person is duly authorized by vendor/contractor to execute this contract on behalf of vendor/contractor, and that vendor/contractor agrees to be bound by the provisions hereof.

9. This contract shall not require the State of South Dakota to purchase any insurance, nor shall the State of South Dakota be obligated to provide for any self- insurance beyond that required by South Dakota law relating to tort claims. Vendor/contractor shall be required to provide adequate insurance for: (1) Commercial General Liability; (2) Professional Liability; (3) Business Automobile Liability; (4) Workers' Compensation, all as required by South Dakota Law, as otherwise set out in this Agreement, or adequate to cover any and all risks of performance under this agreement.

10. Vendor/contractor hereby agrees to indemnify and hold the State of South Dakota, and its agents, agencies, officers, and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings that may arise as the result of performing services or providing goods under this contract. This provision does not require vendor/contractor to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its agents, agencies, officers, or employees.

11. Vendor/contractor hereby agrees to save the State of South Dakota, its agents, agencies, officers and employees, harmless from liability of any nature or kind which shall arise from vendor/contractor's use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article, or appliance furnished or used in the performance of this agreement, or which the vendor/contractor is not the patentee, assignee, or licensee.

12. Vendor/contractor hereby acknowledges that the State of South Dakota and all State agencies are public entities and are subject to all South Dakota statutes and laws governing open records and open meetings. It shall not be a violation or breach of this agreement for the State of South Dakota or any State agent, agency, officer, or employee to take any action that said State agency, agent, officer, or employee in good faith believes is necessary to comply with any State of South Dakota law governing open meetings or open records.

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13. Pursuant to Executive Order 2020-01, for contractors, vendors, suppliers, or subcontractors with five (5) or more employees who enter into a contract with the State of South Dakota that involves the expenditure of one hundred thousand dollars (\$100,000.00) or more, by signing this Agreement vendor/contractor certifies and agrees that it has not refused to transact business activities, has not terminated business activities, and has not taken other similar actions intended to limit its commercial relations, related to the subject matter of this Agreement, with a person or entity that is either the State of Israel, or a company doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel to do business, or doing business in the State of Israel, with the specific intent to accomplish a boycott or divestment of Israel in a discriminatory manner. It is understood and agreed that, if this certification is false, such false certification will constitute grounds for the State to terminate this Agreement. Vendor/contractor further agrees to provide immediate written notice to the State if during the term of this Agreement it no longer complies with this certification and agrees such noncompliance may be grounds for termination of this Agreement.

14. Vendor/contractor will not provide to the State any computer or telecommunication hardware or video surveillance hardware, or any components thereof, or any software that was manufactured, provided, or developed by a covered entity. As used in this paragraph, "covered entity" means the following entities and any subsidiary, affiliate, or successor entity and any entity that controls, is controlled by, or is under common control with such entity: Kaspersky Lab, Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, Dahua Technology Company, or any entity that has been identified as owned or controlled by, or otherwise connected to, People's Republic of China. Vendor/contractor will immediately notify the State if vendor/contractor becomes aware of credible information that any hardware, component, or software was manufactured, provided, or developed by a covered entity.

15. Vendor/contract herby acknowledges and agrees that each product and service purchased through this Agreement pose different, unique security risks to the State. Therefore, each purchase made through this Agreement must be reviewed by the Bureau of Information and Telecommunications and may be subject to additional contract clauses applicable to that specific purchase.