

ADVANCED SERVICES STATEMENT OF WORK

SOW RESALE TERMS & CONDITIONS AGREEMENT

If you purchase project-related or consultancy services directly from Cisco for resale to an end user pursuant to an Advanced Services Statement of Work ("SOW"), and if your Systems Integrator Agreement ("Agreement") does not contain the Exhibit for the Purchase and Resale of Cisco Transactional Advanced Services or equivalent terms and conditions for your purchase of SOW-based services for resale, then both Cisco and Integrator hereby agree that any such SOW will be governed by the terms and conditions of the Agreement and those terms and conditions set forth in this SOW Resale Terms & Conditions Agreement (these "SOW Resale Terms"), which is hereby incorporated into, and made a part of, the SOW by this reference. To the extent there is a conflict between the terms of the Agreement and these SOW Resale Terms, the terms of these SOW Resale Terms shall control as to the subject matter of these SOW Resale Terms. The terms of the SOW, including these SOW Resale Terms, are limited to the scope of such SOW, and shall not be applicable to any other SOWs which may be executed between the parties. Any capitalized terms not defined herein shall have the meaning ascribed to such terms in the SOW or the Agreement.

1. Definitions (for the purposes of these SOW Resale Terms only) are those in Appendix A (Glossary of Terms) at the end of these SOW Resale Terms or as defined in the SOW or Agreement.

2. Scope.

- a. These SOW Resale Terms amend the Agreement to include the terms and conditions under which Integrator may purchase Transactional Advanced Services from Cisco for Resale to End User pursuant to the SOW. Except as modified by these SOW Resale Terms, all terms and conditions of the Agreement shall remain in full force and effect.
- b. The Cisco Brand Resale Support Exhibit or Cisco Brand Resale Support Appendix (as the case may be) as set forth in the Agreement is hereby amended to allow for the resale of Transactional Advanced Services to End User pursuant to the SOW.
- c. The term "Services" as defined in the Agreement and related Support Exhibit(s) is hereby amended to include Transactional Advanced Services. Except as set forth herein, all terms and conditions regarding Integrator's resale of Services (including Transactional Advanced Services), and delivery of such Services by Cisco shall be as set forth in the Agreement.

3. Orders. Integrator shall, upon and subject to approval by Cisco, purchase Transactional Advanced Services by issuing a Purchase Order. Each Purchase Order must be signed/sealed, as applicable, if requested by Cisco, or (in the case of electronic transmission) sent, by an authorized representative, indicating the SOW project identification number, specific Services, quantity, price, total purchase price, bill-to and ship-to names, addresses, tax exempt certifications, if applicable, reference to the SOW, and any other special instructions. No contingency contained on

any Purchase Order shall be binding upon Cisco. The terms of the SOW shall apply, regardless of any additional or conflicting terms on any Purchase Order or other correspondence or documentation submitted by Integrator to Cisco, and any such additional or conflicting terms are deemed rejected by Cisco.

4. Services.

- a. The Transactional Advanced Services will be provided by Cisco pursuant to the terms and conditions of the SOW and the Agreement. Cisco may use subcontractors (under separate contract to Cisco) to perform the Transactional Advanced Services, or portion(s) thereof.
- b. The SOW exclusively defines the scope of the Transactional Advanced Services. Integrator agrees that Cisco is not responsible for providing any Services to End User beyond those explicitly set forth in the SOW.

5. Pricing.

- a. Prices for Transactional Advanced Services shall be as specified in the SOW.
- b. All prices are exclusive of any taxes, fees, duties or other applicable amounts. Integrator shall pay the taxes related to Transactional Advanced Services purchased pursuant to the SOW, or Integrator shall present an exemption certificate acceptable to the taxing authorities. Applicable taxes, if any, shall be billed as a separate item on the invoice. Cisco reserves the right to increase the Transactional Advanced Service fee in the event Integrator determines any withholding tax obligation prevents Cisco from receiving the specified prices for such Transactional Advanced Services pursuant to Section 5(a) above.
- c. Prices for Transactional Advanced Services are not subject to any discount.

6. Payment and Invoicing.

- a. **Payment.** All Purchase Orders are subject to credit approval and, subject thereto, payment terms are net thirty (30) days from the date of invoice. Unless otherwise agreed by Cisco, all payments shall be made in the currency used by the Cisco Systems entity with which Integrator has placed its Purchase Order. Any sum not paid by Integrator when due shall bear interest from the due date until paid at a rate of: (i) ten (10) per cent per annum or (ii) the maximum rate permitted by law, whichever is less.
- b. **Invoicing.** Cisco will invoice Integrator upon completion of each Milestone as defined in the SOW, per the SOW's Milestone schedule. Invoices may contain multiple Milestones. The SOW Milestone schedule supersedes any Milestones identified in a Purchase Order; nevertheless, unless otherwise mutually agreed upon via a change management procedure, the total invoiced amounts for SOW Milestones shall not exceed the total amount of Integrator's Purchase Order. Integrator shall not delegate to End User (or any other third party) or otherwise assign the task of accepting or assessing completion of Milestones; any language to the contrary in the SOW is void and of no effect.

7. Term and Termination.

- a. The term of the SOW shall commence on the SOW Effective Date and shall continue until last Milestone completion, unless otherwise specified in the SOW.
- b. The SOW, and any Transactional Advanced Services being performed hereunder, may be terminated immediately by either party upon written notice:
 - (i) if the other party breaches any of the material provisions of the SOW and the breach is not capable of being cured or after providing thirty (30) days written notice to the breaching party if the breaching party fails to cure such breach within such period;
 - (ii) if the other party: (w) ceases, or threatens to cease to carry on business as a going concern; or (x) becomes or may become the object of the institution of voluntary or involuntary proceedings in bankruptcy or liquidation, or (y) a receiver or similar officer is appointed with respect to the whole or a substantial part of its assets; or (z) an event similar to any of the foregoing occurs under applicable law; or

(iii) if, except as provided below, either party assigns (by operation of law or otherwise, including merger) or transfers any of the rights or responsibilities granted under the SOW, without the prior written consent of the other party, or in the event of a sale of all or substantially all of such party's assets, or transfer of a controlling interest in such party to an unaffiliated third party. Notwithstanding the foregoing: (y) Cisco reserves the right to subcontract Transactional Advanced Services to any Affiliate or third party organization to provide Transactional Advanced Services to Integrator, and (z) Cisco may assign the SOW or all or any portion of its rights and obligations hereunder, to any Affiliate of Cisco.

- c. If Transactional Advanced Services fees are not paid when due and payment has not been received within thirty (30) days after notice from Cisco of such past due payment, Cisco may withhold the provision of Transactional Advanced Services until all amounts past due are paid in full, and/or immediately terminate the SOW.
- d. Upon termination of the SOW, Integrator shall pay Cisco for all work Cisco has performed up to the effective date of termination at the agreed upon prices, fees and expense reimbursement rates.

8. Integrator's Rights and Obligations.

- a. After the SOW has been fully executed by the parties:
 - (i) Integrator is authorized, on a non-exclusive basis, to resell such Transactional Advanced Services to End User pursuant to the provisions of the SOW.
 - (ii) Integrator agrees that prior to accepting a purchase order from End User for such Transactional Advanced Services, Integrator shall either:
 - (1) Ensure that for each Transactional Advanced Service purchased, End User understands Cisco's obligations and End User's responsibilities and obligations under the applicable SOW; or
 - (2) Include the project scope and responsibilities of each party for each Transactional Advanced Service as set forth in the applicable SOW in its separate contract(s) with End User for each Transactional Advanced Service resold by Integrator, and disclose that

Integrator has contracted with Cisco for the provision of such Transactional Advanced Services.

- (iii) Integrator shall provide to Cisco, and Cisco shall ensure that its personnel or subcontractors make commercially reasonable efforts to comply with End User's security regulations in their activities at End User sites or in connection with End User systems; however, Cisco's personnel or agents shall not be required to sign individual agreements with End User or Integrator or waive any personal rights such personnel or agents might have.

9. Warranty.

- a. ALL TRANSACTIONAL ADVANCED SERVICES PROVIDED HEREUNDER SHALL BE PERFORMED IN A WORKMANLIKE MANNER. EXCEPT AS SPECIFIED IN THIS SECTION 9, CISCO HEREBY DISCLAIMS AND INTEGRATOR WAIVES ALL REPRESENTATIONS, CONDITIONS AND WARRANTIES (WHETHER EXPRESS, IMPLIED, OR STATUTORY), INCLUDING WITHOUT LIMITATION, ANY WARRANTY OR CONDITION: (I) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, SATISFACTORY QUALITY, QUIET ENJOYMENT OR ACCURACY, OR (II) ARISING FROM ANY COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE IN THE INDUSTRY.
- b. TO THE EXTENT AN IMPLIED WARRANTY CANNOT BE DISCLAIMED, SUCH WARRANTY IS LIMITED IN DURATION TO THE APPLICABLE EXPRESS WARRANTY PERIOD. INTEGRATOR'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY SHALL BE, AT CISCO'S OPTION, RE-PERFORMANCE OF THE TRANSACTIONAL ADVANCED SERVICES; OR TERMINATION OF THE SOW OR THE APPLICABLE TRANSACTIONAL ADVANCED SERVICES AND RETURN OF THE PORTION OF THE TRANSACTIONAL ADVANCED SERVICE FEES PAID TO CISCO BY INTEGRATOR FOR SUCH NON-CONFORMING TRANSACTIONAL ADVANCED SERVICES.

10. Limitation of Liability and Consequential Damages Waiver.

- a. TO THE EXTENT REQUIRED UNDER LOCAL LAW, NOTHING IN THESE SOW RESALE TERMS SHALL LIMIT: (I) EITHER PARTY'S, ITS AFFILIATES', OFFICERS',

DIRECTORS', EMPLOYEES', AGENTS' AND SUPPLIERS' COLLECTIVE LIABILITY TO THE OTHER PARTY FOR BODILY INJURY OR DEATH CAUSED BY THEIR NEGLIGENCE, OR (II) EITHER PARTY'S LIABILITY FOR FRAUDULENT MISREPRESENTATION OR IN THE TORT OF DECEIT.

- b. ALL LIABILITY OF CISCO, ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND SUPPLIERS COLLECTIVELY FOR CLAIMS ARISING UNDER THE SOW OR OTHERWISE HOWSOEVER ARISING SHALL BE LIMITED TO THE AMOUNT PAID BY INTEGRATOR TO CISCO PURSUANT TO THE SOW DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT OR CIRCUMSTANCES FIRST GIVING RISE TO SUCH LIABILITY. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER-INCIDENT (I.E., THE EXISTENCE OF TWO OR MORE CLAIMS WILL NOT ENLARGE THIS LIMIT).
- c. SUBJECT TO THE EXCEPTIONS SET OUT IN SECTION 10(a), OR INTEGRATOR'S BREACH OF SECTION 11, IN NO EVENT SHALL EITHER PARTY, ITS RESPECTIVE AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR SUPPLIERS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, OR LOST REVENUE, LOST PROFITS, LOST BUSINESS OPPORTUNITY, OR LOST OR DAMAGED DATA, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN INFORMED OF THE POSSIBILITY THEREOF.

11. License.

- a. Nothing in the SOW shall amend the licenses provided with any Cisco hardware or software products. End User's intellectual property license rights provided hereunder, if any, shall be as set forth in Appendix B. The provisions in Appendix B apply only to those Transactional Advanced Services, Deliverables and other Intellectual Property detailed in the SOW.
- b. Integrator hereby agrees to provide a copy of the terms and conditions in Appendix B (or substantially similar terms and conditions) to End User and have End User agree to be bound by such terms and conditions pursuant to a legally enforceable written agreement. Integrator agrees that it will be liable to Cisco for any breach of such terms and conditions by End User.

- c. Except as otherwise set forth in the SOW and subject to the terms and conditions herein, Cisco hereby grants Integrator a limited, non-exclusive, non-transferable right (without right to sublicense) to use, copy and distribute to End User: (i) Software provided as a result of Transactional Advanced Services, if any, (ii) the Deliverables specified in the SOW (in object code form if Software), if any, and (iii) Data Collection Tools, if any, solely for the purpose of fulfilling any Integrator obligations to End User as explicitly set forth in an applicable SOW, if any.

12. Ownership.

- (a) Each party will retain the exclusive ownership of all of its pre-existing Intellectual Property, Confidential Information and materials, including, without limitation, proprietary ideas, sketches, diagrams, text, know-how, concepts, proofs of concepts, artwork, software, algorithms, methods, processes, identifier codes or other technology that are owned by a party prior to commencement of any Transactional Advanced Services hereunder, or that are otherwise developed by or for such party outside the scope of the SOW ("Pre-Existing Technology").
- (b) Except as otherwise expressly set forth in the SOW, Cisco owns and will continue to own all right, title, and interest in and to the Transactional Advanced Services, Products, Deliverables, Data Collection Tools, Reports, Scripts, sketches, diagrams, text, know-how, concepts, proofs of concepts, artwork, software, algorithms, methods, processes, identifier codes or other technology provided or developed by Cisco (or a third party acting on Cisco's behalf) pursuant to the SOW, including modifications, enhancements, improvements or derivative works of any of the foregoing, regardless of who first conceives or reduces to practice, and all Intellectual Property in any of the foregoing (collectively "Cisco Intellectual Property").
- (1) Except for any Integrator Pre-Existing Technology, to the extent Integrator provides any Integrator Intellectual Property developed by Integrator (or by a third party acting on Integrator's behalf) that is incorporated into any Transactional Advanced Services, Products, Deliverables, Data Collection Tools, Reports and/or Scripts provided to a End User pursuant to the SOW, Integrator hereby irrevocably transfers, conveys and assigns, and agrees to transfer, convey, and assign, to Cisco all of its right, title,

and interest therein. Integrator shall execute such documents, render such assistance, and take such other action as Cisco may reasonably request, at Cisco's expense, to apply for, register, perfect, confirm, and protect Cisco's rights to such Transactional Advanced Services, Products, Deliverables, Data Collection Tools, Reports and/or Scripts and any derivatives, improvements or modifications thereof, and all Intellectual Property rights therein.

- (2) To the extent Integrator provides any Integrator Pre-Existing Technology that is incorporated into any Transactional Advanced Services, Products, Deliverables, Data Collection Tools, Reports and/or Scripts provided to a End User pursuant to the SOW, Integrator hereby grants to Cisco a perpetual, irrevocable, royalty free, worldwide right and license under all Intellectual Property in and to such Integrator Pre-Existing Technology to use, make, have made, offer to sell, sell, copy, distribute, and create derivative works of such Integrator Pre-Existing Technology as incorporated into such Transactional Advanced Services, Products, Deliverables, Data Collection Tools, Reports, Scripts and/or Cisco Pre-Existing Technology.

- c. As between Integrator and Cisco, Integrator shall at all times retain all right, title and interest in and to all of Integrator's Pre-Existing Technology and all Intellectual Property that is developed by Integrator or by a third party on Integrator's behalf thereafter, other than Cisco Intellectual Property. Third Party Products shall at all times be owned by the applicable third party, and will be subject to any applicable third party license terms.

13. Contracting with U.S. Federal Government. To the extent Transactional Advanced Services engagements relate to a U.S. Federal Government contract, Cisco's Transactional Advanced Services offerings are "commercial item" as that term is defined under FAR 2.101. Cisco offers and/or provides these services upon a competitive basis and in substantial quantities in the commercial marketplace based upon established market prices for specific tasks performed under standard commercial terms and conditions.

14. Survival. Sections 6 (Payment and Invoicing), 7 (Term and Termination), 9 (Warranty), 10 (Limitation of Liability and Consequential Damages Waiver), 11 (License), 12 (Ownership), 14 (Survival), the Glossary of Terms and End User

License Rights Appendices, and Exhibit 2: SOW Process and Terms & Conditions shall survive the termination or expiration of the SOW.

*[Appendix A, Glossary of Terms and
Appendix B, End User License Rights, Follows]*

APPENDIX A

GLOSSARY OF TERMS

Affiliate with respect to a party, means any corporation, firm, partnership, limited liability company or other entity, whether *de jure* or *de facto*, that directly or indirectly owns, is owned by, or is under common ownership with such party to the extent of at least fifty percent (50%) of the equity having the power to vote on or direct the affairs of such party, and any person, firm, partnership, corporation, limited liability company or other entity actually controlled by, controlling, or under common control with such party.

Deliverable(s) means, with respect to each SOW, the items specified as deliverables in the SOW, if any.

Intellectual Property means any and all tangible and intangible: (i) rights associated with works of authorship throughout the world, including but not limited to copyrights, neighboring rights, moral rights, and mask works, and all derivative works thereof, (ii) trademark and trade name rights and similar rights, (iii) trade secret rights, (iv) patents, designs, algorithms and other industrial property rights, (v) all other intellectual and industrial property rights (of every kind and nature throughout the world and however designated) whether arising by operation of law, contract, license, or otherwise, and (vi) all registrations, initial applications, renewals, extensions, continuations, divisions or reissues thereof now or hereafter in force (including any rights in any of the foregoing).

Milestone means a specific goal, objective or event pertaining to Transactional Advanced Services described under the terms of the SOW, as applicable.

Statement of Work or SOW means the documents agreed upon by the parties pursuant to this Exhibit that define the services and deliverables, if any, to be provided thereunder.

Transactional Advanced Services means the project related or consultancy services sold under the SOW. Transactional Advanced Services are also defined in Exhibit 2 (SOW Process, Standard Definitions and Services Not Covered) of the SOW as the "Services."

APPENDIX B

END USER LICENSE RIGHTS

- a. Subject to End User's compliance with the terms of these SOW Resale Terms and the End User License Agreement, Cisco grants to End User a worldwide, non-exclusive and non-transferable license to use for End User's internal business use only: (i) Software provided as a result of Transactional Advanced Services, if any, solely in object code form; (ii) other Deliverables specified in the SOW, if any, and (iii) Data Collection Tools, if any (collectively and individually, the "Licensed Materials"). In addition, Cisco grants to End User a right to modify and create derivative works of any Scripts provided by Cisco to End User pursuant to these SOW Resale Terms, solely for End User's internal business use. These license grants do not include the right to sublicense; provided that End User may permit its suppliers, subcontractors and other related third parties to use the Licensed Materials solely on End User's behalf for End User's benefit, provided that End User ensures that any such use is subject to license restrictions and confidentiality obligations at least as protective of Cisco's rights in such Licensed Materials as are specified in these SOW Resale Terms.
- b. Nothing in the SOW shall alter or affect the Intellectual Property rights and/or licenses provided with any Cisco Products. The terms and conditions provided with the Software, or in the absence of such terms the license posted at http://www.cisco.com/en/US/products/prod_warranties_item09186a008025c927.html ("End User License Agreement"), are hereby incorporated into these SOW Resale Terms by this reference. To the extent there is a conflict between the terms of the End User License Agreement and these SOW Resale Terms, the terms of the End User License Agreement shall apply, unless explicitly stated otherwise in these SOW Resale Terms. The provisions in this Appendix B apply only to those Transactional Advanced Services, and Deliverables and other Intellectual Property provided by Cisco to End User.
- c. End User will use Software solely on Cisco Hardware, except as otherwise permitted herein; provided that End User may also use Application Software on third party hardware or as otherwise expressly authorized in the Software Documentation. In the case of Data Collection Tools that include Hardware, End User will use any Software included with such Data Collection Tools solely on the Hardware provided with such Data Collection Tools. In the case of Data Collection Tools that consist of Software only, End User may use such Data Collection Tools on Hardware or third party hardware, unless otherwise set forth in the SOW.
- d. The license rights granted in this Appendix B are perpetual, provided End User is not in breach of these SOW Resale Terms. Notwithstanding the above, the license for Data Collection Tools will terminate upon the earlier of: (i) the expiration or termination of the Transactional Advanced Services pursuant to which the Data Collection Tools were provided; or (ii) Cisco's request to End User that the Data Collection Tool(s) be returned to Cisco.
- e. Except as otherwise expressly set forth in the SOW, neither End User nor Integrator shall (nor permit a third party to): download more than one copy of the Software; copy, in whole or in part, any Software, Deliverable or Data Collection Tool; make error corrections or derivative works of, or otherwise modify, decompile, decrypt, reverse engineer, disassemble or otherwise reduce all or any portion of any Software, Deliverable or Data Collection Tool to human-readable form; or transfer, sublicense, rent, lease, distribute, or sell any Software, Deliverables or Data Collection Tools. There are no implied licenses under this Agreement, and all rights not expressly granted herein are reserved to Cisco.
- f. When End User updates or upgrades a copy of Software to a new release, End User shall not use the new Software release and the corresponding copy of the previous Software release concurrently (except for a limited period of parallel testing). Under no circumstances shall the previous release be re-used or transferred to any other device(s), or otherwise hosted for potential later reuse.
- g. End User hereby grants to Cisco a perpetual, irrevocable, royalty free, worldwide right and license to all Intellectual Property in the End User Feedback (as defined below) to use and incorporate End User Feedback into any Transactional Advanced Services, Products, Deliverables, Data Collection Tools, Reports, Scripts or Cisco Pre-Existing Technology, and to use, make, have made, offer to sell, sell, copy, distribute, and create derivative works of such End User Feedback for any and all purposes whatsoever, and End User acknowledges and agrees that it will obtain no rights in or to any Transactional Advanced Services, Products, Deliverables, Data Collection Tools, Reports, Scripts or Cisco Pre-Existing

Technology as a result of Cisco's use of any such End User Feedback. For purposes of these SOW Resale Terms, "End User Feedback" means all oral or written communications regarding improvements or changes to any Transactional Advanced Services, Products, Deliverables, Data Collection Tools, Reports, Scripts or Cisco Pre-Existing Technology that End User provides to Cisco.

- h. *U.S. Government End User Purchasers.* The Software and Documentation qualify as "commercial items," as that term is defined at Federal Acquisition Regulation ("FAR") (48 C.F.R.) 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in FAR 12.212. Consistent with FAR 12.212, FAR 52.227-19 Commercial Computer Software—Restricted Rights and DoD FAR Supp. 227.7202-1 through 227.7202-4, and notwithstanding any other FAR or other contractual clause to the contrary in any agreement into which the SOW may be incorporated, Customer may provide to Government end user or, if the SOW is direct, Government end user will acquire, the Software and Documentation with only those rights set forth in the SOW. Use of either the Software or Documentation or both constitutes agreement by the Government that the Software and Documentation are "commercial computer software" and "commercial computer software documentation," and constitutes acceptance of the rights and restrictions herein.