

STATE OF MONTANA TERM CONTRACT

Department of Administration
 State Procurement Bureau
 165 Mitchell Building
 PO Box 200135
 Helena, MT 59620-0135
 Phone: (406) 444-2575 Fax: (406) 444-2529
 TTY Users-Dial 711
<http://gsd.mt.gov/>

T.C. #: NASPO ValuePoint AR-1470
Extreme Networks, Inc.
Title: Data Communications Products and Services

CONTRACT TERM	FROM	October 7, 2015	CONTRACT STATUS	NEW (x)
	TO	May 31, 2019		RENEW ()
VENDOR ADDRESS	Extreme Networks, Inc. 9 Northeastern Boulevard Salem, NH 03079		ORDER ADDRESS	
ATTN:	Michael Swierk		ATTN:	
PHONE:	(603) 952-5221		PHONE:	
FAX:	(603) 952-6909		FAX:	
E-MAIL:	mswierk@extremenetworks.com		E-MAIL:	

PRICES: Per NASPO ValuePoint Contract Agreement
 DELIVERY: Per NASPO ValuePoint Contract Agreement
 F.O.B.: Per NASPO ValuePoint Contract Agreement
 TERMS: Per NASPO ValuePoint Contract Agreement

REMARKS: This contract was established by the NASPO ValuePoint Cooperative Purchasing Organization. NASPO ValuePoint competitively issues and awards cooperative contracts while leveraging the demand of multiple states to achieve the best possible contracts.

Current pricing schedules may be viewed by going to www.naspovaluepoint.org clicking on "current contracts", scrolling down to Data Communications Equipment and Associated OEM Maintenance & Training (WSCA-UT), Extreme Networks, Inc., Webpage for NASPO ValuePoint Contracts.

Executive Branch agencies; excluding elected official agencies, SITSD, and the entities identified in §2-17-516, MCA; **may not procure servers, storage, and cloud services.**

This contract is for University System and qualified Political Subdivision use ONLY. This contract is NOT for State Agency use without SITSD approval.

NASPO ValuePoint	 Rick Dorvall, CONTRACTS OFFICER	DATE: 10/08/2015
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AUTHORIZED SIGNATURE

PARTICIPATING ADDENDUM
NASPO ValuePoint COOPERATIVE PURCHASING ORGANIZATION
DATA COMMUNICATIONS PRODUCTS AND SERVICES 14-19
Administered by the State of Utah (hereinafter "Lead State")

MASTER AGREEMENT
Extreme Networks, Inc.
Master Agreement No: AR1470
(hereinafter "Contractor")

And

State of Montana
(hereinafter "Participating State/Entity")

Page 1 of 6

1. **Scope:** This addendum covers the Data Communications Products and Services 14-19 contracts led by the State of Utah for use by state agencies and other entities located in the Participating State/Entity authorized by that state's statutes to utilize state/entity contracts with the prior approval of the state's chief procurement official.

2. **Participation:** Use of specific NASPO ValuePoint cooperative contracts by agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use state/entity contracts are subject to the prior approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

COOPERATIVE PURCHASING: Under Montana law, public procurement units, as defined in 18-4-401, MCA, have the option of cooperatively purchasing with the State of Montana. Public procurement units are defined as local or state public procurement units of this or any other state, including an agency of the United States, or a tribal procurement unit. Unless the bidder/offeree objects, in writing, to the State Procurement Bureau prior to the award of this contract, the prices, terms, and conditions of this contract will be offered to these public procurement units. However, the State Procurement Bureau makes no guarantee of any public procurement unit participation in this contract.

3. **Order of Precedence:**

1. A Participating Entity's Participating Addendum ("PA"); A Participating Entity's Participating Addendum shall not diminish, change, or impact the rights of the Lead State with regard to the Lead State's contractual relationship with the Contract Vendor under the Terms of Minnesota NASPO ValuePoint Master Agreement
2. Minnesota NASPO ValuePoint Master Agreement (includes negotiated Terms & Conditions)
3. The Solicitation including all Addendums; and
4. Contract Vendor's response to the Solicitation

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.

Contract Vendor 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 the Master Agreement as an Exhibit or Attachment. No other terms and conditions shall apply, including terms and conditions listed in the Contract Vendor's response to the Solicitation, or terms listed or referenced on the Contract Vendor's website, in the Contract Vendor quotation/sales

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Page 2 of 6

order or in similar documents subsequently provided by the Contract Vendor. The solicitation language prevails unless a mutually agreed exception has been negotiated.

4. Participating State Modifications or Additions to Master Agreement:

4.1. ACCESS AND RETENTION OF RECORDS. To the extent required by Montana Code Annotated Section 18-1-118, Contractor shall provide the Participating State/Entity and the Montana Legislative Auditor or their authorized agents sufficient access to the records necessary to determine compliance with the terms of this contract. Such access shall be consistent with Contractor's security policy. The Participating State/Entity may immediately terminate this contract without incurring liability for Contractor's refusal to allow access consistent with Contractor's security policy as required by this section. Contractor shall retain all records supporting the products and services provided under this contract for a period of time consistent with Contractor's document retention policy.

4.2 COMPLIANCE WITH LAWS: Contractor shall, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules, and regulations, including but not limited to, the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by Contractor subjects subcontractors to the same provision. In accordance with 49-3-207, MCA, Contractor agrees that the hiring of persons to perform this contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing this contract.

4.3 NON-COMPLIANCE WITH DEPARTMENT OF ADMINISTRATION REQUIREMENTS: The Department of Administration, pursuant to section 2-17-514, MCA, retains the right to cancel or modify any contract, with mutual written agreement of Contractor, project or activity that is not in compliance with the Department's Plan for Information Technology, the State Strategic Plan for Information Technology, or any statewide IT policy or standard.

~~**4.4 NON-EXCLUSIVE CONTRACT:**~~ The intent of this contract is to provide state agencies with an expedited means of procuring supplies and/or services. This contract is for the convenience of state agencies and is considered by the State Procurement Bureau to be a "Non-exclusive" use contract. Therefore, agencies may obtain this product/service from sources other than the contract holder(s) as long as they comply with Title 18, MCA, and their delegation agreement. The

PARTICIPATING ADDENDUM
NASPO ValuePoint COOPERATIVE PURCHASING ORGANIZATION
DATA COMMUNICATIONS PRODUCTS AND SERVICES 14-19
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Page 3 of 6

State Procurement Bureau does not guarantee any usage.

4.5 **REDUCTION OF FUNDING:** The State must by law terminate this contract if funds are not appropriated or otherwise made available to support the State's continuation of performance of this contract in a subsequent fiscal period. (18-4-313(4), MCA.) If state or federal government funds are not appropriated or otherwise made available through the state budgeting process to support continued performance of this contract (whether at an initial contract payment level or any contract increases to that initial level) in subsequent fiscal periods, the State shall terminate this contract as required by law. The State shall provide Contractor the date the State's termination shall take effect. The State shall not be liable to Contractor for any payment that would have been payable had the contract not been terminated under this provision. As stated above, the State shall be liable to Contractor only for the payment, or prorated portion of that payment, owed to Contractor up to the date the State's termination takes effect. This is Contractor's sole remedy. The State shall not be liable to Contractor for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

4.6 **REGISTRATION WITH THE SECRETARY OF STATE:** Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with sections 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3668, or visit their website at <http://sos.mt.gov>.

4.7. **VENUE:** The parties agree that any litigation concerning Montana's usage of the subsequent contract, must be brought in the First Judicial District in and for the County of ~~Lewis and Clark, State of Montana~~, and each party shall pay its own costs and attorney fees. (Section 18-1-401, MCA)

4.8. **ASSIGNMENT, TRANSFER AND SUBCONTRACTING.** The Contractor shall not assign, transfer or subcontract any portion of the contract without the express written consent of the

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Page 4 of 6

Participating State/Entity. The Participating State/Entity consents to Contractor assigning this contract to its Affiliates. Contractor, however, remains responsible to the Participating State/Entity for performance under this contract.

4.9. **LEASING:** Leasing is NOT authorized under this participating addendum.

4.10. **REQUIRED REPORTING:** Contractor shall submit quarterly reports to the Contacts Officer (CO) assigned by the State to manage this contract. Contractor shall provide CO with an electronic usage report (Excel) which will list the following information at the minimum: purchasing entity, description of items purchased, date of purchase, contract price, retail price, and the extended price for each transaction. These reports are due no more than 30 days after the end of the quarter

First Quarter: July 1 through September 30
Second Quarter: October 1 through December 31
Third Quarter: January 1 through March 31
Fourth Quarter: April 1 through June 30

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

Contractor

Name	Michael Swierk
Address	9 Northeastern Boulevard, Salem, NH 03079
Telephone	603-952-8221
Fax	603-952-6909
E-mail	mswierk@extremenetworks.com

Participating Entity

Name	Rick Dorvall
Address	125 N. Roberts St., Helena, MT 59620
Telephone	406-444-3366
Fax	406-444-2529
E-mail	rickdorvall@mt.gov

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Page 5 of 6

6. Partner Utilization: Each state represented by NASPO ValuePoint participating in this Master Agreement independently have the option of utilizing partners. Only partners approved by this Participating State may be deployed. The participating State will define the process to add and remove partners and may define the partner's role in their participating addendum. The Contractor's partners' participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

7. Terms. The Participating State/Entity is agreeing to the terms of the Master Agreement only to the extent the terms are not in conflict with applicable law.

8. 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. If a purchase order or task order has terms and conditions that conflict with the Master Agreement or Participating Addendum terms and conditions, the Master Agreement or Participating Addendum terms and conditions govern.

9. Indemnification. Except for the sole negligence of the Participating State/Entity, Contractor shall defend, indemnify and hold harmless NASPO ValuePoint, the Lead State and Participating Entities along with their officers, agencies, and employees as well as any person or entity for which they may be liable from and against claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to property arising from acts(s), error(s), or omission(s) of Contractor, its employees or subcontractors or volunteers, at any tier, relating to the performance under the Master Agreement. 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.

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DATA COMMUNICATIONS PRODUCTS AND SERVICES 14-19
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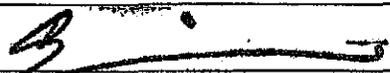
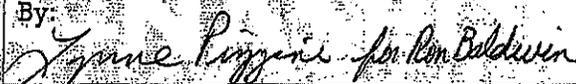
MASTER AGREEMENT
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 (hereinafter "Participating State/Entity")

Page 6 of 6

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

Participating State: Montana	Contractor: Extreme Networks, Inc.
By: 	By: 
Name: Cheryl Grey	Name: Allison Amadia
Title: Administrator, State Financial Services Division	Title: VP, General Counsel & Corporate Secretary
Date: 10-7-2015	Date: 9-28-15
Approved as to Legal Content:	State of Montana CIO
By: 	By: 
Name: Mike Manion	Name: Ron Baldwin
Title: Chief Legal Counsel	Title: CIO
Date: 9-2-15	Date: 9-4-15

Approved

 By Legal