WESTERN STATES CONTRACTING ALLIANCE
PARTICIPATING ADDENDUM
FOR
DATA COMMUNICATIONS EQUIPMENT
BETWEEN
THE STATE OF WASHINGTON, DEPARTMENT OF INFORMATION SERVICES
AND
EXTREME NETWORKS, INC.

The undersigned hereby represents, acknowledges, and agrees as follows:

1. The undersigned is a "Participating Entity" which shall be defined as Participating Entity states of WESTERN STATES CONTRACTING ALLIANCE (hereafter "Participating Entity"): (i) which requests Data Communications Equipment pursuant to the terms and conditions of the STATE OF UTAH STATEWIDE CONTRACT AR-1471 (hereafter the "Master Agreement") by executing this Participating Addendum ("PA"); and, (ii) whose request for the sale of Data Communications Equipment by Extreme Networks, Inc., at its sole discretion, is accepted by Extreme Networks, Inc. executing this PA.

2. The undersigned Participating Entity is executing this PA for the purpose of purchasing Data Communications Equipment from Extreme Networks, Inc. ("Extreme Networks" or "Contractor"), pursuant to the Master Agreement by and between State of Utah and Extreme Networks. Participating Entity shall be subject to all terms and conditions of this PA and the Master Agreement.

3. Scope: The general purpose of this PA is to provide: Data Communications Equipment and Services, as defined in Attachment 1.

4. Changes to the Master Agreement specific to the State of Washington are specified in the Attachment(s) to this PA, incorporated herein by this reference.

5. Primary Contact/ Legal Notices:

5.1. Any notice or demand or other communication required or permitted to be given under this PA or applicable law shall be effective only if it is in writing and signed by the applicable party, properly addressed, and either delivered in person, or by a recognized courier service, or deposited with the United States Postal Service as first-class mail, postage prepaid certified mail, return receipt requested, or via facsimile, to the parties at the addresses and fax number provided in this section. For purposes of complying with any provision in this PA or applicable law that requires a "writing," such communication, when digitally signed with a Washington State Licensed Certificate, shall be considered to be "in writing" or "written" to an extent no less than if it were in paper form.

5.2. Notices shall be effective upon receipt or four (4) business days after mailing, whichever is earlier. The notice address as provided herein may be changed by written notice given as provided above.

5.3. In the event that a subpoena or other legal process commenced by a third party in any way concerning the Products and/or Services provided pursuant to this PA is served upon Extreme Networks or Participating Entity, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Extreme Networks and Participating Entity further agree to cooperate with the other party in any lawful effort by the other party to contest the legal validity of such subpoena or other legal process commenced by a third party.

5.4. For Participating Entity:

State of Washington Department of Information Services	
Attn: TSD Contract Administrator	
Mailing Address:	***Street Address:***
PO Box 42445	2411 Chandler Court SW
Olympia, WA 98504	Olympia, WA 98502
Phone: (360) 725-4200	
Fax: (360) 664-0711	

E-mail: mcadmin@dis.wa.gov

5.5. For Extreme Networks:

Extreme Networks, Inc.	
Attn: **Maureen Heckman**	
Mailing Address:	
3585 Monroe Street	
Santa Clara, CA 95051-1450	
Phone: (888) 257-3000	Phone: (408) 579-2800
Fax: (408) 579-3000	Email: info@extremenetworks.com

6. This PA together with its Attachment(s) and the Master Agreement, Number AR-1471, together with its Attachment(s), (administered by the State of Utah), set forth the entire agreement between the parties with respect to the subject matter hereof and supercede all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary, or in addition to the terms and conditions of this PA and the Master Agreement, shall not be added to or incorporated into this PA or the Master Agreement, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this PA and the Master Agreement shall prevail and govern in the case of any such inconsistent or additional terms. All Orders (as defined in Attachment 1) issued by Purchasers (as defined in Attachment 1) within the jurisdiction of this PA shall include Master Agreement Number AR-1471.

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

Approved
State of Washington
Department of Information Services

Signature

Michael B. Emans
Print or Type Name

Assistant Director 9/15/03
Title *Date*

Approved
Extreme Networks, Inc.

Signature

Harold L. Covert
Print or Type Name

Vice President & CFO 8-19-03
Title *Date*

Approved
Extreme Networks, Inc.
Legal Dept.
By: _____

Approved as to Form
State of Washington
Office of the Attorney General
Approved per Attached Email

Signature
Chip Holcomb
Print or Type Name
Senior Counsel, AGO
Title *Date*

Contractor Information
Contractor's UBI Number:
Minority or Woman Owned Business Enterprise Yes No X (Certification Number)

Moore, Jeffrey (DIS)

From: Holcomb, Chip (ATG)
Sent: Tuesday, September 02, 2003 10:37 AM
To: Moore, Jeffrey (DIS)
Subject: RE: Extreme Networks Participating Addendum

Consider it approved.
Let me know if you need more,
Chip Holcomb-Senior Counsel, Attorney General's Office
voice: (360)753-9671
fax: (360) 586-3593
email: chiph@atg.wa.gov

-----Original Message-----
From: Moore, Jeffrey (DIS)
Sent: Monday, August 25, 2003 3:47 PM
To: Holcomb, Chip (ATG)
Subject: Extreme Networks Participating Addendum

Chip,

Attached is the WSCA Participating Addendum for Extreme Networks. This is a datacom contract.

Can you please review, and if appropriate approve as to form.

Thank you,
Jeffrey C. Moore
TSD Contracts & Acquisitions Office
Contracts Specialist Attorney

Washington State Department of Information Services
2411 Chandler Court SW, Olympia, WA 98502
voice: 360.725.4242
fax: 360.664.0711

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<< File: ExtrmeDatacom PAfinal.rtf >>

ATTACHMENT 1
WESTERN STATES CONTRACTING ALLIANCE
PARTICIPATING ADDENDUM
FOR
DATA COMMUNICATIONS PRODUCT
BETWEEN
THE STATE OF WASHINGTON, DEPARTMENT OF INFORMATION SERVICES
AND
EXTREME NETWORKS, INC.

1. DEFINITIONS.

"Acceptance Date" shall mean: (i) for Professional Services, the date Purchaser accepts the Professional Services in accordance with the applicable Statement of Work; (ii) for Products, the twentieth (20th) business day after the date of shipment.

"Confidential Information" shall mean information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.17 RCW or other state or federal statutes. Confidential Information includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records, Purchaser source code, Purchaser network configuration information, or other information which is marked confidential at the time of disclosure.

"Contractor/Offeror" shall mean Extreme Networks, Inc., its employees and agents. It shall also include any Subcontractor retained by Contractor as permitted under the terms of this PA.

"**Customer**" shall mean the same as "Purchaser".

"**DIS**" shall mean the State of Washington, Department of Information Services.

"Effective Date" shall mean the first date this PA is in full force and effect. It may be a specific date agreed to by the parties; or, if not so specified, the date of the last signature of a party to this PA.

"Order Document"/"Order" shall mean any official State document and attachments thereto specifying Products and/or Services or Professional Services to be purchased or licensed from Contractor under this PA. Each Order shall specify on its face the types and quantities of Products and/or Services or Professional Services to be furnished by Contractor pursuant to the Order, the delivery date(s), and the delivery site(s). Each Order for Professional Services shall be separate and also have a separate corresponding Statement of Work.

"Participating Addendum" or "PA" shall mean this agreement between the Contractor and the State of Washington, a Participating State, that clarifies the operation of the Master Agreement and may add other state-specific language or other requirements.

"Participating Entity" shall mean a member of WSCA who has indicated its intent to participate, as disclosed in the solicitation, or who subsequently signs a PA.

"Procuring Agency(ies)" shall mean the same as "Purchaser".

"Product(s)" shall mean data communications equipment, specifically, Extreme Network switches, associated components, support, software and documentation.

"Proprietary Information" shall mean information owned by Contractor to which Contractor claims a protectable interest under law. Proprietary Information includes, but is not limited to, information protected by United States copyright, patent, trademark, or trade secret laws.

"Professional Services" shall mean the Professional Services provided to Purchaser under this PA, which may include deployment, installation, implementation, acceptance testing, consulting and/or management services

relating to Contractor's Products as more fully described in the SOW.

"Purchaser" shall mean DIS and any other state agency, or political subdivision (including public schools, colleges or universities), or qualified non-profit organization of the state of Washington, who have a properly executed Interlocal Cooperative Agreement (Customer Service Agreement) with DIS.

"Purchasing Entity(ies)" shall mean the same as "Purchaser".

"Service(s)" shall mean training and maintenance services for eligible Products.

"Statement of Work" or "SOW" shall mean the description of the Professional Services and Schedules set forth in the Statement of Work, which shall be signed by both parties. The SOW shall include, at a minimum, the description of the Professional Services to be performed, the schedule during which the Professional Services will be performed and the prices/service rates for such Professional Services.

"Subcontractor" shall mean one not in the employment of Contractor, who is performing all or part of the business activities under this PA under a separate contract with Contractor. The term "Subcontractor" means Subcontractor(s) of any tier.

2. ORDER OF PRECEDENCE. In the event of any inconsistency in this PA, the inconsistency shall be resolved in the following order of precedence:

(i) Sections of this PA, including its Attachments;

(ii) WSCA Master Agreement, Number AR-1471;

(iii) Contractor's Response to Request for Proposal (RFP) LW1907 ("Response");

(iv) Utah's Request for Proposal LW1907;

(v) The terms and conditions contained on Purchaser's Order Documents such as, description of Product(s) and/or Services ordered, quantity, and billing address, unless otherwise agreed to at the time of order.

3. FORCE MAJEURE. Contractor, DIS or Purchaser shall not be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of Contractor, DIS or Purchaser. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of a governmental body other than Purchaser acting in either its sovereign or contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays must be beyond the reasonable control and without fault or negligence of Contractor, DIS or Purchaser, or their respective Subcontractors.

4. DELIVERY.

4.1. The prices offered shall be the delivered price to any WSCA state agency or political subdivision. Contractor shall ship all Products F.O.B. destination, freight prepaid, with all transportation and handling charges paid by the Contractor. Contractor may not include freight charges on invoicing. Failure to comply with this requirement may result in PA termination for cause. Responsibility and liability for loss or damage shall remain with the Contractor until delivery of Products to Purchasing Entity's receiving dock, when responsibility shall pass to the Purchaser.

4.2. Whenever a Purchaser returns a Product to the Contractor, all related documentation furnished by the Contractor shall also be returned. The Contractor shall bear all risk of loss or damage with respect to returned Products except for loss or damage directly attributable to the negligence of the Purchaser. Contractor is responsible for the freight charges of returned equipment.

5. NONDISCRIMINATION. The Offeror agrees to abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age, and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities, and Title

49.60 RCW, Washington Law Against Discrimination. The Offeror further agrees to furnish information and reports to requesting State(s), upon request, for the purpose of determining compliance with these statutes. Offeror agrees to comply with each individual state's certification requirements, if any, as stated in the special terms and conditions. This PA may be canceled if the Offeror fails to comply with the provisions of these laws and regulations. The Offeror must include this provision in every subcontract relating to purchases by the States to ensure that Subcontractors are bound by this provision.

6. ACCEPTANCE. Upon completion of the Professional Services, or if applicable, a phase of the Professional Services as set forth in the SOW, Purchaser shall have twenty (20) days to verify that the Professional Services provided substantially conform to the SOW. Purchaser must notify Contractor of its non-acceptance within such twenty (20) day period. Any notification of non-acceptance will include a reasonably detailed description of the reasons for such non-acceptance. Contractor shall have thirty (30) days from the date of such notification to rectify the problem, following which Purchaser shall have another five (5) day period to review the applicable Professional Services. In the event that Purchaser either (a) does not notify Contractor of any non-acceptance during the relevant five (5) day period, or (b) confirms its acceptance of the applicable Professional Services, in writing within the relevant five (5) day period, the applicable Professional Services shall be deemed accepted.

7. TITLE. Upon receipt of Product by Purchasing Entity, Contractor shall convey Purchaser good title to any Product.

8. RECORDS ADMINISTRATION. The Contractor will maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this PA. These records will be retained by the Contractor for at least six (6) years after the PA terminates, or until all audits or litigation initiated within the six (6) years have been completed, whichever is later.

9. SURVIVORSHIP. All license and purchase transactions executed and Services or Professional Services provided pursuant to the authority of this PA shall be bound by all of the terms, conditions, prices and discounts set forth within this PA or the Master Agreement, notwithstanding the expiration of the initial term of this PA or the Master Agreement or any extension thereof. Further, the terms, conditions and warranties contained in this PA and the Master Agreement that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this PA or the Master Agreement shall so survive. In addition, the terms of the sections titled Contractor's Commitments, Warranties and Representations; Protection of Purchaser's Confidential Information; Order of Precedence; Publicity; Patents, Copyrights; and Disputes shall survive the termination of this PA.

10. ADVANCE PAYMENT PROHIBITED. No advance payment shall be made for Products and/or Services furnished by Contractor pursuant to this PA. Notwithstanding the above, payments for maintenance Services may be made in advance on a quarterly or annual basis, at Purchaser's option.

11. TAXES. Purchaser will pay sales and use taxes, if any, imposed on the Products and/or Services or Professional Services acquired hereunder. Contractor must pay all other taxes including, but not limited to, Washington Business and Occupation Tax, other taxes based on Contractor's income or gross receipts, or personal property taxes levied or assessed on Contractor's personal property.

12, CONTRACTOR COMMITMENTS, WARRANTIES AND REPRESENTATIONS. Any written commitment by Contractor within the scope of this PA shall be binding upon Contractor. Failure of Contractor to fulfill such a commitment may constitute breach and shall render Contractor liable for damages under the terms of this PA. For purposes of this section, a commitment by Contractor includes: (i) Prices, discounts, and options committed to remain in force over a specified period of time, and (ii) any warranty or representation made by Contractor in its Response or contained in any Contractor or manufacturer published specifications.

13. PROTECTION OF PURCHASER'S CONFIDENTIAL INFORMATION.

13.1 Contractor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this PA or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.17 RCW or other state or federal statutes ("Confidential Information"). Contractor agrees to hold Confidential Information in strictest confidence and not to make use of Confidential Information for any purpose other than the performance of this PA, to release it only to authorized

employees or Subcontractors requiring such information for the purposes of carrying out this PA, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make the information known to any other party without Purchaser's express written consent or as provided by law. Contractor agrees to release such information or material only to employees or Subcontractors reasonably necessary to further the purpose of this PA. Contractor agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information.

13.2 Immediately upon expiration or termination of this PA, Contractor shall, at Purchaser's or DIS' option: (i) certify to Purchaser or DIS that Contractor has destroyed all Confidential Information; or (ii) return all Confidential Information to Purchaser; or (iii) take whatever other steps Purchaser or DIS requires of Contractor to protect Purchaser's Confidential Information.

13.3 DIS and Purchaser reserve the right to monitor, audit, or investigate the use of Confidential Information collected, used, or acquired by Contractor through this PA. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

13.4 Violation of this section by Contractor or its Subcontractors may result in termination of this PA and demand for return of all Confidential Information, monetary damages, or penalties.

13.5 The obligations imposed by this PA shall not apply to any information that: (a) is already in the possession of, is known to, or is independently developed by Contractor; or (b) is or becomes publicly available through no fault of Contractor; or (c) is obtained by Contractor from a third person without breach by such third person of an obligation of confidence with respect to the Confidential Information disclosed; or (d) is disclosed without restriction by the Purchaser; or (e) is required to be disclosed pursuant to the lawful order of a government agency or disclosure is required by operation of the law.

14. PUBLICITY.

14.1. The award of this PA to Contractor is not in any way an endorsement of Contractor or Contractor's Products and/or Services or Professional Services by Purchasers and shall not be so construed by Contractor in any advertising or other publicity materials.

14.2. DIS and Contractor each agree to submit to the other, all advertising, sales promotion, and other publicity materials relating to this PA and Products and/or Services or Professional Services furnished by Contractor wherein either party's name is mentioned, or trade names, logo, service marks or trademark is used, or Internet links are provided from which the connection of party's name therewith may, in the other party's judgment, be inferred or implied. DIS and Contractor further agree not to publish or use such advertising, sales promotion materials, publicity or the like through print, voice, the World Wide Web, and other communication media in existence or hereinafter developed without the express written consent of the other party prior to such use.

14.3. Nothing contained in this section, however, shall be construed to apply to the following: communications among Purchasers or communications between Purchasers and other agencies and branches of the Washington State Government; and posting by DIS of a copy of this PA on its website(s), together with a notation identifying Contractor as a supplier for the Products and/or Services or Professional Services.

15. INSURANCE COVERAGE.

15.1. Contractor shall, during the term of this PA, 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 the state of Washington and having a rating of A-, Class VII or better, in the most recently published edition of *Best's Reports*.

15.2. In the event of cancellation, non-renewal, revocation or other termination of any insurance coverage required by this PA, Contractor shall provide written notice of such to DIS within thirty (30) business days of Contractor's receipt of such notice. Failure to buy and maintain the required insurance may, at DIS' sole option, result in this PA's termination.

15.3. The minimum acceptable limits shall be as indicated below:

- Commercial General Liability covering the risks of bodily injury (including death), property damage and personal injury, including coverage for contractual liability, with a limit of not less than $1 million per occurrence/$2 million general aggregate;
- Business Automobile Liability (owned, hired, or non-owned) covering the risks of bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of not less than $1 million per accident;
- Employers Liability insurance covering the risks of Contractor's employees' bodily injury by accident or disease with limits of not less than $1 million per accident for bodily injury by accident and $1 million per employee for bodily injury by disease;
- Umbrella policy providing excess limits over the primary policies in an amount not less than $1 million;

15.4. Contractor shall pay premiums on all insurance policies. Such insurance policies certificate(s) shall name DIS as an additional insured on all general liability, automobile liability and umbrella policies. Such insurance certificates shall also reference the Master Agreement number AR-1471 and this PA number, 03-01, and shall have a condition that they not be revoked by the insurer until forty-five (45) calendar days after notice of intended revocation thereof shall have been given to DIS by the insurer.

15.5. All insurance provided by Contractor shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State subject to the hold harmless/ indemnification agreements under this PA and shall include a severability of interests (cross-liability) provision.

15.6. Contractor shall furnish separate certificates of insurance and endorsements for each Subcontractor. Subcontractor(s) shall comply fully with all insurance requirements stated herein. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

15.7. Contractor shall furnish to DIS copies of certificates of all required insurance within thirty (30) calendar days of this PA's Effective Date, and copies of renewal certificates of all required insurance within thirty (30) days after the first business day in the month of April for each successive year that this PA or the Master Agreement is in full force and effect. Failure to provide evidence of coverage may, at DIS' sole option, result in this PA's termination.

15.8. By requiring insurance herein, DIS does not represent that coverage and limits will be adequate to protect Contractor. Such coverage and limits shall not limit Contractor's liability under the indemnities and reimbursements granted to the State in this PA.

16. INDUSTRIAL INSURANCE COVERAGE. Prior to performing work under this PA, Contractor shall provide or purchase industrial insurance coverage for its employees, as may be required of an "employer" as defined in Title 51 RCW, and shall maintain full compliance with Title 51 RCW during the course of this PA. DIS or Purchaser will not be responsible for payment of industrial insurance premiums or for any other claim or benefit for Contractor, or any Subcontractor or employee of Contractor, which might arise under the industrial insurance laws during the performance of duties and Services or Professional Services under this PA.

17. WAIVER. Waiver of any breach of any term or condition of this PA shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this PA shall be held to be waived, modified, or deleted except by a written instrument signed by the parties.

18. DISPUTES.

18.1. In the event a bona fide dispute concerning a question of fact arises between Purchaser and Contractor and it cannot be resolved between the parties, or with the help of the TSD Contract Administrator, either party may initiate the dispute resolution procedure provided herein.

18.2. The initiating party shall reduce its description of the dispute to writing and deliver it to the responding party. The responding party shall respond in writing within three (3) business days. The initiating party shall have three (3) business days to review the response. If after this review a

resolution cannot be reached, both parties shall have three (3) business days to negotiate in good faith to resolve the dispute.

a) If the dispute cannot be resolved after three (3) business days, a panel ("Dispute Resolution Panel") may be requested in writing by either party who shall also identify the first panel member. Within three (3) business days of receipt of the request, the other party will designate a panel member. Those two panel members will appoint a third individual to the Dispute Resolution Panel within the next three (3) business days.

b) The Dispute Resolution Panel will review the written descriptions of the dispute, gather additional information as needed, and render a decision on the dispute in the shortest practical time.

c) Each party shall bear the cost for its panel member and share equally the cost of the third panel member.

18.3. Both parties agree to be bound by the determination of the Dispute Resolution Panel.

18.4. Both parties agree to exercise good faith in dispute resolution and to settle disputes prior to using a Dispute Resolution Panel whenever possible

18.5. Purchaser and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this PA that are not affected by the dispute.

18.6. If the subject of the dispute is the amount due and payable by Purchaser for Services or Professional Services being provided by Contractor, Contractor shall continue providing Services or Professional Services pending resolution of the dispute provided Purchaser pays Contractor the amount Purchaser, in good faith, believes is due and payable, and places in escrow the difference between such amount and the amount Contractor, in good faith, believes is due and payable.

19. DIS ADMINISTRATIVE FEE. All purchases made under this PA are subject to a fee ("DIS Administration Fee"), to be collected by Contractor and remitted to DIS. The DIS Administration Fee is one half of one percent (.5% or .005) of the purchase price. The purchase price is defined as total invoice price less sales tax. The DIS Administration Fee shall be invoiced by Contractor to all Purchasers as a separate detailed line item on Purchaser's invoice. Contractor shall remit the DIS Administration Fee directly to the TSD Contract Administrator, along with the PA Activity Report. The check shall be payable to the Department of Information Services.

20. DIS ACTIVITY REPORTING.

20.1. Contractor shall submit to the TSD Contract Administrator a monthly report ("Activity Report") of all Product and/or Service purchases made under this PA. The Activity Report shall identify:

a) The Master Price Agreement (AR-1471);
b) Each Purchaser making purchases during that month;
c) The total invoice price, excluding sales tax for each Purchaser;
d) The sum of all invoice prices, excluding sales tax, for all Purchasers; and
e) The DIS Administration Fee.

20.2. The Activity Report and the DIS Administration Fee shall be submitted by the 15th calendar day of the month following the month in which Contractor invoiced Purchaser. Contractor shall submit this Activity Report according to the layout specified by the TSD Contract Administrator. This Activity Report may be corrected or modified by the TSD Contract Administrator with subsequent written notice to Contractor. Monthly Activity Reports are required even if no activity occurred. Upon request by DIS, Contractor shall provide, in the format requested, the contact information for all Purchasers during the term of the PA.

21. FAILURE TO REMIT REPORTS / FEES. Failure of Contractor to remit the Activity Report together with the DIS Administration Fee may be considered a failure to perform on the part of Contractor, which may result in DIS terminating this PA with Contractor.

22. INVOICE / PAYMENT.

22.1. Contractor will submit properly itemized invoices to each Purchaser within forty-five (45) days of delivery of Products and/or Services or Professional Services at the address(es) indicated in the Order Document. Invoices shall provide and itemize, as applicable:

a) The Master Price Agreement number, AR-1471;

b) Purchaser's name and address and Order Document number;

c) Contractor name, remittance address, phone number, e-mail address, fax number and Federal Taxpayer Identification Number;

d) Description of Products, including price, quantity ordered, model and serial numbers;

e) Date(s) of shipment;

f) Price for each item, or manufacturer's list price for each item and applicable discounts;

g) Description of Services or Professional Services provided, including dates;

h) Net invoice price for each item;

i) Applicable taxes;

j) DIS Administration Fee (0.5% or 0.005 of the total purchase price);

k) Other applicable charges;

l) Total invoice price; and

m) Payment terms including any available prompt payment discounts.

22.2. Payment is normally made within thirty (30) days following the date the Order is received or the date a correct invoice is received, whichever is later. After forty-five (45) days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance. Payments may be remitted by mail, or via electronic funds transfer. Payments may be made via a Purchasing Entity's "Purchasing Card."

22.3. Payments for maintenance Services may be made in advance on a quarterly or annual basis, at Purchaser's option. Payment of maintenance Services of less than one (1) month's duration shall be prorated at 1/30th of the basic monthly maintenance charges for each calendar day.

23. TERMINATION FOR NON-APPROPRIATIONS. If funds are not allocated to a Purchaser to continue a Support Plan, as defined in the Master Agreement, Purchaser may terminate its Support Plan upon thirty (30) days' written notice to Contractor without termination charges, or otherwise work with Contractor to arrive at a mutually acceptable resolution of the situation. Purchaser agrees to notify Contractor in writing of such non-allocation at the earliest possible time. This section shall not be construed to permit a Purchaser to terminate its maintenance agreement in order to acquire similar Services from a third party.

24. GOVERNING LAW. This PA shall be governed in all respects by the law and statutes of the State of Washington, without reference to conflict of law principles. However, if the Uniform Computer Information Transactions Act (UCITA) or any substantially similar law is enacted as part of the law of the State of Washington, said statute will not govern any aspect of this PA or any license granted hereunder, and instead the law as it existed prior to such enactment will govern. The jurisdiction for any action hereunder shall be exclusively in the Superior Court for the State of Washington. The venue of any action hereunder shall be in the Superior Court for Thurston County, Washington.

25. CONTRACTOR'S PROPRIETARY INFORMATION. Contractor acknowledges that DIS and Purchaser are subject to chapter 42.17 RCW and that this PA shall be a public record as defined in chapter 42.17 RCW. Any specific information that is claimed by Contractor to be proprietary ("Proprietary Information") must be clearly identified as such by Contractor. To the extent consistent with chapter 42.17 RCW, DIS and Purchaser shall maintain the confidentiality of all such information marked Proprietary Information. If a public disclosure request is made to view Contractor's Proprietary Information, DIS or Purchaser will notify Contractor of the request and of the date that such records will be released to the requester unless Contractor obtains a court order from a court of competent jurisdiction enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, DIS or Purchaser will release the requested information on the date specified.

AMENDMENT NUMBER 05-02

to

WSCA AR-1471 Participating Addendum

for

Data Communications Equipment

In accordance with Attachment B, Provision 23 (*Amendments*) of WSCA Contract Number AR-1470, this Amendment 05-02 to the State of Washington Participating Addendum is entered into by and between the State of Washington, Department of Information Services ("DIS") and Extreme Networks, Inc. ("Contractor" or "Extreme").

The purpose of this Amendment is to modify Provision 20 *DIS Activity Reporting*.

Contractor and DIS agree that Provisions 20.1 through 20.2 are hereby deleted and replaced as follows:

20.1. Contractor shall submit to the TSD Contract Administrator a quarterly report ("Activity Report") of all Product and/or Service purchases made under this PA. The Activity Report shall identify:

a) The Master Price Agreement (AR-1471);
b) Each Purchaser making purchases during that quarter;
c) The total invoice price, excluding sales tax for each Purchaser;
d) The sum of all invoice prices, excluding sales tax, for all Purchasers; and
e) The DIS Administration Fee.

20.2. The Activity Reports and the DIS Administration Fee shall be due on a quarterly basis in accordance with the following schedule:

For activity in the months:	**Report & Fee Due:**
January, February, March	April 15th
April, May, June	July 15th
July, August, September	October 15th
October, November, December	January 15th

20.3. This Activity Report may be corrected or modified by the TSD Contract Administrator with subsequent written notice to Contractor.

20.4. Quarterly Activity Reports are required even if no activity occurred.

20.5. Upon request by DIS, Contractor shall provide, in the format requested, the contact information for all Purchasers during the term of the PA.

All other provisions, terms and conditions of the Master Contract, as previously amended, shall remain in full force and effect.

APPROVED
State of Washington
Department of Information Services

Signature

Michael B. Emans
Print or Type Name

Assistant Director — 10/5/04
Title — *Date*

APPROVED
Extreme Networks, Inc.

Signature

William R. Slakey
Print or Type Name

Sr. V.P. & CFO — Sept. 23, 2004
Title — *Date*

Approved
Extreme Networks, Inc.
Legal Dept.
By: _____

STATE OF UTAH
STATEWIDE CONTRACT AR1471

1. CONTRACTING PARTIES: This Statewide Contract is between the **Division of Purchasing and General Services**, an agency of the State of Utah, and the following Contractor:

Extreme Networks, Inc.
Name

3585 Monroe Street
Address

Santa Clara CA 95051
City State Zip

LEGAL STATUS OF CONTRACTOR
[ ] Sole Proprietor
[ ] Non-Profit Corporation
[X] For-Profit Corporation
[ ] Partnership
[ ] Government Agency

Federal Tax ID# 770430270 Vendor # 94831A Commodity Codes: 20464, 20621, 20623

Vendor Contact Person: Scott Nelson Vendor Phone #: (206) 381-2165

Vendor Fax #: (408) 579-3000 Vendor email address: snelson@extremenetworks.com

2. GENERAL PURPOSE OF CONTRACT: The general purpose of this Contract is to provide:
Data Communications Equipment and Associated OEM Maintenance & Training.

3. CONTRACT PERIOD: Effective date January 15, 2003 Termination date May 31, 2004 unless terminated early or extended in accordance with the terms and conditions of this Contract.
Renewal option: Renewable for one or two year terms up to four additional years.

4. . PRICING AS PER ATTACHMENT A (Addendum 1)
PAYMENT TERMS: Net 30
DAYS REQUIRED FOR DELIVERY: 30 days
MINIMUM ORDER: None
FREIGHT TERMS: F.O.B. Destination, Freight Prepaid

5. ATTACHMENT A: Addendum 1
ATTACHMENT B: WSCA Standard Terms and Conditions
ATTACHMENT C: Exhibits 1 & 2
Any conflicts between Attachment A and other Attachments will be resolved in favor of Attachment A.

6. DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:
a. All other governmental laws, and regulations applicable to the goods and/or services authorized by this Contract.
b. Utah State Procurement Code, Procurement Rules, RFP LW1907, and Contractor's proposal response to RFP LW1907 dated 07-17-01.

IN WITNESS WHEREOF, the parties sign and cause this Contract to be executed.

CONTRACTOR

Contractor's signature

Harold L. Covert, Vice President and CFO
Type or Print Name and Title

1/30/03
Date

STATE OF UTAH

Douglas G. Richins
Director, Division of Purchasing

FEB 03 2003
Date

Approved
Extreme Networks, Inc.
Legal Dept.
By: _____

ATTACHMENT A
ADDENDUM 1

This Addendum serves to clarify terms and conditions of the Contract between the State of Utah, referred to as STATE, and Extreme Networks, Inc., referred to as Contractor. The State of Utah is acting as the Lead State for the procurement process resulting in **WSCA Contracts for Data Communications Equipment, associated OEM Maintenance and Training.**

A. Manufacturer Product Line(s)

This Contract authorizes the Contractor to provide the following manufacturer's Data Communications Equipment, Maintenance, and Training, as listed by category. No other equipment or maintenance will be covered under this Contract, unless identified in an amendment to the Contract. Products covered under this agreement are:

Routers: N/A
Switches: Extreme
LAN/WAN Wireless: N/A
CSU/DSU: N/A

B. State of Utah/WSCA Contract Manager

Debbie Gundersen
State of Utah
Division of Purchasing and General Services
State Office Building, Capitol Hill
Room 3150
Salt Lake City, UT 84114-1061

email: dgundersen@utah.gov
Voice: (801) 538-3150
Fax: (801) 538-3882

C. Remittance Address

Extreme Networks, Inc.
Dept. LA21921
Pasadena, CA 91185-1921

D. Special Terms and Conditions

The parties agree to amend the terms and conditions as follows:

1. Order of Precedence
   The order of precedence for the Contract terms will be as follows:
   1. Addendum 1
   2. WSCA Terms and Conditions
   3. Contractor's Proposal Response to RFP LW1907
   4. RFP LW1907

2. Included Documents
   The documents listed in Number 1 are included in the Contract. It is agreed that any reference to the "Entire Agreement" includes these documents.

3. Public Information
The Contract, including the price lists and the Response to the RFP, will be considered public documents and will be subject to government records policies in each state. The Contractor gives the STATE express permission to make copies of the information specified to provide to other STATE government entities that may use the Contract, and to the public, in accordance with general STATE policies, including copies of said information that may be identified as confidential, proprietary, or copyrighted.

4. Arbitration
The STATE will not accept mandatory, binding arbitration. If there are any references to binding arbitration in the Contractor's Response to the RFP, they will be null and void. The parties may agree, on a case by case basis, to voluntary arbitration to resolve Contract issues.

5. Contract Period
The Contract period, including renewal options, is listed on the STATE OF UTAH - Statewide Contract cover page. Renewals will be agreed to upon written authorization from both parties. All references to automatic renewals will be null and void.

6. Governing Law
This procurement shall be governed and the resulting price agreement construed in accordance with the laws of the State of Utah. The construction and effect of any Participating Addendum or order against the price agreement shall be governed by and construed in accordance with the laws of the Purchasing Entity's State. Venue for any claim, dispute or action concerning the construction and effect of the price agreement shall be in the Lead State. Venue for any claim, dispute or action concerning an order placed against the price agreement or the effect of a Participating Addendum or shall be in the Purchasing Entity's State.

7. Revisions to the WSCA Standard Terms and Conditions
The WSCA Standard Terms and Conditions will be revised as follows:
A. Item 10 will be replaced with the following:

> PATENTS, COPYRIGHTS, ETC: The Contractor shall defend, indemnify, and hold the officers, agents and employees of WSCA, the Participating States and the Purchasing Entities harmless against any and all damages, costs, liabilities, expenses (including reasonable attorneys' fees) and settlement amounts incurred in connection with any suit, claim, or action by any third party alleging that the Products furnished and used within the scope of this Agreement infringe any U.S. patent or U.S. copyright. The foregoing indemnity obligation shall not extend to any claims of infringement arising out of: (i) a modification of the Products by anyone other than Contractor; (ii) a combination of the Products with any third party software or hardware where such combination is the cause of such infringement; or (iii) the use of a version of Products other than the then-current version if infringement would have been avoided by the use of the then-current version made available to the WSCA, the Participating States and/or the Purchasing Entities. Contractor's obligation to indemnify hereunder is subject to the WSCA, the Participating States and/or the Purchasing Entities (a) giving Contractor prompt written notice of any such claim; (b) giving Contractor sole control over the defense and settlement of any such

claim; (c) providing full cooperation for the defense of any such claim, at Contractor's expense; and (d) not entering into any settlement or compromise of any such claim without Contractor's prior written approval. Upon notice of an alleged infringement or if in Contractor's opinion such a claim is likely, Contractor shall have the right, at its sole option and expense, to procure a license to the relevant Products or modify the Products or substitute other non-infringing hardware or software with similar operating capabilities; or if Contractor determines that the foregoing is not reasonable, Contractor may refund the fees paid by the WSCA, the Participating States and/or the Purchasing Entities for the infringing copies of the Products upon the WSCA, the Participating States and/or the Purchasing Entities return of such Products to Contractor. THIS SECTION ("PATENTS, COPYRIGHTS, ETC:") SETS FORTH CONTRACTOR'S SOLE AND EXCLUSIVE LIABILITY AND WSCA, the Participating States and/or the Purchasing Entities SOLE AND EXCLUSIVE REMEDIES FOR INFRINGEMENT BY THE PRODUCTS OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS OF ANY KIND.

B. Item 14, Defaults and Remedies, will be replaced with the following:

A. Any of the following shall constitute cause to declare the Contract or any order under this Contract in default:

(1) Nonperformance of contractual requirements; or

(2) A material breach of any term or condition of this Contract not cured within thirty (30) days after the defaulting party receives written notice thereof;

(3) Bankruptcy, insolvency or receivership of the other party.

B. A written notice of default, and an opportunity to cure, shall be issued by the party claiming default, whether the Lead State (in the case of breach of the entire agreement), a Participating State (in the case of a breach of the Participating Addendum), the Purchasing Entity (with respect to any order), or the Contractor. Time allowed for cure shall not diminish or eliminate any liability for damages.

C. If the default remains after the opportunity for cure, the non-defaulting party may:

(1) Exercise any remedy provided by law or equity;

(2) Terminate the Contract or any portion thereof, including any orders issued against the Contract;

(3) In the case of default by the Contractor, and to the extent permitted by the law of the Participating State or Purchasing Entity, suspend Contractor from receiving future solicitations for a period no greater than thirty six (36) months.

C. Item 18, Hold Harmless, will be replaced with the following:

HOLD HARMLESS: Each Party shall release, defend, indemnify and hold the other party, as well as the officers, agents and employees of the parties, harmless, from and against any damage, cost or liability, including reasonable attorney's fees for any or all injuries to persons, property or claims for money damages arising from negligence or intentionally wrongful acts or omissions of the indemnifying party, its employees or subcontractors when the indemnifying party is fulfilling its obligations hereunder.

Limitation of Liability.

NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT, EACH PARTY'S TOTAL LIABILITY ARISING FROM OR IN RELATION TO THIS AGREEMENT OR THE PRODUCTS AND SERVICES SHALL BE LIMITED TO THE TOTAL AMOUNT PAID OR PAYABLE TO VENDOR UNDER THIS AGREEMENT IN THE MOST RECENT FULL CALENDAR YEAR PRECEDING EITHER PARTY'S INITIAL NOTICE OF ANY CLAIM OR POTENTIAL CLAIM HEREUNDER. IN NO EVENT WILL EITHER PARTY BE LIABLE FOR THE COST OF PROCUREMENT OF SUBSTITUTE GOODS. THE FOREGOING LIMITATIONS SHALL NOT APPLY TO DAMAGES ARISING FROM DEATH OR PERSONAL INJURY.

D. Item 21, Delivery, will be replaced with the following:

DELIVERY: The prices offered shall be the delivered price to any WSCA state agency or political subdivision. All deliveries shall be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage shall remain with the Contractor until delivery of Products to Purchasing Entity's receiving dock. Contractor shall use reasonable efforts to make deliveries in a timely manner of purchase orders accepted by Contractor, but Contractor shall not be liable for any damages to Purchasing Entity or any other person for Contractor's failure to fill any orders or for any delay in delivery caused by circumstances beyond Contractor's reasonable control. Products shall be deemed accepted by Purchasing Entity upon delivery.

The minimum shipment amount 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

E. Item 22, Warranty, will be replaced with the following:

WARRANTY: As used herein "Purchasing entity" refers to any WSCA state agency or political subdivision. The Contractor agrees to warrant that all Products (including hardware, firmware, and/or software Products) that it licenses, contracts, or sells to the PURCHASING ENTITY under this Contract for the period specified below, unless otherwise specified and mutually agreed upon elsewhere in this Contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this Contract unless otherwise specified and mutually agreed upon elsewhere in this Contract. In general, the Contractor warrants that: (1) the hardware portion of the Product will perform substantially in accordance with the Hardware Specifications for a period of one (1) year from date of shipment; (2) the software portion of the Product will perform substantially in accordance with the Software Specifications for a period of ninety (90) days following Customer's receipt of each Product unit (3) the Product will be suitable for the ordinary purposes for which such Product is used, (4) the Product has been properly designed and manufactured. Remedies available to the PURCHASING ENTITY include the following: in the event of a failure of a Product to perform substantially in accordance with the Specifications, as applicable, during the warranty periods described above, the Contractor will at its option, (i) repair the Product, (ii) replace the Product (at no charge to the purchasing entity) whose nonconformance is discovered and made known to the Contractor

in writing, or (iii) refund the full amount of any payments that have been made for such Product (following the Purchasing Entity's return of the Product). The foregoing sets forth Customer's sole and exclusive remedies for a breach of the above limited warranties.

F. Item 27, Inspections, will be replaced with the following:

INSPECTIONS: Goods furnished under this Contract shall be subject to inspection and test by the Purchasing Entity at times and places determined by the Purchasing Entity. If the Purchasing Entity finds goods furnished to be incomplete or in non-compliance with the Product Specifications, the Purchasing Entity shall promptly return defective Products to Contractor in accordance with the Return Material Authorization process described in this Section.

Return Material Authorization: Except in those cases where a Product is replaced on-site, Purchasing Entity shall promptly return defective Products to Contractor in accordance with the process described in this Section. A Return Material Authorization ("RMA") number, obtained by Purchasing Entity from Contractor, must accompany any and all Products returned to Contractor by Purchasing Entity. Contractor may refuse any Product not accompanied by an RMA number. Refused shipments will be returned to Purchasing Entity via collect freight. Products returned for repair must be accompanied with a detailed description of the Product failure. Replacement Products will be warranted for the remaining warranty period of the original Product, if any, as specified in the Agreement. If Purchasing Entity fails to ship to Contractor a defective Product within ten (10) business days of Purchasing Entity's receipt of the replacement unit for such Product, Contractor will invoice Purchasing Entity the purchase price for such Product based on the current Contract price and Purchasing Entity shall pay such invoice in accordance with the payment terms of the Contract. The transportation charges for all Products and parts returned to Contractor shall be borne by Purchasing Entity. Contractor will pay the transportation charges involved in the return of warranted Products to Purchasing Entity.

If Contractor is unable or unwilling to correct such goods within a time deemed reasonable by the Purchasing Entity, the Purchasing Entity may cancel the order in whole or in part.

G. Item 29, Force Majeure, is replaced with the following:

FORCE MAJEURE: Neither party to this Contract will have the right to claim damages or terminate this Contract as a result of the other party's delay in performance due to circumstances beyond its reasonable control, including, but not limited to labor disputes, strikes, lockouts, shortages of or inability to obtain labor, energy, components, supplies, raw materials, fire, riot, insurrection, epidemic, governmental action, acts of God and/or war which is beyond that party's reasonable control.

H. Any additional changes listed by the Contractor in the Response to the RFP will be null and void.

8. <u>Revisions to Contractor's Response to the RFP</u>

Note: The changes below may be listed in multiple locations throughout the response. The changes will apply to all instances of similar terms.
The Contractor's Response to the RFP will be revised as follows:

A. Add the following provision to the Contract:

Consequential Damages Waiver. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR THIRD PARTIES FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO ANY LOST PROFITS AND LOST SAVINGS, HOWEVER CAUSED, WHETHER FOR BREACH OR REPUDIATION OF CONTRACT, TORT, BREACH OF WARRANTY, NEGLIGENCE, OR OTHERWISE, WHETHER OR NOT SUCH PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES. Some jurisdictions do not allow the exclusion of consequential damages, so such exclusion may not apply to Purchasing Entity.

B. The Extreme Confidentiality Agreement will be replaced with the revised Confidentiality Agreement which is attached as Exhibit 1 to this Contract.

C. The Extreme Support Program Agreement will be replaced with the revised Support Program Agreement which is attached as Exhibit 2 to this Contract.

9. State of Utah Only Requirement

Attachment C from the RFP will apply to the State of Utah only. This term is as follows:
E-PROCUREMENT: The State of Utah has awarded an e-procurement system Contract that has a transaction fee of 1% per order with a ceiling of $500 for any one order of products/services. There are expected cost savings to the Contractors with implementation of the system. The successful vendor must agree to terms as described in the following subparagraphs:

a. The Contractor must agree to integrate its catalog of products/services into the e-procurement system. Once implemented, the Contractor must pay the transaction fees for orders placed against the Contract. In the event, the Contractor fails to make payments, the State may: (i) eliminate the Contractor from the system in accordance with an escalation and review process developed by the State and its e-procurement vendor and (ii) terminate the State Contract and award the Contract to the next acceptable bidder.

b. At the time that the Contractor will be required to offer products/services through the e-procurement system, the State will negotiate an equitable adjustment in unit prices to account for the expected supplier fees on orders placed on the system. The State will negotiate a single pricing structure for Contract purchases and (i) prohibit discounting off-system purchases or otherwise offering discriminatory pricing or preferences for orders placed off-system; and (ii) require the Contractor to manually track and report the ordering volume of off-system purchases of supplies/services.

E. Contractor Requirements

1. Contractor Responsibility

Contractor is solely responsible for fulfillment of the responsibilities under the terms and conditions of the Contract. The procuring agencies will issue purchase orders and make payments to only the named Contractors and/or the designated reseller, as specified by the prime Contractor.

2. Servicing Subcontractors
If using servicing subcontractors for the performance of local marketing, maintenance and/or technical support services in accordance with the terms and conditions of the Contract. Servicing subcontractors may not directly accept purchase orders or payments for products or services from procuring agencies under the terms and conditions of the Contract. The authorized procuring agency has the option of choosing whether to purchase the associated OEM maintenance and/or training to support the equipment purchased.

3. WSCA Administration Fee
The Contractor must pay a WSCA administration fee of one tenth of one percent (.10%) of the products and services purchased under this WSCA Contract in accordance with the terms and conditions of the Contract. The WSCA administration fee is not negotiable. This fee is due with the quarterly reports and will apply to purchases from each respective quarter.

4. Usage Reporting Requirement
Contractor must submit quarterly usage reports to the Contract Manager. Initiation and submission of the quarterly report is the responsibility of the Contractor without prompting or notification by the Contract Manager. The due dates of each quarterly Contract usage report are April 30, July 31, October 31 and January 31. Quarterly usage reports must contain total dollar usage figures for each WSCA member-state (and non-member state), per product category, per manufacturer, respectively. Usage figures must be provided per maintenance option.

5. Change in Contractor Representatives
The State of Utah/WSCA reserves the right to require a change(s) in Contractor representatives if the assigned representative(s) is not, in the opinion of the State of Utah's Contract Manager, meeting its needs adequately.

6. Website Development and Maintenance
Contractor must maintain said website and keep the information current and correct on a timely basis.

7. Rollout and Marketing
Contractor may conduct a marketing effort as described in Contractor's proposal.

8. Right to Publish
Contractor must secure prior approval from the Contract Manager for permission to release any information that pertains to the potential work or activities relating to this Contract. Failure to adhere to this requirement may result in termination of the Contract for cause.

9. Contractor's Scope of Equipment and Services
Contractor may only fill Contract orders from the scope of equipment and services under Contract. Any sale made under this Contract by the Contractor of equipment, products or services not

explicitly covered by the scope of equipment, products and related services described in Section E may result in Contract termination for cause.

10. E-Rate Requirement
Contractor must participate in the Federal Communication Commission's E-rate discount program established under authority of the Federal Telecommunications Commission Act of 1996. Participation in, and implementation of, this program must be provided without the addition of any service or administration fee by the Contractor.

11. Freight Terms of Sale F.O.B. Destination, Freight Prepaid
Contractor will ship all products F.O.B. destination, freight included in the product price. Contractor may not include freight charges on invoices. Failure to comply with this requirement may result in Contract termination for cause.

12. Price Guarantee Period
Percentage discount depth from list is not subject to a "price increase request" that would result in a less attractive discount; discounts may only be adjusted by the Contractor to reflect a deeper discount(s). The discount is applied to manufacturer's current published list price schedule(s).

Maintenance and any training related costs are guaranteed for two years.

13. Product Revision Requests
Contractor must submit updated price list(s) upon publication, or any other product model changes, addition of new products, product upgrades or services in a timely manner.

Contractor agrees to delete obsolete and discontinued products from the Contract price list(s) on a timely basis. Major product model changes will be incorporated into the Contract as soon as possible after product introduction, to be offered at the same rate of discount for the appropriate price list and its discount.

14. Maintenance of Current Price List with Discount(s) Applied
Manufacturer's price list(s) must be tailored for WSCA with the WSCA Contract discount(s) applied; this must be created and maintained by the Contractor on an Internet website hosted by the Contractor, at no additional charge(s) to the State of Utah or WSCA. This website will be listed as a link from the WSCA website.

F. Contract Scope of Equipment and Related Services

Any sale by the Contractor of equipment, products or services not explicitly covered by the scope of equipment, products and related services described below may result in Contract termination for cause.

1. Discounts off Manufacturers Price List

a. Pricing Discounts

Category A	33%
Category B	33%
Category C	33%
Category D	33%
Category E	33%

All products are sold with a 12-month warranty, plus a 12-month Extended Warranty. WSCA Members may opt out of the Extended Warranty and receive an additional 2% discount.

PER PAGE 38, SECTION D.4.f. Price Proposal

b. Discount Structures based on volume

Extreme Networks has given WSCA a deeply discounted price structure on all product lines based on anticipated volumes. No further discounts will be given based on volume.

c. WSCA Member-State Coverage

Extreme Networks provides coverage in all of the WSCA Member States through a select group of authorized agents. These agents provide local, regional and national coverage. A list of these reseller agents can be obtained by mailing WSCAsupport@extremenetworks.com or by accessing the WSCA section of www.extremenetworks.com. Procuring Agencies may purchase Extreme Networks products and services through any of the agents listed.

PER EXHIBIT A OF THE EXTREME NETWORKS RESPONSE

2. Resolution of Customer Problems

Concerns regarding execution against this Contract should be first directed to the authorized resale agent who you are dealing with. If a response isn't received within 48 business hours, or if your concern isn't satisfactorily resolved, your concerns should be escalated to the WSCA primary representative or by submitting your concern to WSCAsupport@extremenetworks.com. If a response isn't received within 24 business hours, or if your concern isn't satisfactorily resolved, your concerns should be escalated the Extreme Networks Regional Manager for your area. If a response isn't received with 24 business hours or if your concern remains unresolved, your concerns should be escalated to the Extreme Networks Vice President of Americas Enterprise Sales. If a response isn't received within 24 business hours, your concerns should be escalated to the Extreme Networks Vice President of Americas Sales. If a response isn't received within 24 business hours or if your concerns remain unresolved, your concerns should be escalated to the Extreme Networks Senior Vice President of World Wide Sales. If a response isn't received within 24 business hours or if your concerns remain unresolved, your concerns should be

escalated to the Extreme Networks Chief Executive Officer. Due to the length of this Contract and the possibility of personnel changes in these roles, contact names and phone numbers should be obtained by calling Extreme Networks headquarters at 1.888.257.3000 or by mailing WSCAsupport@Extremenetworks.com. This process is in addition to the escalation procedures for technical support.

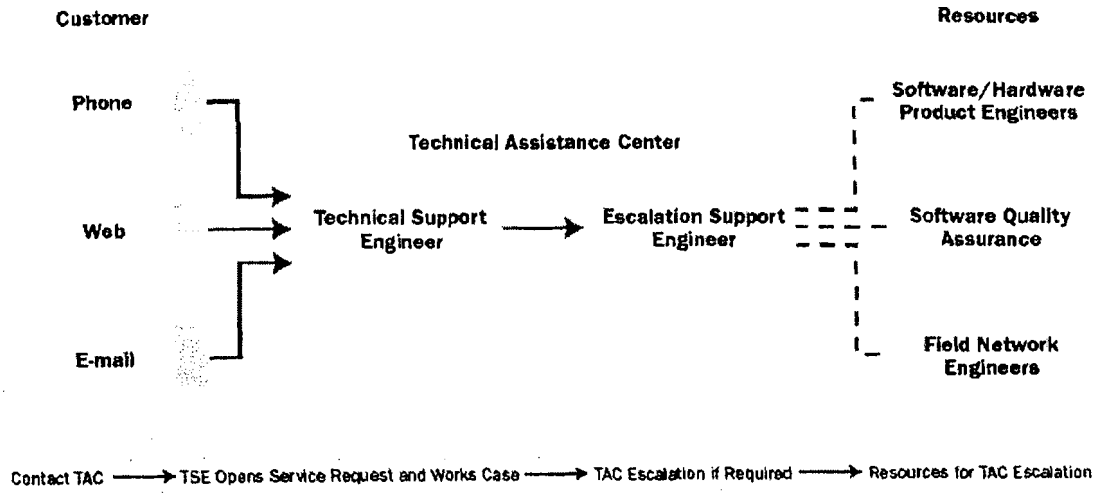
THIS TEXT IS NEW AND IN ADDITION TO EXHIBIT F, PAGE 11 OF THE EXTREME NETWORKS RESPONSE

3. Escalation Procedures

Extreme Networks Technical Assistance Centers (TACs) are the focal point of contact for post-sales technical and network-related questions or issues. The TAC will create a service request number and will manage all aspects of the service request until it is resolved.

Regional Support: North America, South America, Canada and Asia-Pacific
Toll free: 1-800-998-2408
Direct phone: 408-579-2826
Web site: http://www.extremenetworks.com/support/techsupport.asp
E-mail: support@extremenetworks.com
Normal office hours: Monday–Friday, 7 a.m.–10 p.m. local standard time

Quick Reference Chart for Opening a Service Request and Escalation



Communications Guidelines
In an effort to keep you informed this chart lists the communications guidelines associated with different service request priorities.

Communications Guidelines

In an effort to keep you informed, this chart lists the communications guidelines associated with different service request priorities.

Priority	Definitions	Status	Definitions	Who gets notified?	How often?
P1 - Network Down	Critical customer network function is down and severely affecting the customer's business.	In Progress	TSE is working an active service request	• Customer/Sales • Customer Manager • Global Service Manager	1 time per 2 hour
		Wait Escalation	Case is awaiting a response from Support Escalation Team		1 time per 2 hour
P1 - Impaired	Part of customer critical network function is down and affecting customer business.	In Progress	TSE is working an active service request	• Customer/Sales • Customer Manager • Global Service Manager	1 time per business day
		Wait/Customer	TSE is waiting for customer action		1 time every 2 days
		Wait/SQA	TSE is waiting for Systems Quality Assurance to provide support in recreation		1 time every 2 days
		Wait/Engineering	TSE is waiting for response from engineering		1 time every 2 days
		Wait Software	Problem is a bug and a product defect has been assigned		1 time every 4 weeks
		Wait RMA	Problem is believed to require hardware replacement to repair		1 time every 24 hours Note: Replacement & Repair 15 days
		Wait Testing/ Wait Research	TSE is actively testing or researching the problem		1 time per business day
		Wait F/A	Replaced hardware is awaiting root cause analysis		1 time every 6 weeks
		Wait Escalation	Case is awaiting a response from Support Escalation Team		1 time per business day
P1 - Stable	Customer suffered critical network problem(s), but is now currently stable.	In Progress	TSE is working an active service request	• Customer/Sales • Customer Manager • Global Service Manager	1 time per business day
		Wait/Customer	TSE is waiting for customer action		1 time every 2 days
		Wait/SQA	TSE is waiting for Systems Quality Assurance to provide support in recreation		1 time every 2 days
		Wait/Engineering	TSE is waiting for response from engineering		1 time every 2 days
		Wait Software	Problem is a bug and a product defect has been assigned		1 time every 4 weeks
		Wait RMA	Problem is believed to require hardware replacement to repair		1 time every 24 hours Note: Replacement & Repair 15 days
		Wait Testing/ Wait Research	TSE is actively testing or researching the problem		1 time per business day
		Wait F/A	Replaced hardware is awaiting root cause analysis		1 time every 6 weeks
		Wait Escalation	Case is awaiting a response from Support Escalation Team		2 times per week
P2 - Impaired	Part of the customer's network is not functioning properly, but it is not impacting customer's business operations	In Progress	TSE is working an active service request	• Customer/Sales • Customer Manager • Global Service Manager	2 times per week
		Wait/Customer	TSE is waiting for customer action		2 times per week
		Wait/SQA	TSE is waiting for Systems Quality Assurance to provide support in recreation		1 time per week
		Wait/Engineering	TSE is waiting for a response from engineering		1 time per week
		Wait Software	Problem is a bug and a product defect has been assigned		1 time every 4 weeks
		Wait RMA	Problem is believed to require hardware replacement to repair		1 time every 24 hours Note: Replacement & Repair 15 days
		Wait Testing/ Wait Research	TSE is actively testing or researching the problem		1 time per business day
		Wait F/A	Replaced hardware is awaiting root cause analysis		1 time every 6 weeks
		Wait Escalation	Case is awaiting a response from Support Escalation Team		2 times per week

Priority	Definitions	Status	Definitions	Who gets notified?	How often?
P2 - Stable	Part of customer's network suffered from network problem(s) but is now currently stable.	In Progress	TSE is working an active service request	• Customer/Sales • Customer Manager • Global Service Manager	1 time every 2 days
		Wait/Customer	TSE is waiting for customer action		2 times per week
		Wait/SQA	TSE is waiting for Systems Quality Assurance to provide support in recreation		2 times per week
		Wait/Engineering	TSE is waiting for response from engineering		1 time per week
		Wait Software	Problem is a bug and a product defect has been assigned		1 time every 4 weeks
		Wait RMA	Problem is believed to require hardware replacement to repair		1 time every 24 hours Note: Replacement & Repair 15 days
		Wait Testing/ Wait Research	TSE is actively testing or researching the problem		1 time per business day
		Wait F/A	Replaced hardware is awaiting root cause analysis		1 time every 6 weeks
		Wait Escalation	Case is awaiting a response from Support Escalation Team		2 times per week
P3 - Config	Customer have general configuration questions and have no network issue.	In Progress	TSE is working an active service request	• Customer/Sales	1 time per week
		Wait/SQA	TSE is waiting for Systems Quality Assurance to provide support config clarification		1 time per week
		Wait/Engineering	TSE is waiting for config clarification		1 time per week
		Wait Testing/ Wait Research	TSE is actively testing or researching the problem		1 time per business day
		Wait Escalation	Case is awaiting a response from Support Escalation Team		1 time per week
P4 - Info	Customer is requesting product information.	In Progress	TSE is working an active service request	• Customer/Sales	1 time per week

Extreme Networks Escalation Procedures

In the event you feel you are not receiving the support you require for any given issue, you can contact your local TAC and ask that the service request be escalated. When a service request is initially opened, the customer can define the priority of the case. If the TAC determines, at any given time, that the priority should be changed, the customer will be contacted.

Escalation Flow by Priority

TAC Escalation Responsibilities				
Priority 1		Priority 2		Priority 3 & 4
TSE manages case for 1 hour and 15 minutes before escalating to ESE →	ESE works case until resolved or determines that it is an engineering issue	TSE manages case for 1 hour and 15 minutes before escalating to ESE →	ESE works case until resolved or determines that it is an engineering issue	TSE manages case until resolution

	Notification Schedule		
IMMEDIATE	TAC Manager		
1 HOUR 15 MINUTES	Account Manager Sr. Operations Manager	TAC Manager	
4 HOURS	VP Customer Advocacy VP Sales VP Engineering	Account Manager Sr. Operations Manager	
8 HOURS		VP Customer Advocacy VP Sales VP Engineering	TAC Manager
OVER 8 HOURS	Communication schedule at this point is an agreement between customer and TAC.	Communication schedule at this point is an agreement between customer and TAC.	Communication schedule at this point is an agreement between customer and TAC.

PER EXHIBIT F, PAGE 11 OF THE EXTREME NETWORKS RESPONSE

4. Technical Services

PER EXHIBIT E OF THE EXTREME NETWORKS RESPONSE IN ADDITION TO RESPONSE IN SECTION 4.4.1.33-36 (Pg, 120-121) , 4.4.1.44 (Pg. 127-128), 4.4.2.5 (Pg. 135), 4.4.2.10 (Pg. 137-138), AND 4.4.3 (Pg. 140)

Privileged Web Access

Extreme Networks leverages the power of the Internet to distribute and obtain information from you as an integral part of our service solution. This allows us to keep you informed on the latest updates and developments here at Extreme. The password-protected ExtremeWorks web site is a valuable resource that contains up-to-date information and technical documentation that enables you to quickly research issues and find answers to your questions.

Software release updates and upgrades - Download the latest software release updates and upgrades for our operational software anytime and rest assured that you have the most up-to-date information to ensure hardware performance.

Case logging and status updates – Open a case by phone or on the web. Check status of open cases and update information during the process. An automated notification system ensures that cases generated via the web are progressing towards resolution.

Network topology and device configuration storage – By accessing a password-protected storage location for uploading network topologies and device configurations to Extreme, only authorized users have access to confidential information while Extreme ensures quick problem resolution.

RMA requests – Extreme allows you to generate and track your return merchandise authorization (RMA) status. Obtain and track shipment information – date, carrier and waybill number, and the date the equipment was received.

Technical Assistance Center (TAC)

Extreme Networks provides global coverage 24x7x365 with TAC offices in Santa Clara, Calif. U.S.A., Utrecht, Holland and Tokyo, Japan. Extreme's multilingual TAC team provides personalized assistance via phone or email to quickly resolve any networking questions or issues. To ensure Extreme's perception of the problem is in-line with yours and to ensure that the problem resolution meets your expectations, you determine the priority of a reported problem.

PER SECTION 4.4.1.33-34 (Pg. 120) OF THE Extreme Networks RESPONSE

Advanced Hardware Replacement

The password-protected ExtremeWorks web site allows you to instantly submit a request for advanced hardware replacement at anytime to minimize network disruption. If your request is received by 2 p.m. Pacific Standard Time, the hardware is shipped the same day for certain ExtremeWorks Support Programs.

On-site Services

For customers who require a more comprehensive level of service and support, Extreme offers on-site support services available 7 days a week. With access to geographically-dispersed spares depots, a technical engineer will arrive on-site with parts to ensure timely problem resolution.

Professional Services

From initial concept to deployment, Extreme's customized services encompass end-to-end services to assist you in developing your network design strategy, expertly guiding you through planning and resource requirements and finally, implementing the plan.

Managed Deployment – Utilize an ExtremeWorks solutions architect to effectively develop and execute a customized hardware deployment plan that meets your network strategy. Each installation will be managed and coordinated by a solutions architect and includes design, staging, logistics, inventory control, implementation, documentation and training to help you transition to your new network.

Comprehensive Installation – Utilize the ExtremeWorks installation engineering team to effectively develop and execute a customized installation plan that meets your network requirements. Each installation will be managed and coordinated by an ExtremeWorks engineer, your designated primary contact during the installation process.

Resident Engineering – Available in increments of 1, 3, 6 and 12 months, an experienced ExtremeWorks technical engineer will be placed at your site to work on any project you need help with.

Project Management – Leverage our geographically dispersed team of highly qualified network engineers and project managers to ensure a successful network installation anywhere in the globe. This includes managing and coordinating all logistics, milestones and schedules for your project – from migration and deployment to ensuring that the configuration of your network meets your specifications.

Packaged consulting services

Extreme Networks EPS deliver proven expertise in cutting-edge technologies. With Extreme's proven set of techniques and resources, you will gain a competitive advantage by leveraging our proven solutions to help you optimize your network to meet your business objectives.

Network audit – Detailed audit and analysis of the current state of your network is the first step to obtaining network optimization.
Policy-Based Quality of Service (QoS) – In-depth analysis and recommendation for deploying advanced traffic management and bandwidth prioritization features such as Policy-Based QoS to match actual traffic patterns.
Multicasting – Strategy for deploying PIM-DM, PIM-SM, or DVMRP to best suit your streaming media requirements.
Voice over IP – Consulting strategy and recommendation to deploy voice-over-IP utilizing Extreme and best-of-breed technology.
Server load balancing – Design and implementation of Extreme's integrated server load balancing features to help maximize your server response while reducing equipment costs.
Security – Analysis of your security needs and recommendation on how to implement Extreme's advanced security features to meet those needs.
Interoperability Lab – Leverage and utilize the on-hands lab to ascertain ease of deployment, resolve integration concerns, compare differing solutions and assess performance and application thresholds.

PER 4.4.2.5 (Pg. 135-136) OF THE Extreme Networks RESPONSE

Training

ExtremeWorks Education Program offers comprehensive courses that provide a clear and thorough understanding of Extreme Networks broadband switching solutions. Numerous e-courses are available on-line in addition to formal certification programs. Courses are offered on-line, at authorized training centers and on-site. A list of these courses and the current training calendar can be found at http://www.extremenetworks.com/Training/training.asp.

PER 4.4.3.15-16 (Pg. 146-147) OF THE EXTREME NETWORKS RESPONSE

ATTACHMENT B
Standard Contract Terms and Conditions
Western States Contracting Alliance (WSCA)

1. PARTICIPANTS: Western States Contracting Alliance ("WSCA") is a cooperative group contracting consortium for state government departments, institutions and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) for the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming. Obligations under this Contract are limited to those Participating States who have signed (and not revoked) an Intent to Contract at the time of award, or who have executed a Participating Addendum where contemplated by the solicitation. Financial obligations of Participating States are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating States incur no financial obligations on behalf of political subdivisions. Unless otherwise specified in the solicitation, the resulting price agreement(s) will be permissive.

2. DEFINITIONS:

"Lead State" means the State conducting this cooperative solicitation and centrally administering any resulting price agreement.

"Offer" or "Bid" or "Proposal" refers to the offer submitted in response to a solicitation, whether denominated as an invitation for bid, request for proposal, or otherwise. "Bidder" or "Offeror" similarly refers to the person, company, or other entity submitting the bid or proposal that constitutes an offer capable of acceptance, regardless of the solicitation method used.

"Permissive price agreement" means that placement of orders through the price agreement is discretionary with Purchasing Entities. They may satisfy their requirements through the price agreement without using statutory or regulatory procedures (e.g. invitations for bids) to solicit competitive bids or proposals. Purchasing Entities may, however, satisfy requirements without using the price agreement so long as applicable procurement statutes and rules are followed.

"Participating Addendum" means a bilateral agreement executed by the Contractor and a Participating State that clarifies the operation of the price agreement for the State concerned, e.g. ordering procedures specific to a State, and may add other state-specific language or other requirements.

"Participating State" means a member of WSCA who has indicated its intent to participate as disclosed on the solicitation, or who subsequently signs a Participating Addendum where contemplated by the solicitation.

"Purchasing Entity" means a Participating State or another legal entity, such as a political subdivision, properly authorized by a Participating State to enter into a Contract for the purchase of goods described in this solicitation. Unless otherwise limited in this solicitation or in a Participating Addendum, political subdivisions of Participating States are Purchasing Entities and Participants authorized to purchase the goods and/or services described in this solicitation.

3. QUANTITY ESTIMATES: Estimated quantities are informational and not to be construed as a warranty of accuracy of historical or anticipated volumes or a guarantee to purchase any amount.

4. SPECIFICATIONS: Any deviation from specifications must be clearly indicated by offeror, otherwise, it will be considered that the proposal is in strict compliance. When BRAND NAMES or manufacturers' numbers are stated in the specifications they are intended to establish a standard only and are not restrictive unless the solicitation says "no substitute." Offers will be considered on other makes, models or brands having comparable quality, style, workmanship and performance characteristics. Alternate proposals offering lower quality or inferior performance will not be considered.

5. ACCEPTANCE OR REJECTION OF BIDS AND PROPOSALS: The Lead State reserves the right to accept or reject any or all bids or proposals, or parts of bids or proposals, and to waive informalities therein.

6. SAMPLES: Generally, when required, samples will be specifically requested in the solicitation. Samples, when required, are to be furnished free of charge. Except for those samples destroyed or mutilated during testing, samples will be returned at an offeror's request, transportation collect.

7. CASH DISCOUNT TERMS: Offeror may quote a cash discount based upon early payment; however discounts offered for less than 30 days will not be considered in making the award. The date from which discount time is calculated shall be the date a correct invoice is received or receipt of shipment, whichever is later; except that if testing is performed, the date shall be the date of acceptance of the merchandise.

8. TAXES: Offered prices shall be exclusive of state sales and federal excise taxes. Where the state government entities are not exempt from sales taxes on sales within their state, the Contractor shall add the sales taxes on the billing invoice as a separate entry.

9. MODIFICATION OR WITHDRAWAL OF BIDS AND PROPOSALS: Bids and proposals may be modified or withdrawn prior to the time set for receipt of bids or proposals. After the time set for receipt of bids or proposals, no proposal may be modified or withdrawn.

10. PATENTS, COPYRIGHTS, ETC:
(This term has been replaced. See Attachment A, Item D.7.A.)
~~The Contractor shall release, defend, indemnify, and hold harmless WSCA, the Participating States, and the Purchasing Entities, as well as the officers, agents and employees of WSCA, the Participating States and the Purchasing Entities, from liability of any kind or nature, including the Contractor's use of any copyrighted or uncopyrighted composition, process, patented or unpatented invention, article or appliance furnished or used in performance of this Contract.~~

11. AWARD: Multiple contracts may be awarded as a result of this solicitation. Awards in requests for proposals (competitive sealed proposals) shall be made to the responsible offeror(s) whose proposals are determined to the most advantageous to the Participating States, taking into consideration price and the other evaluation factors set forth in the solicitation. Unless otherwise stated in the solicitation, an

award in a solicitation denominated as an invitation to bid will be made to the lowest responsive and responsible bidder(s) meeting specifications and all bid terms and conditions. The Participating States reserve the right to award items separately or by grouping items, or by total lot.

12. NON-COLLUSION: By signing the proposal the offeror certifies that the proposal submitted, has been arrived at independently and has been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the solicitation, designed to limit independent bidding or competition.

13. TERMINATION: Unless otherwise stated in the solicitation, any Contract entered into as a result of this solicitation may be terminated by either party upon 60-days notice, in writing, prior to the effective date of the termination. Further, any Participating State may terminate its participation upon 30-days written notice, unless otherwise limited or stated in the special terms and conditions of the solicitation. Any termination under this provision shall not effect the rights and obligations attending orders outstanding at the time of cancellation, including any right of any Purchasing Entity to indemnification by the Contractor, rights of payment for goods/services delivered and accepted, and rights attending any warranty or default in performance in association with any order."

14. DEFAULT AND REMEDIES: (This term has been replaced. See Attachment A, Item D.7.B.)
~~A. Any of the following shall constitute cause to declare the Contract or any order under this Contract in default:~~

~~(1) Nonperformance of contractual requirements; or~~
~~(2) A material breach of any term or condition of this Contract.~~

~~B. A written notice of default, and an opportunity to cure, shall be issued by the party claiming default, whether the Lead State (in the case of breach of the entire agreement), a Participating State (in the case of a breach of the Participating Addendum), the Purchasing Entity (with respect to any order), or the Contractor. Time allowed for cure shall not diminish or eliminate any liability for liquidated or other damages.~~

~~C. If the default remains after the opportunity for cure, the non-defaulting party may:~~

~~(1) Exercise any remedy provided by law or equity;~~
~~(2) Terminate the Contract or any portion thereof, including any orders issued against the Contract;~~
~~(3) Impose liquidated damages, as specified in the solicitation or Contract;~~
~~(4) In the case of default by the Contractor, and to the extent permitted by the law of the Participating State or Purchasing Entity, suspend Contractor from receiving future solicitations.~~

15. LAWS AND REGULATIONS: Any and all supplies, services and equipment offered and furnished shall comply fully with all applicable Federal and State laws and regulations.

16. CONFLICT OF TERMS: In the event of any conflict between these standard terms and conditions and any special terms and conditions in the solicitation, the special terms and conditions shall govern.

17. REPORTS: The Contractor shall submit quarterly reports to the Lead State Contract administrator, and upon request to any Participating State, showing the quantities and dollar volume of purchases by each Purchasing Entity.

18. HOLD HARMLESS: (This term has been replaced. See Attachment A, Item D.7.C.)
~~The Contractor shall release, defend, indemnify and hold harmless WSCA, the Participating States, and the Purchasing Entities, as well as the officers, agents and employees of WSCA, the Participating States and the Purchasing Entities, from and against any damage, cost or liability, including reasonable attorneys fees for any or all injuries to persons, property or claims for money damages arising from acts or omissions of the Contractor, its employees or subcontractors or volunteers.~~

19. ORDER NUMBERS: Contract order and purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.

20. GOVERNING LAW AND VENUE: This procurement shall be governed and the resulting price agreement construed in accordance with the laws of the Lead State. The construction and effect of any Participating Addendum or order against the price agreement shall be governed by and construed in accordance with the laws of the Purchasing Entity's State. Venue for any claim, dispute or action concerning the construction and effect of the price agreement shall be in the Lead State. Venue for any claim, dispute or action concerning an order placed against the price agreement or the effect of a Participating Addendum or shall be in the Purchasing Entity's State.

21. DELIVERY: (This term has been replaced. See Attachment A, Item D.7.D.)
~~The prices offered shall be the delivered price to any WSCA state agency or political subdivision. All deliveries shall be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage shall remain the Contractor 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 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.~~

22. WARRANTY: (This term has been replaced. See Attachment A, Item D.7.E.)
~~As used herein "Purchasing entity" refers to any WSCA state agency or political subdivision. The Contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the PURCHASING ENTITY under this Contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this Contract. The Contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the PURCHASING ENTITY apply to this Contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this Contract unless otherwise specified and mutually agreed upon elsewhere in this Contract. In general, the Contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims~~

~~that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the PURCHASING ENTITY has relied on the Contractor's skill or judgment to consider when it advised the PURCHASING ENTITY about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the PURCHASING ENTITY has not been warned. Remedies available to the PURCHASING ENTITY include the following: 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 in writing. 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. Nothing in this warranty will be construed to limit any rights or remedies the PURCHASING ENTITY may otherwise have under this Contract with respect to defects.~~

23. AMENDMENTS: The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the Contract Administrator of the Lead State.

24. ASSIGNMENT/SUBCONTRACT: Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Contract Administrator of the Lead State.

25. NONDISCRIMINATION: The offeror agrees to abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age, and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. The offeror further agrees to furnish information and repots to requesting State(s), upon request, for the purpose of determining compliance with these statutes. Offeror agrees to comply with each individual state's certification requirements, if any, as stated in the special terms and conditions. This Contract may be canceled if the offeror fails to comply with the provisions of these laws and regulations. The offeror must include this provision in very subcontract relating to purchases by the States to insure that subcontractors and vendors are bound by this provision.

26. SEVERABILITY: If any provision of this Contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

27. INSPECTIONS: (This term has been replaced. See Attachment A, Item D.7.F.)
~~Goods furnished under this Contract shall be subject to inspection and test by the Purchasing Entity at times and places determined by the Purchasing Entity. If the Purchasing Entity finds goods furnished to be incomplete or in compliance with proposal specifications, the Purchasing Entity may reject the goods and require Contractor to either correct them without charge or deliver them at a reduced price, which is equitable under the circumstances. If Contractor is unable or refuses to correct such goods within a~~

~~time deemed reasonable by the Purchasing Entity, the Purchasing Entity may cancel the order in whole or in part. Nothing in this paragraph shall adversely affect the Purchasing Entity's rights including the rights and remedies under the Uniform Commercial Code.~~

28. PAYMENT: Payment for completion of a Contract is normally made within 30 days following the date the entire order id 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. Payments will be remitted by mail. Payments may be made via a Purchasing Entity's "Purchasing Card".

29. FORCE MAJEURE: (This term has been replaced. See Attachment A, Item D.7.G.)
~~Neither party to this Contract shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The Lead State may terminate this Contract after determining such delay or default will reasonably prevent successful performance of the Contract.~~

30. HAZARDOUS CHEMICAL INFORMATION: The Contractor will provide one set of the appropriate material safety data sheet(s) and container label(s) upon delivery of a hazardous material to the Purchasing Entity agency. All safety data sheets and labels will be in accordance with each participating state's requirements.

31. FIRM PRICE: Unless otherwise stated in the special terms and conditions, for the purpose of award, offers made in accordance with this solicitation must be good and firm for a period of ninety (90) days from the date of receipt of bids or proposals. Prices must remain firm for the full term of the Contract.

32. EXTENSION OF PRICES: In the case of error in the extension of prices in the proposal, the unit prices will govern.

33. PROPOSAL PREPARATION COSTS: WSCA is not liable for any costs incurred by the offeror in preparation of the bid or proposal.

34. CERTIFICATION REGARDING CONFLICT OF INTEREST: Contractor certifies that it has not offered or given any gift or compensation prohibited by the state laws of any Participating State to any officer or employee of WSCA or Participating States to secure favorable treatment with respect to being awarded this Contract.

35. INDEPENDENT CONTRACTOR: Contractor shall be an independent Contractor, and as such shall have no authorization, express or implied to bind the Participating States to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for WSCA or the states, except as expressly set forth herein.

36. POLITICAL SUBDIVISION PARTICIPATION: Participation under this Contract by political subdivisions (i.e., colleges, school districts, counties, cites, etc.,) of the WSCA participating states shall be voluntarily determined by the political subdivision. The Contractor agrees to supply the political subdivisions based upon the same terms, conditions and prices.

37. E-RATE COMPLIANCE: Contractor agrees to participate in the Federal Communication Commission's E-rate discount program established pursuant to the Telecommunications Act of 1996, and in accordance with any State and local government E-rate related requirement(s) of the authorized procuring agency.

38. CERTIFICATION REGARDING 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. If the Contractor cannot certify this statement, attach a written explanation for review by WSCA.

39. RECORDS ADMINISTRATION: The Contractor will maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this Contract. These records will be retained by the Contractor for at least four years after the Contract terminates, or until all audits initiated within the four years have been completed, whichever is later.

40. AUDIT OF RECORDS: The Contractor agrees to allow WSCA, State and Federal auditors, and state agency staff access to all the records to this Contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.

41. PRICES AS CEILING: Price agreement prices represent ceiling prices for the supplies and services priced in the price agreement. The vendor shall report to the Lead State any price reduction or discount, or other more favorable terms, offered to any Purchasing Entity, and the awarded vendor agrees to negotiate in good faith to reestablish ceiling prices or other more favorable terms and conditions applicable to future orders.

42. STATE PARTICIPATION/UNIQUE TERMS AND CONDITIONS: Apart from the Lead State conducting the solicitation, the States indicated on Attachment A have signified their intent to enter into a price agreement and, except where Attachment A or the solicitation requires execution of a Participating Addendum, are considered Participating States for purposes of this solicitation and the resulting Contract. Attachment A of the Solicitation includes any significant State-specific provisions required by the laws, regulations, or procurement practices of the State(s).

Additional States may be added with the consent of the Contractor and the Lead State (on behalf of the WSCA Participating States) through execution of a Participating Addendum.

Revision Date: April 2001

Revision number: 1 Purchasing Agent: DEBBIE GUNDERSEN

Item: DATA COMMUNICATIONS EQUIPMENT AND ASSOCIATED OEM MAINTENANCE & TRAINING (CSU/DSU) (WSCA)

Vendor:	94831A	Extreme Networks, Inc. 3585 Monroe Street Santa Clara, CA 95051
Internet Homepage:		www.extremenetworks.com
Telephone:		(206) 381-2165
Fax number:		(206) 381-2165
Contact:		Scott Nelson
Email address:		snelson@extremenetworks.com
Brand/trade name:		Extreme

Price:	SEE ATTACHED PRICE LIST
Terms:	Net 30
Effective dates:	06/01/04 through 05/31/06
Days required for delivery:	30 days
Price guarantee period:	Discounts good through term of Contract
Minimum order:	None
Min shipment without charges:	FOB Destination, Freight Prepaid
Other conditions:	POTENTIAL RENEWALS THROUGH 05/31/08.

NOTE: EFFECTIVE DATE EXTENDED. NEW FAX NUMBER ADDED.

Remit to: Extreme Networks Inc.
Dept. LA21921
Pasadena, CA 91185-1921

This Statewide Contract is an "AR" (Authorization Required) contract. Authorization is required before purchase can be made. The Authorization requirements and procedure is detailed in the attachment to the contract. Orders may be placed only after Authorization is received. This contract covers only those items listed in the price schedule. It is the responsibility of the agency to ensure that other items purchased are invoiced separately. State agencies will place orders directly with the vendor (creating a PG in Finet) and make payments for the same on a PV referencing the original PG. Agencies will return to the vendor any invoice which reflects incorrect pricing.

Authroized Resellers List for Utah:

Uinta Business Systems
332 West Bugatti Ave.
Salt Lake City, Utah 84115

Advanced Systems Group
4 Triad Center
Salt Lake City, Utah 84180

Remit to: Uinta Business Systems
Dept. 1293
Denver, CO 80291

AUTHORIZATION REQUIRED: DAS/ITS (INFORMATION TECHNOLOGY SERVICES) ADMINISTERS STATE AGENCY PURCHASES FROM THIS CONTRACT. STATE AGENCIES (EXECUTIVE BRANCH) MUST COORDINATE THEIR PURCHASE THROUGH DAS/ITS AND MAY NOT PURCHASE DIRECTLY FROM THE CONTRACTOR. PLEASE CONTACT DAVID LEE AT 801-537-9251 OR JOHN STUCKI AT 801-538-3828 WITH DAS/ITS FOR ASSISTANCE. DAS/ITS WILL CHARGE STATE AGENCIES BASED ON DAS/ITS' UNIVERSAL SURCHARGE RATE PLAN. POLITICAL SUBDIVISIONS (SUCH AS HIGHER EDUCATION, PUBLIC EDUCATION, CITIES AND COUNTIES) MAY PURCHASE DIRECTLY FROM THE CONTRACTOR WITHOUT STATE INVOLVEMENT.

AWARD CATEGORIES AND BRANDS
Switches- Extreme

Product Discounts:

Category A:	33% Discount
Category B:	33% Discount
Category C:	33% Discount
Category D:	33% Discount
Category E:	33% Discount.

Price List
To access the website for pricelist, go to http://www.extremenetworks.com/go/wsca.htm

WSCA Website:
http://www.utah.gov/wsca

FINET COMMODITY CODE(S):
20464000000-NETWORK COMPONENTS: ADAPTER CARDS, BRIDGES, CONNECTORS, EXPANSION MODULES/PORTS, HUBS, LINE DRIVERS, MSAUs, ROUTERS, TRANSCEIVERS, ETC.
20623000000-COMMUNICATION PROCESSORS AND PROTOCOL CONVERTORS: FRONT-END PROCESSOR, PROTOCOL INTERCHANGE, SWITCHING CONTROLS, ETC.
20621000000-COMMUNICATION CONTROL UNITS: CONCENTRATORS, MULTIPLEXORS, COUPLERS, ETC.