

## U. S. VOLUME PURCHASE AGREEMENT

This U. S. Volume Purchase Agreement (the "Agreement") by and between Cisco Systems, Inc., ("Cisco") a California corporation having its principal place of business at 170 West Tasman Drive, San Jose, California, 95134, and

(company name) corporation having its principal place of business at (company address), is entered into as of the date last written below ("the Effective Date").

This Agreement consists of this signature page and the following attachments which are incorporated in this Agreement by this reference:

1. U.S. Volume Purchase Agreement Terms and Conditions
2. EXHIBIT A: Discount Schedule

This Agreement sets forth the terms and conditions under which (Company)

may purchase from Cisco the "Products" as defined herein. This Agreement is the complete agreement between the parties hereto concerning the purchase of Products under this Agreement and replaces any prior oral or written communications between the parties. There are no conditions, understandings, agreements, representations, or warranties, expressed or implied, which are not specified herein. This Agreement may only be modified by a written document executed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed. Each party warrants and represents that its respective signatories whose signatures appear below have been, and are, on the date of signature, authorized to execute this Agreement.

(Company)
Authorized Signature
Name
Title
Date

(Company)
(Address)

Cisco Systems, INC. ("Cisco")
Authorized Signature
Name
Title
June 10, 1997
Date

Cisco Systems, Inc.
170 W. Tasman Drive
San Jose, CA 95134-I 706

## U. S. VOLUME PURCHASE AGREEMENT TERMS AND CONDITIONS

### 1. Definitions

Customer is the legal entity which signs this Agreement with Cisco.

Documentation is the Cisco documentation made available in hard copy or in electronic form with the Products or otherwise under this Agreement.

Hardware is the tangible product made available to [REDACTED] (Company)

Price List is Cisco's published global price list.

Product is Hardware and/or Software

Purchase Order is a written order from [REDACTED] (Company) to Cisco for Hardware, Software or services to be purchased, licensed or provided under this Agreement.

Software is the machine readable (object code) version of the computer programs listed from time to time on the Price List and made available for license by [REDACTED], and any copies, updates to, or upgrades thereof.

### 2. scope

Cisco has the right to license and sell Product. In that respect, this Agreement sets forth the terms and conditions for [REDACTED]'s (Company) purchase or license of Products solely for [REDACTED]'s (Company) internal business use in the United States.

### 3. Prices

3.1 Prices for Products shall be those specified in Cisco's then current Price List less the applicable discounts specified in Exhibit A of this Agreement. All prices are F.O.B. Cisco's San Jose, California, site or other Cisco designated shipping location, Cisco may change prices for the Products at any time by issuance of a revised price list (including via electronic posting) or other announcement of price change. Purchase orders received before date of the announcement of price changes, and those received within [REDACTED] [sixty (60)] days thereafter which specify a delivery date within [REDACTED] [one hundred and twenty (120)] days of the date of announcement, will be invoiced to [REDACTED] without regard to the price change. Price decreases will be effective for all orders accepted by Cisco after the date of issuance or announcement of revised prices.

3.2 All stated prices are exclusive of any taxes, fees and duties or other amounts, however designated, and including without limitation value added and withholding taxes which are levied or based upon such charges, or upon this Agreement. Any taxes related to Products purchased or licensed pursuant to this Agreement shall be paid by [REDACTED], exclusive of personal property taxes on property owned by Cisco and exclusive of taxes based on Cisco's net income, or [REDACTED] shall present an exemption certificate acceptable to the taxing authorities, Applicable taxes shall be billed as a separate item on the invoice, to the extent possible.

#### 4. Ordering

4.1 [REDACTED] shall purchase Products by issuing a written Purchase Order signed by an authorized representative, indicating specific products, quantity, price, total purchase price, shipping instructions, requested delivery dates, bill-to and ship-to addresses, tax exempt certifications, if applicable, and any other special instructions. Any contingencies contained on such Purchase Order are not binding upon Cisco. The terms and conditions of this Agreement prevail regardless of any conflicting terms on the Purchase Order or other correspondence. All Purchase Orders are subject to approval and acceptance by the Cisco customer service order administration office of the Cisco entity which shall supply the Products, and no other office is authorized to accept orders on behalf of Cisco. Cisco shall use commercially reasonable efforts to provide information regarding acceptance or rejection of such orders within ten (10) days from receipt thereof.

4.2 [REDACTED] has the right to cancel orders, reconfigure Product(s) or defer Product shipment for no more than [REDACTED] [sixty (60)] days from the scheduled shipping date, provided written notice is received by Cisco at least [REDACTED] [fifteen (15)] days before the originally scheduled shipping date. Canceled orders, rescheduled deliveries or Product configuration changes made by [REDACTED] within [REDACTED] [fifteen (15)] days of the original shipping date will be subject to (a) acceptance by Cisco and (b) a charge of [REDACTED] [fifteen percent (15%)] of the total invoice amount for the Product(s) being canceled, reconfigured or rescheduled. Cisco reserves the right to reschedule delivery in cases of configuration changes made within [REDACTED] [fifteen (15)] days of scheduled shipment.

#### 5. Shipment and Delivery

Orders from [REDACTED]. Shipping dates will be assigned as close as practicable to the [REDACTED]'s requested date based on Cisco's then-current lead times for the Products. Cisco will use commercially reasonable efforts to notify [REDACTED] of the actual schedule shipping date within [REDACTED] [fifteen (15)] working days after receipt of order. Unless given written instruction by [REDACTED], Cisco shall select the carrier.

5.2 Shipping terms are FOB Original Cisco's site, San Jose, California, or such other shipping locations Cisco may designate. Title and risk of loss shall pass from Cisco to [REDACTED] upon delivery to the common carrier or [REDACTED]'s representative at the FOB point. Delivery shall be deemed made upon transfer of possession to the carrier. [REDACTED] shall be responsible for all freight handling and insurance charges. In no event shall Cisco have any liability in connection with shipment, nor shall the carrier be deemed to be an agent of Cisco. Cisco shall not be liable for damage or penalty for delay in

delivery or for failure to give notice of any delay. Notwithstanding the foregoing, Cisco agrees that should the Product be lost or damaged during shipment, Cisco shall use commercially reasonable efforts to find the Product or repair the Product. Should Cisco be unable to locate the Product or repair the Product, Cisco agrees to use commercially reasonable efforts to promptly replace the Product at no charge to Customer. It shall be Cisco's responsibility to pursue the carrier.

5.3 Subject to Section 4 above, [REDACTED] may submit separate purchase orders per site or a master purchase order reflecting specific product configurations and staggered shipment dates for various sites provided that the requisite purchase order information required by Cisco is included.

## 6. Payment

6.1 Upon and subject to credit approval by Cisco, payment terms shall be net thirty (30) days from shipping date. All payments shall be made in U.S. currency. If at any time [REDACTED] is delinquent in the payment of any invoice or is otherwise in breach of this Agreement, Cisco may, in its discretion, withhold shipment (including partial shipments) of any order or may, at its option, require [REDACTED] to prepay for further shipments. Cisco will work with [REDACTED] to resolve any disputes to invoices and make appropriate adjustments as necessary. Any sum not paid by [REDACTED] when due shall bear interest until paid at a rate of [REDACTED] (2%) per month ([REDACTED] [24%] per annum) or the maximum rate permitted by law, whichever is less. [REDACTED] grants Cisco a security interest in Products purchased under this Agreement to secure payment for those products purchased. If requested by Cisco, [REDACTED] agrees to execute financing statements to perfect this security interest.

6.2 Cisco shall make commercially reasonable efforts to provide [REDACTED] with an itemized invoice, reflecting all product and support charges, excluding installation.

## 7. Software License and Proprietary Rights

7.1 Cisco and its suppliers grant to [REDACTED] a perpetual, nonexclusive and nontransferable license to use the Software in object code form solely on a single hardware chassis owned or leased by [REDACTED] or otherwise embedded in equipment provided by Cisco, provided that Buyer is not in breach of, and agrees to maintain its obligations relating to the software license and confidential information. Such license is extended to the original Product purchased with the Software. [REDACTED] may make one (1) archival copy of the Software provided [REDACTED] affixes to such copy all copyright, confidentiality, and proprietary notices that appear on the original. EXCEPT AS EXPRESSLY AUTHORIZED ABOVE, [REDACTED] SHALL NOT: COPY, IN WHOLE OR IN PART, SOFTWARE OR DOCUMENTATION; MODIFY THE SOFTWARE; REVERSE COMPILE OR REVERSE ASSEMBLE ALL OR ANY PORTION OF THE SOFTWARE; OR RENT, LEASE, DISTRIBUTE, SELL, OR CREATE DERIVATIVE WORKS OF THE SOFTWARE.

7.2 [REDACTED] agrees that aspects of the licensed materials, including the specific design and structure of individual programs, constitute trade secrets

and/or copyrighted material of Cisco. [REDACTED] agrees not to disclose, provide, or otherwise make available such trade secrets or copyrighted material in any form to any third party without the prior written consent of Cisco.

[REDACTED] agrees to implement reasonable security measures to protect such trade secrets and copyrighted material. Title to Software and documentation shall remain solely with Cisco.

7.3 This license is effective until terminated. [REDACTED] may terminate this license at any time by destroying all copies of Software including any documentation. This license will terminate immediately without notice from Cisco if [REDACTED] fails to comply with any provision of this license. Upon termination, [REDACTED] must destroy all copies of Software, except that [REDACTED] may retain a copy of the discontinued Software solely for its internal use for archive purposes only provided that [REDACTED] maintains its software license obligations in accordance with section 7.1 above.

7.4 If any portion hereof is found to be void or unenforceable, the remaining provisions of this license shall remain in full force and effect. This license constitutes the entire license between the parties with respect to the use of the Software.

7.5 Restricted Rights. In no event shall [REDACTED] grant the U.S. Government rights in any Cisco software Product or documentation greater than those set forth in the FAR and DFAR clauses referenced in this provision for software and documentation, respectively. Cisco's software is provided with RESTRICTED RIGHTS and its supporting documentation is provided with LIMITED RIGHTS. Use, duplication, or disclosure by the Government is subject to the restrictions as set forth in subparagraph (c) of the Commercial Computer Software - Restricted Rights clause at FAR 52.227-19. In the event the sale is to a DOD agency, the governments rights in software, supporting documentation, and technical data are governed by the restrictions in the [REDACTED] Commercial Items clause at DFARS 252.227-7015 and DFARS 227.7202.

## 8. Limited Warranty

8.1 Hardware. Cisco warrants that for a period of [REDACTED] [one hundred and twenty (120)] days from the

date of shipment from Cisco the Hardware will be free from defects in material and workmanship under normal use. This limited warranty extends only to [REDACTED] as original purchaser. [REDACTED]'s exclusive remedy and the entire liability of Cisco and its suppliers under this limited warranty will be, at Cisco's or its service center's option, shipment of an advance replacement within five (5) working days at Cisco's expense, or a refund of the purchase price if the Hardware is returned, freight and insurance prepaid by [REDACTED]. Cisco replacement parts used in Hardware repair may be new or equivalent to new. All articles must be returned in accordance with Cisco's then-current Return Material Authorization (RMA) procedure.

8.2 Software. Cisco warrants that for a period of [REDACTED] [one hundred and twenty (120)] days from the

date of shipment from Cisco: (a) the media on which the Software is furnished

will be free from defects in material and workmanship under normal use; and (b) the Software substantially conforms to its published specifications. Except for the foregoing, the Software is provided AS IS. This limited warranty extends only to [REDACTED] as the original licensee. [REDACTED]'s exclusive remedy and the entire liability of Cisco and its suppliers under this limited warranty will be, at Cisco or its service centers option, repair, replacement, or refund of the Software if reported (or, upon request, returned) to Cisco. In no event does Cisco warrant that the Software is error free or that [REDACTED] will be able to operate the Software without problems or interruptions.

8.3 Restrictions. This warranty does not apply if the product (a) has been altered, except by Cisco or as guaranteed by a Cisco officer in writing, (b) has not been installed, operated, repaired, or maintained in accordance with instructions supplied by Cisco, (c) has been subjected to abnormal physical or electrical stress, misuse, negligence, or accident, or (d) is used in ultrahazardous activities.

8.4 DISCLAIMER OF WARRANTY. EXCEPT AS SPECIFIED IN THIS SECTION 8, ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS, AND WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE, ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW. This disclaimer and exclusion shall apply even if the express warranty set forth above fails of its essential purpose.

8.5 Cisco represents that its software and hardware Internetwork Operating Systems ("IOS") based products are compliant with the date requirements of the year [REDACTED] (2005). Cisco is building a process to ensure that non IOS-based products and products of acquired companies will likewise be year [REDACTED] (2005) compliant. Cisco has established rigorous quality reviews for its products. This review process enhances customer satisfaction with Cisco products, and promotes their reliability well into the year [REDACTED] (2005) and beyond. Through its support programs, Cisco will provide the necessary bug fixes, upgrades, and software releases in order that its products will comply with the date requirements of the Year [REDACTED] (2005).

## 9. Patent and Copyright Indemnity

9.1 Cisco will, at its sole cost and expense, defend, indemnify and hold [REDACTED] harmless from, and shall pay for any and all losses, damages, judgments, settlements, costs and expenses (including, but not limited to, reasonable attorney's fees) sustained by [REDACTED] as a result of any claim, suit or proceeding, or threat thereof, brought against [REDACTED] so far as it is based on a claim that any Product supplied hereunder infringes a United States copyright, a United States trademark, or a patent of any third party in the United States, Canada, Mexico or Puerto Rico (issued as of the date which any Product, or upgrade or enhancement thereto, is delivered to [REDACTED]), if



notified promptly in writing of the claim and given full authority, information, and assistance for the defense. If such claim has occurred, or in Cisco's opinion is likely to occur, [REDACTED] agrees to permit Cisco, at its option and expense, either to procure for [REDACTED] the right to continue using the Product or to replace or modify the same so that it becomes non-infringing, or, if neither of the foregoing alternatives is reasonably available, remove the Product and refund [REDACTED] the price thereof as depreciated or amortized by an equal annual amount over the lifetime of the Product as established by Cisco on a [REDACTED] (7-year) straight-line basis.

9.2 Cisco has no liability for any claim based upon the combination, operation, or use of any Product supplied hereunder with equipment, devices, or software not supplied by Cisco to the extent such a claim would have been avoided if the Product was not used in such combination. Cisco has no liability for any claim based upon alteration or modification of any Product supplied hereunder.

9.3 [REDACTED] will, at its sole cost and expense, defend, indemnify and hold Cisco harmless from, and shall pay for any and all losses, damages, judgments, settlements, costs and expenses (including, but not limited to, reasonable attorney's fees) sustained by Cisco as a result of any claim, suit or proceeding, or threat thereof, brought against Cisco so far as it is based on alleged infringement of any patents, copyrights, or trademarks which result from Cisco's compliance with [REDACTED]'s designs, specifications, or instructions,

9.4 Notwithstanding any other provisions hereof, Cisco shall not be liable for any claim based on [REDACTED]'s use of the Products as shipped after Cisco has informed the [REDACTED] of modifications or changes in the Products required to avoid such claims and offered to implement those modifications or changes at Cisco's sole reasonable cost and expense, if such claim would have been avoided by implementation of Cisco's suggestions and such implementation would not have materially, adversely affected the functionality or performance of the Products as identified in Cisco's published specifications.

9.5 THE FOREGOING STATES THE ENTIRE OBLIGATION OF CISCO AND ITS SUPPLIERS WITH RESPECT TO INFRINGEMENT OF PROPRIETARY RIGHTS, INCLUDING BUT NOT LIMITED TO PATENTS AND COPYRIGHTS. THE FOREGOING IS GIVEN TO [REDACTED] SOLELY FOR ITS BENEFIT AND IN LIEU OF, AND CISCO DISCLAIMS, ALL WARRANTIES OF NONINFRINGEMENT WITH RESPECT TO THE PRODUCTS.

## 10. Term and Termination

10.1 This Agreement shall commence on the Effective Date and continue hereafter for a period of [REDACTED] [twenty-four (24)] months. Thereafter, this Agreement will renew automatically for successive [REDACTED] [two (2)] year periods, unless either party elects not to renew the Agreement by giving written notice to the other party no less than [REDACTED] [ninety (90)] days prior to the end of the terms or any renewal term.

Notwithstanding the foregoing, either party may terminate this Agreement at any time upon [REDACTED] [ninety (90)] days written notice to the other party except that Cisco may

not terminate this Agreement during the initial [REDACTED] [twenty-four (24)] period other than

termination for cause as reflected in subparagraph 10.2 below.

10.2 This Agreement may be terminated immediately by either party through written notice under any of the following conditions:

- a. Either party ceases to carry on business as a going concern, either party becomes the object of the institution of voluntary or involuntary proceedings in bankruptcy or liquidation, or a receiver is appointed with respect to a substantial part of its assets.
- b. Either party assigns (by operation of law or otherwise,) or transfers any of the rights or responsibilities granted under this Agreement, without the prior written consent of the other party, except as permitted under this Agreement.
- c. Either party breaches any of the material provisions of this Agreement and fails to remedy such breach within [REDACTED] [sixty (60)] days after written notification by the other party of such breach.

10.3 Notwithstanding the foregoing, this Agreement may be terminated immediately by Cisco in the event of [REDACTED]'s breach of Section 7, Software License and Proprietary Rights, or Section 11, Export Control. Either party may terminate this Agreement immediately in the event of the other party's breach of Section 12, Confidential Information, or in the event of transfer of sale of all or substantially all of the other party's assets, or transfer of a controlling interest in the other party to an unaffiliated third party.

10.4 Upon termination of this Agreement, each party shall immediately return to the other party all Proprietary Information and data (including all copies thereof) of the other party then in their possession, custody or control. [REDACTED] may retain only sufficient material to support its internal use relative to its installed base of Products.

#### li. Export Control

11.1 [REDACTED] hereby acknowledges that the Products and technical data supplied by Cisco hereunder are subject to export controls under the laws and regulations of the United States, including the Export Administration Regulations. MassMutual shall comply with such United States export control laws and regulations applicable to all Cisco Products and technical data (including software, processes and services), and, without limiting the generality of this Section, agrees to obtain all licenses, permits or approvals required by any government. Cisco and [REDACTED] each agree to provide the other such information and assistance as may reasonably be required by the other in connection with securing such licenses, approvals, and permits, and to take timely action to obtain all required import and export documents.

11.2 [REDACTED] hereby certifies for itself and its affiliates that none of the Products or technical data supplied by Cisco under this Agreement will be sold or otherwise transferred to, or made available for use by, or for any military end-user, or in any military end-use located in or operating under the authority of any country identified in Supplement No. 1 to Part 740 of the EAR (The current restricted list is available on



Cisco Connection Online) without a U.S. license. [REDACTED] also certifies that none of the products or technical data supplied by Cisco under this Agreement will be sold or otherwise transferred to, or made available for use by, or for any entity that is engaged in the design, development, production or use of nuclear, biological or chemical weapons or missiles.

## 12. Confidential Information

For the purposes of this agreement, the term "Confidential Information" shall mean information which is not generally known to the public which is used, developed, owned or obtained by each party, or is information which either party knows or has reason to know is confidential, proprietary or trade secret information of the other party and which relates to: (a) designs, analyses, drawings, or reports; (b) computer network and computer software, including systems applications and program listings, manuals and documentation (whether owned by each party or licensed by each party from a third party); (c) accounting and business methods and business plans; (d) inventions; (e) each party's employees, stockholders, customers, clients and/or their confidential information. The receiving party shall hold confidential and shall not use or permit others to use the confidential information of the disclosing party. The obligations of confidentiality shall not apply to information which (i) has entered the public domain except where such entry is the result of the receiving party's breach of this Agreement; (ii) prior to disclosure hereunder was already in the receiving party's possession; (iii) subsequent to disclosure hereunder is obtained by the receiving party on a confidential basis from a third party who has the right to disclose such information to the receiving party, or (iv) is developed by or for the receiving party without access to the confidential information and such independent development can be shown by documentary evidence. The obligations of the receiving party concerning confidentiality shall terminate five (5) years following receipt of the confidential information. Each party acknowledges that failure to comply with this paragraph may irreparably harm the business of the other party and that a breach of the obligations under this provision may entitle the other party to seek injunctive relief, in addition to any other remedies that it may have herein.

Neither party shall disclose, advertise, or publish the terms and conditions of this Agreement without the prior written consent of the other party. Any press release or publication regarding this Agreement is subject to prior review and written approval of the parties.

## 13. Force Majeure

Neither party shall be liable for any delay or failure in performance due to acts of God, earthquake, labor disputes, shortages of supplies, riots, war, fire, epidemics, or transportation difficulties or other circumstances beyond its control. The obligations and rights of the excused party shall be extended on a day to day basis for the time period equal to the period of the excusable delay. The rights and obligations of the excused party shall be extended on a day-to-day basis for the time period equal to the period of the excusable delay.

#### 14. Limitation of Liability

NOTWITHSTANDING ANYTHING ELSE HEREIN, AND EXCEPTS IN THE EVENT OF DEATH, PERSONAL INJURY OR DAMAGE TO TANGIBLE PERSONAL PROPERTY AND/OR CISCO'S OBLIGATIONS OF PATENT AND COPYRIGHT INDEMNIFICATION AS IDENTIFIED IN SECTION 9 HEREIN, ALL LIABILITY OF CISCO AND ITS SUPPLIERS UNDER THIS AGREEMENT OR OTHERWISE SHALL BE LIMITED TO THE MONEY PAID TO CISCO UNDER THIS AGREEMENT DURING THE [REDACTED] [eighteen (18)] MONTH PERIOD PRECEDING THE EVENT OR CIRCUMSTANCES GIVING RISE TO SUCH LIABILITY. ALL LIABILITY UNDER THIS AGREEMENT IS CUMULATIVE AND NOT PER INCIDENT.

#### 15. Consequential Damages Waiver

IN NO EVENT SHALL CISCO OR ITS SUPPLIERS BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOST PROFITS, OR LOST DATA, OR ANY OTHER INDIRECT DAMAGES EVEN IF CISCO OR ITS SUPPLIERS HAS BEEN INFORMED OF THE POSSIBILITY THEREOF.

#### 16. Product Changes

Modifications which do not adversely affect the form, fit, function, operation, performance or [REDACTED]'s use of a Product and which Cisco deems necessary (a) to comply with specifications, changed safety standards or governmental regulations, (b) to make the Product non-infringing with respect to any patent, copyright or other proprietary interest, or (c) to otherwise improve the Product, may be made at any time by Cisco without prior notice to or consent of [REDACTED] and such altered Product shall be deemed fully conforming. Cisco shall employ commercially reasonable efforts to announce, including by electronic posting, Product discontinuance or in the event of changes other than those set forth in the previous sentence at least ninety days prior to the effective date of the changes (the "Announcement Period"). [REDACTED] may make a last-time purchase of such Products within the Announcement Period. Prior to making any modifications to a Product which would adversely affect the form, fit, function, operation, performance or [REDACTED]'s use of the Product, Cisco shall obtain the written consent of [REDACTED], and any such altered Product shall not be deemed fully conforming without said consent.

#### 17. General Provisions

17.1 CHOICE OF LAW. The validity, interpretation, and performance of this Agreement shall be controlled by and construed under the laws of the State of New York, United States of America, as if performed wholly within the state and without giving effect to the principles of conflict of law.

17.2 WAIVER. No waiver of rights under this Agreement by either party shall constitute a subsequent waiver of this or any other right under this Agreement.

17.3 ASSIGNMENT. Neither this Agreement nor any rights under this Agreement, other than monies due or to become due, shall be assigned or otherwise transferred by [REDACTED] (by operation of law or otherwise) without the prior written consent of Cisco. Cisco shall have the right to assign all or part of this Agreement without [REDACTED]'s approval. Notwithstanding the

foregoing, this Agreement may be assigned by either party to a successor in interest pursuant to a merger or consolidation or to a purchaser of all or substantially all of the assets or capital stock of either party provided that the assigning party provides prompt written notice of any such assignment and, in the event that [REDACTED] is the assignor, provided that the assignee is not considered by Cisco to be a competitor in the network systems industry. In said circumstance, Cisco shall provide its written non-approval, if any, within [REDACTED] [sixty (60)] days after receipt of [REDACTED]'s notice. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the successors and permitted assigns of the parties.

17.4 SUBSIDIARIES/AFFILIATES. [REDACTED] represents and warrants that it has the authority to negotiate and execute this Agreement on behalf of each of its majority-owned Subsidiaries and majority-owned Affiliates. [REDACTED] guarantees the obligations of its majority-owned Subsidiaries and Affiliates under this Agreement and will indemnify Cisco for any breach of this Agreement by its majority-owned Subsidiaries and Affiliates, which are identified on Exhibit B attached hereto and may be modified in writing by [REDACTED] as necessary from time-to-time.

17.5 ILLEGALITY. In the event that any of the terms of this Agreement become or are declared to be illegal by any Court of competent jurisdiction, such term(s) shall be null and void and shall be deemed deleted from this Agreement. All remaining terms of this Agreement shall remain in full force and effect. Notwithstanding the foregoing, if this paragraph becomes applicable and, as a result, the value of this Agreement is substantially impaired for either party, then the affected party may terminate this Agreement by written notice to the other.

17.6. ATTORNEYS' FEES. In any suit or proceeding relating to this Agreement the prevailing party will have the right to recover from the other its costs and reasonable fees and expenses of attorneys, accountants, and other professionals incurred in connection with the suit or proceeding, including costs, fees and expenses upon appeal, separately from and in addition to any other amount included in such judgment. This provision is intended to be severable from the other provisions of this Agreement, and shall survive and not be merged into any such judgment.

17.7 NO AGENCY. Neither party has the right or authority to, and shall not, assume or create any obligation of any nature whatsoever on behalf of the other party or bind the other party in any respect whatsoever.

17.8 SURVIVAL. Sections 7 (subject to the termination provisions set forth therein), 8.4, 10, 11, 12, 14, 15 and 17 shall survive the termination of this Agreement.

17.9 NOTICES. Notices shall be deemed given: (a) when delivered personally; (b) when sent by confirmed telex or facsimile (followed by the actual document in air mail/air courier); (c) three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (d) one (1) day after deposit with a commercial express courier specifying next day delivery, with

written verification of receipt. All communications will be sent to the addresses set forth on the cover sheet of this Agreement or such other address as may be designated by a party by giving written notice to the other party pursuant to this paragraph.

## EXHIBIT A

### FORECASTS, DISCOUNTS, AND DISCOUNT ADJUSTMENTS VOLUME-BASED DISCOUNT SCHEDULE

After the initial, entire eighteen (18) month period in which this Agreement is in effect, the discount schedule set forth below shall apply to all Cisco Products ordered from Cisco's then current Global Price List for all Cisco products ordered by [REDACTED] directly from Cisco solely for its internal business use.

Total dollar volume for Products purchased during each one (1) year term based upon Cisco List Price	
Under \$ [REDACTED]	(\$400,000)
\$ [REDACTED]	(\$400,000-\$899,999)
\$ [REDACTED]	(\$900,000-\$1,399,999)
\$ [REDACTED]	(\$1,400,000-\$2,149,999)
\$ [REDACTED]	(\$1,150,000-\$2,899,999)
\$ [REDACTED]	(\$2,900,000-\$4,899,999)
\$ [REDACTED]	(\$4,900,000-\$8,999,999)
\$ [REDACTED]	(\$9,000,000 - \$17,999,999)
\$ [REDACTED]	(\$19,000,000 or greater)

Base Percentage Discount Applicable to Cisco List Price	
[REDACTED]	5%
[REDACTED]	14%
[REDACTED]	18%
[REDACTED]	21%
[REDACTED]	24%
[REDACTED]	26%
[REDACTED]	28%
[REDACTED]	29%
[REDACTED]	30%

### LIST PRICE PURCHASE VOLUME FORECAST:

Below is [REDACTED]'s total non-binding [REDACTED] [twenty-four (24)] month forecast for its delivery requirements:

1 <sup>st</sup> QTR	2 <sup>nd</sup> QTR	3 <sup>rd</sup> QTR	4 <sup>th</sup> QTR	5 <sup>th</sup> QTR	6 <sup>th</sup> QTR
\$ [REDACTED] K (300)	\$ [REDACTED] K (300)	\$ [REDACTED] K (300)	\$ [REDACTED] K (300)	\$ [REDACTED] K (300)	\$ [REDACTED] K (300)
TOTAL \$ [REDACTED] (1.8)M					

#### INITIAL DISCOUNT LEVEL

The initial discount will be [REDACTED] (30%) based on the Total Volume goal indicated. Customer shall provide annual and quarterly forecasts for applicable subsequent terms in the same manner as for the Initial Term not later than ten (10) days before the first day of each respective forecast period. The discount will be reviewed after the initial [REDACTED] (24-month) period against Customer's Purchase Volume

Forecast and adjusted if necessary to reflect the percentage of cumulative orders actually placed against the cumulative quarterly goals indicated above. Changes in discount level are not retroactive.

Cisco reserves the right to adjust the discount, upwards or downwards, after the initial [REDACTED] (twenty-four) month period, commencing with the [REDACTED] [twenty-fifth (25)] month, based on the actual volume of Products purchased and delivered during the then-ending eighteen-month period.

If the Agreement is renewed for subsequent terms, the discount for each subsequent [REDACTED] [two (2)] year term shall be determined on the basis of actual volume purchased during the term then ending and the good faith forecast for such subsequent year, which forecast shall be given not less than thirty (30) days prior to the end of the then-current year of the agreement.

EXHIBIT B  
Majority Owned Subsidiaries  
of  
[REDACTED] Company

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]
5. [REDACTED]
6. [REDACTED]
7. [REDACTED]
8. [REDACTED]
9. [REDACTED]
10. [REDACTED]
11. [REDACTED]



## DIRECT SALES SUMMARY/PROFILE FORM

Customer: [REDACTED] Company  
Contract Type: Volume Purchase Agreement  
Account Manager: [REDACTED]  
Regional Manager: [REDACTED]  
Ops Director: [REDACTED]  
Contract Specialist: [REDACTED]  
Volume: \$ [REDACTED] (1.8) M+ ([REDACTED] [twenty-four] period)  
Discount: [REDACTED] (30%)

### Other/Non-Standard Terms:

1. Shipment: Cisco will make commercially reasonable efforts to find or repair product lost or damaged during shipment.
2. Indemnification: Trademarks added for the U.S.; patents existing in the U.S., Canada, Mexico or Puerto Rico. Refund on infringing product established on 5-year straight-line basis.
3. Term: Eighteen- month term, subject to subject to one-year renewal periods thereafter. Termination for convenience except for first [REDACTED] (twenty-four) unless customer is in breach.
4. Liability: Carve-out for personal injury, damage to tangible personal property, and patent/copyright indemnification.
5. Assignment: Assignment without consent in case of a merger/acquisition; however, Cisco may submit non-approval 30 days thereafter in the case of assignment to a competitor.
6. Affiliates/Subsidiaries: Indemnification and guarantee by Customer for majority-owned affiliates and subsidiaries. List provided.
7. Choice of Law: New York.
8. Year [REDACTED] (2005) Compliance: Standard representation regarding Cisco's "10s" based products.

Recommend execution.

Signature Process

Cisco Confidential Information

Attorney-Client Work Product