

### **Statement of Work (BRI-11565360)**

This Statement of Work ("**SOW**") outlines the Cisco software and cloud services licensing sold by BT Americas Inc. ("**Supplier**") to PepsiCo, Inc. ("**PepsiCo**"). This SOW shall be in effect from the date last signed below ("**Effective Date**"). This SOW is made pursuant to the name of First Amended and Restated Services Agreement, Selectica registration number BRI-2899233, between PepsiCo and Supplier, effective May 6, 2014 ("**Agreement**"). For good and valuable consideration, the adequacy and receipt of which are hereby acknowledged by the parties hereto, the parties hereto agree as follows.

Any ambiguity or inconsistency between or among the terms/defined of this SOW and the Agreement shall, unless otherwise stated in this SOW, be resolved by giving priority and precedence in the following order: 1) Agreement and then, 2) SOW.

#### **1. Term.**

1.1 This SOW shall be entered as of the Effective Date and shall cover the term from August 1, 2021 through July 31, 2024 (the "**License Term**") or any Extended Term. For clarity, this SOW will expire on July 31, 2024, unless extended in accordance with paragraph 1.2 of this SOW.

1.2 In the event the Cisco Network EA License is extended either with Supplier or with Cisco directly ("**Extended Term**"), with the Extended Term not going beyond July 31, 2026, , the Special Hardware Discount shall continue at the tier level achieved immediately prior to the commencement of the Extended Term as provided in paragraph 5.3 of this SOW. For illustrative purposes only, if the Net Amount was \$20M at the end of the Initial Term, the Special Discount will be set at 70% for the Extension Term(s).

1.3 In the event of termination of this SOW by PepsiCo prior to the end of the License Term or the Extended Term, PepsiCo shall be liable to pay Supplier any remaining Annual Payments as defined in section 4 arising from and in connection with such early termination.

#### **2. Scope.**

This SOW applies to the purchase of Cisco Network EA licenses by PepsiCo, from the Supplier, during the License Term.

#### **3. Cisco Network EA License.**

The terms of the license use are defined in the attached document entitled, "EN EA EUIF.pdf" (the EULA). The EULA must be duly executed between PepsiCo and Cisco for the Cisco Network EA License to be valid.

PepsiCo agrees to purchase the EA License based on quote number: CPE-27723 QT-000013359-3 ("**Initial Quote**"), where the sum total of these quotes is the basis for the Initial Licenses Fee; provided that, any terms and or conditions in the Initial Quote which conflict with this SOW shall be overridden and superseded by the terms and conditions of this SOW (the "**Cisco Network EA License**").

#### **4. License Fee.**

PepsiCo shall pay Supplier as the initial Cisco Network EA License fee for these licenses (the "**Initial License Fee**"). The Initial Licenses Fee and any Additional Licenses Fees shall be referred to herein as the "**License Fees**." Supplier will divide the Initial Licenses Fee, \$17,783,966.58, into three (3) separate annual amounts. The first Initial Licenses Fees amount will be invoiced by Supplier to PepsiCo on or about August 15, 2021 for the first year of the License Term. The second and third Initial Licenses Fee amounts will be invoiced by Supplier to PepsiCo on or about August 5 of each remaining year of the License Term. Such invoices will be paid in accordance with the Agreement.

- Annual Payment 1, August 2021: \$6,285,799.47
- Annual Payment 2, August 2022: \$5,799,995.10, plus any Additional License Fees.
- Annual Payment 3, August 2023: \$5,314,190.73, plus any Additional License Fees.

#### **5. Enterprise License Arrangement.**

The parties agree as follows:

5.1. Definitions.

For the purposes of this SOW:

- a. **“Additional License Fees”** means the fees for an increase in the Cisco license volumes during the License Term.
- b. **“Annually”** means every twelve (12) months and ending generally on the last Saturday of July.
- c. **“Logical Extensions”** means a Cisco product that constitutes a replacement to the Products (as defined above) for which a Cisco “end-of-life” announcement has been made, but expressly excludes any Cisco product that is acquired through a Cisco merger, acquisition, formation of joint venture, or similar consolidation of entities after the Effective Date.

Unless otherwise stated, all capitalized terms used but not otherwise defined in this SOW have the meanings set forth in the Agreement.

5.2. Annual True-Forward.

Annually, the parties will reconcile the changes for the past twelve months (the **“Annual True-Forward”**), which will include the following steps regarding Additional Services Fees:

- a) Within thirty (30) days prior to the end of July each year, Supplier will have Cisco calculate the Additional License Fees based on the prior 12 months purchase data and PepsiCo internal asset data, and provide such calculation to PepsiCo in the form of an aggregated quote for the upcoming year. Such quote will reflect the Additional License Fees owed for the current year of the License Term (**“Current Year True-Up Fees”**) and the Additional License Fees owed for each subsequent contract year(s) of the License Term (**“Subsequent Year True-Up Fees”**) due to Supplier.
- b) Supplier will invoice PepsiCo for the Current Year True-Up Fees and Supplier will invoice PepsiCo on or about August 5 of each remaining year of the License Term for the applicable Subsequent Year True-Up Fees. Such invoices shall be paid by PepsiCo in accordance with the Agreement.
- c) The following rates will be applied to the Cisco Global Published Price List to calculate Additional License Fees for the term of this SOW. The licenses associated with the first Annual True-Forward will receive a sixty-five point five percent (65.5%) discount and the licenses associated with the second Annual True-Forward will receive a sixty-eight percent (68%) discount for the second Annual True-Forward. Discounts reflected above will discount off of the Cisco ELA list price after 10% multi-suite discount.

5.3. Special Hardware Discounts

During the License Term, a special hardware discount as outlined in this paragraph 5.3 (the **“Special Hardware Discount”**) will be applied with an increasing level of discount if PepsiCo achieves a Minimum Hardware Purchase.

- a) Special Hardware Discount: Discount applied to the Products.
  - i. Tier 1 Discount: sixty-nine percent (69%)
  - ii. Tier 2 Discount: seventy percent (70%)
  - iii. Tier 3 Discount: seventy-one percent (71%)
- b) Minimum Hardware Purchase: The cumulative sum of Products purchased by PepsiCo during the License Term, as calculated by Cisco. Cisco will be tracking and reconciling the spend throughout the term of the EA and that spend includes all hardware purchases net to Cisco, not just through Supplier. Cisco will review spend reconciliation with PepsiCo prior to adjustments. If a discrepancy exists in reconciliation, PepsiCo reserves right to address directly with Cisco for remediation.
  - i. Tier 1 Discount: Base discount beginning August 1, 2021, no minimum for term

- ii. Tier 2 Discount's Minimum Hardware Purchase: Eighteen million and 1 cent to Thirty Two Million USD (\$18,000,000.01 - \$32,000,000)
- iii. Tier 3 Discount's Minimum Hardware Purchase: Thirty Two Million and one cent or greater USD (\$32,000,000.01+)
- c) The Special Hardware Discount shall solely apply to the following Cisco product families on the Cisco Global Price List (the "**Products**") including any Logical Extensions thereto (the "Products").
  - i. Enterprise Switching: Catalyst 9500, 9400, 9300, 9200 series switches.
  - ii. Enterprise Wireless: Catalyst 9800 WLCs, Catalyst 9100 series APs.
  - iii. Enterprise Routing: Catalyst 8200, 8300 and 8500 series SDWAN routers.
- d) "**Excluded Products**". The Special Discounts will not apply to any of the following products and services:
  - i. Products identified on the Cisco Global Price List as "discount-restricted";
  - ii. Products and solutions not orderable on the Cisco Global Price List;
  - iii. Non-Cisco Branded (third-party) products;
  - iv. Webex solutions and services;
  - v. Products, software or solutions sold under a Cisco enterprise license agreement or under an "as a service" model;
  - vi. Other Services (for example, staging, installation, shipping, distributor, logistics, etc.); and
  - vii. Promotional Bundles.
- e) No Combinations; List Price Changes. The Special Hardware Discounts in this SOW cannot be combined with any other price reductions, additional discounts, promotional pricing, trade-in or other pricing programs or incentives Cisco offers to its customers. Supplier reserves the right to introduce future product families at different discounts to reflect common market pricing practices.

## 6. Approvals.

This SOW has been executed by the duly authorized representatives of the parties as of the Effective Date set forth above.

DocuSigned by:  
**PepsiCo, Inc.**  
 Signature: Anthony Moon  
FBDB30296DB94B1  
 Name (Printed): Anthony Moon  
 Title: Vice President  
 Date: 7/29/2021

DocuSigned by:  
**BT AMERICAS INC.**  
 Signature: Hal Bretan  
8986737F6B6D46A  
 Name (Printed): Hal Bretan  
 Title: Chief Counsel  
 Date: 7/30/2021

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