



ERIE COUNTY WATER AUTHORITY INTEROFFICE MEMORANDUM

To: Terrence D. McCracken, Secretary to the Authority

From: Dave W. Aubertine, Director of Cybersecurity and IT *DWA*

Subject: Request for Execution

The Erie County Water Authority recently renewed the licenses for the Cisco Phone system. The lowest bid was from ePlus and the license renewal purchase was awarded to them.

Since the system was initially purchased, installed and supported by a different 3rd party reseller of Cisco products (Firstlight Fiber Inc.), ePlus and Cisco have requested that the Authority sign two documents in order to facilitate the transfer of licenses to ePlus for support.

Legal and IT have reviewed the documents and are requesting execution/signature by the Chairman.

Budget Information:

Unit: 8525

O&M Line 23 Telephone

DWA:dwa

Attachment

cc:

R.Stoll

J. Tomaka

L.Kowalski

L.Lester,

T.McCracken

M.Carney

ERIE COUNTY WATER AUTHORITY
AUTHORIZATION FORM
For Approval/Execution of Documents
(check which apply)

Contract: 73600/22802

Project No.: PO GJL22-0122

Project Description: Request for execution/signature on additional docs from ePlus to transfer 3rd party support from Firstlight to ePlus for Cisco phone system licenses

Item Description:

- | | | | |
|---|--|--|---------------------------------------|
| <input type="checkbox"/> Agreement | <input type="checkbox"/> Professional Service Contract | <input type="checkbox"/> Amendment | <input type="checkbox"/> Change Order |
| <input type="checkbox"/> BCD | <input type="checkbox"/> NYSDOT Agreement | <input checked="" type="checkbox"/> Contract Documents | <input type="checkbox"/> Addendum |
| <input type="checkbox"/> Recommendation for Award of Contract | <input type="checkbox"/> Recommendation to Reject Bids | | |
| <input type="checkbox"/> Request for Proposals | | | |
| <input type="checkbox"/> Other _____ | | | |

Action Requested:

- | | |
|---|--|
| <input type="checkbox"/> Board Authorization to Execute | <input type="checkbox"/> Legal Approval |
| <input type="checkbox"/> Board Authorization to Award | <input checked="" type="checkbox"/> Execution by the Chairman |
| <input type="checkbox"/> Board Authorization to Advertise for Bids | <input type="checkbox"/> Execution by the Secretary to the Authority |
| <input type="checkbox"/> Board Authorization to Solicit Request for Proposals | |
| <input type="checkbox"/> Other _____ | |

Approvals Needed:

APPROVED AS TO CONTENT:

<input checked="" type="checkbox"/> Other (if Applicable)	<u>David Aubertine</u>	Date: <u>12/5/22</u>
<input checked="" type="checkbox"/> Chief Operating Officer	<u>Russell J. Friel</u>	Date: <u>12/5/2022</u>
<input type="checkbox"/> Executive Engineer	_____	Date: _____
<input checked="" type="checkbox"/> Director of Administration	<u>Samya L. L. L.</u>	Date: <u>12/05/2022</u>
<input checked="" type="checkbox"/> Risk Manager	<u>Molly J. Musarra</u>	Date: <u>12/05/2022</u>
<input checked="" type="checkbox"/> Chief Financial Officer	<u>Oppe M.</u>	Date: <u>12/05/2022</u>
<input checked="" type="checkbox"/> Legal	<u>[Signature]</u>	Date: <u>12/5/2022</u>

APPROVED FOR BOARD RESOLUTION:

<input checked="" type="checkbox"/> Secretary to the Authority	<u>T. E. M.</u>	Date: <u>12/5/2022</u>
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Remarks:

The PO has already been sent for bid and was awarded to ePlus for renewal of the Cisco phone licenses. These signed documents are required by ePlus and Cisco for transfer of 3rd party support

Resolution Date: _____

Item No: _____



Cisco Enterprise Agreement Program Terms and Conditions for End Users

These terms and conditions together with the applicable Enrollment Descriptions and EUIF (collectively, “EA Program Terms”) govern any Suites that You order under the Cisco Enterprise Agreement Program (“Purchased Suites”). The EA Program Terms do not modify the terms of any Cisco products or services You purchase outside of the Cisco Enterprise Agreement Program.

By signing these terms and conditions You agree to the EA Program Terms and the Licensing Documents. If You do not agree to the EA Program Terms or Licensing Documents, You may not Consume the Software or Cloud Services. Notwithstanding the foregoing, You are not obligated to make a purchase by entering into the EA Program Terms, and neither the EA Program Terms, nor the Licensing Documents will apply until You place an order as further described in section 1, below.

1. **Orders.** To purchase Suites under the EA Program Terms, You must first submit the applicable EUIF, and Enrollment Description signed by Your authorized representative to the Approved Source. The EUIF must list: (a) Your Participating Affiliates; (b) the Purchased Suites; (c) the Suite Term; and (d) accurate Meter counts for You and all Participating Affiliates. You will then be required to place an order for the Purchased Suites according to the process set forth in Your purchasing agreement with the Approved Source.
2. **Access To Purchased Suites.** Subject to Your payment of the applicable fees to the Approved Source, Cisco will grant You and all Participating Affiliates the right to Consume the Purchased Suites during the Suite Term via the EA Workspace or as otherwise set forth in the applicable Enrollment Description. You must pay for all Software and Cloud Services Consumed. You are responsible for keeping all login credentials to the EA Workspace secure and for the actions of any individual You or a Participating Affiliate authorize to access the EA Workspace, including payment for any Software or Cloud Services Consumed by such individuals.
3. **Enterprise-wide Commitment.** The Approved Source relies on the information You provide in the EUIF to establish the Enterprise-wide Commitment. During the Suite Term, Your payment obligation related to the Enterprise-wide Commitment may increase as a result of any of the following: (a) You exceed the Initial Growth Cap (as described in section 5); (b) You exceed the Initial Entitlement or the previous year's Entitlement subject to a True Forward (as described in section 6); or (c) You purchase an additional Suite (as described in section 9).
4. **Term & Termination.**
 - a. **Term.** The Term of the EA Program Terms will commence on the date of signature and continue so long as there is an active Purchased Suite, unless earlier terminated in accordance with section 4(c)(i), below.
 - b. **Suite Term.** The Suite Term for each Purchased Suite will commence on the Suite Start Date and last for the period set forth in the EUIF, or as specified in the order with the Approved Source, unless terminated in accordance with section 4(c)(i), below.
 - c. **Termination.**
 - i. Either party may terminate the EA Program Terms or a Purchased Suite if the other party materially breaches the EA Program Terms and does not cure the breach within 30 days of written notice of the breach.

- ii. In the event of Your uncured material breach of the EA Program Terms for non-payment of fees to the Approved Source, Cisco may, in lieu of termination of the Program Terms pursuant to section 4(c)(i), suspend Your right to Consume the Software and Cloud Services in the Purchased Suite and suspend Your access to the EA Workspace, until Your breach has been cured.
 - iii. In the event of Your termination for Cisco's uncured material breach of the EA Program Terms, Cisco will refund to the Approved Source (or You, if You purchased directly from Cisco) any fees You paid covering the period after the effective date of termination.
 - iv. Other than as provided in this section 4 and to the extent permitted by law, the EA Program Terms, and any orders placed thereunder are non-cancellable and may not be terminated.
 - d. **Effect of Termination; End of Suite Term.** Upon termination or at the end of the Suite Term:
 - i. The following rights will terminate with respect to the Purchased Suites: (1) Your right to Consume Cloud Services and Software; (2) Your right to access the EA Workspace; (3) Your right to receive Support Services; and
 - ii. You must destroy the product activation keys (PAKs) provided in connection with the Purchased Suites.
5. **Initial Growth Cap.** If You exceed the Initial Growth Cap during the first six months of the Suite Term, the Approved Source may charge You for such Consumption above the Initial Growth Cap. If the Purchased Suite includes a Growth Allowance (described in the applicable Enrollment Description), the Growth Allowance cannot be used to offset fees for exceeding the Initial Growth Cap.
6. **True Forward.**
- a. Cisco performs a True Forward for the Purchased Suites on each anniversary of the Suite Start Date. On the first anniversary of the Suite Start Date, if You have exceeded the Initial Entitlement, the Approved Source will charge You for the Consumption above the Initial Entitlement through the remainder of the Suite Term. On each subsequent anniversary of the Suite Start Date, the Approved Source will charge You for any Consumption above the previous year's Entitlement through the remainder of the Suite Term.
 - b. Your True Forward payment obligation for each Purchased Suite will be calculated by comparing Your Consumption of Software and Cloud Services to Your Entitlement for the previous year. Any payment owed to the Approved Source will be determined as follows and reflected in the price quote from the Approved source: the unit price less any applicable discount or incentive multiplied by the quantity by which You exceeded Your then-current Entitlement. The price used to calculate any True Forward fees will be established when You place the order for each Purchased Suite.
 - c. For some Suites, a portion of Your True Forward payment obligation may be offset by the residual value remaining in Software or Cloud Services in the same Suite. This process is called value shift, and the applicable Enrollment Description indicates whether and to the extent value shift applies to a given Suite.
 - d. There is no fee for exceeding the Entitlement in the final year of the Suite Term.
7. **Updates to Purchased Suites.** Cisco may enhance or refine the Purchased Suites at no additional cost to You. Such updates will not materially reduce the core functionality of the Purchased Suites.

8. **End of Life.** Notwithstanding anything in the EA Program Terms to the contrary, Cisco reserves the right to discontinue a Suite with at least three years' prior notice. If a Purchased Suite is discontinued, Cisco will either: (a) provide You a substantially similar replacement Suite for the remainder of the Suite Term; or (b) issue a credit to the Approved Source (or You, if You purchased directly from Cisco) for any fees You paid for the Purchased Suite covering the period after the last date such Purchased Suite is available for You to Consume. Such credit can be applied towards the future purchase of Cisco products and services.
9. **Purchasing Additional Suites.** You may purchase additional Suites by submitting a new EUIF and order to the Approved Source. Additional Suites may co-terminate with a pre-existing Purchased Suite provided there are at least 12 months remaining in the Suite Term of such pre-existing Purchased Suite. Otherwise, additional Purchased Suites will be given a new Suite Term and will be subject to the then-current EA Program Terms in accordance with section 10, below.
10. **Modifications.** As our business evolves, Cisco may modify the EA Program Terms. Updated EA Program Terms do not apply to pre-existing Purchased Suites or to future orders that co-terminate to a pre-existing Purchased Suite, which will be governed by the version of the EA Program Terms already in effect for the pre-existing Purchased Suite.
11. **Participating Affiliates.** You are responsible for Your Participating Affiliates' compliance with the EA Program Terms.
12. **Support Services.** Basic Support Services are included in the price of the Purchased Suite and described in the applicable Enrollment Description and Licensing Documents. Higher levels of Support Services may be available for You to purchase and, if You elect to do so, will be described in documentation provided to You at the time of purchase.
13. **Importation Fee for Embedded Software.** For Purchased Suites that include Embedded Software, the value of Embedded Software will be deducted from the purchase price of the related Cisco hardware. If You are required to pay an Importation Fee, Your jurisdiction may use the value of both the hardware and Embedded Software to calculate the Importation Fee. Accordingly, the Importation Fee on the value of the combined products may be higher than if calculated solely using the price of the hardware.
14. **Delivery of Embedded Software.** Embedded Software is delivered pre-installed on Cisco hardware to the address provided on the purchase order for the Cisco hardware. Your use of the smart licensing account Cisco designates for the Embedded Software will ensure accurate pricing of the Embedded Software.
15. **No Assignment & Transfer.** Neither the EA Program Terms, nor any right or obligation herein may be assigned or transferred by a party (including under Cisco's Software Transfer and Relicensing Policy) without the other party's prior written consent, which may not be unreasonably conditioned, withheld, or delayed. Any attempted assignment without the other party's consent shall be void and of no effect. Notwithstanding the foregoing, Cisco may assign the EA Program Terms and any right or obligation herein to a Cisco Affiliate without Your consent.
16. **Verification.** Upon reasonable request from Cisco, You will assist Cisco in verifying the quantity of Software and Cloud Services that You have Consumed. If the verification discloses Consumption above Your then-current Entitlement, the Approved Source will charge You for the excess Consumption in accordance with the EA Program Terms.
17. **Combined Discounts.** The pricing, discounts, and other incentives offered in connection with a Purchased Suite may not be combined with any other price reductions, discounts, promotional pricing, rebates, credits, trade-in, or other pricing programs or incentives offered by Cisco unless expressly agreed by Cisco in writing.
18. **Entire Agreement.** The EA Program Terms constitute the entire agreement between the parties concerning the Cisco Enterprise Agreement Program and supersede all prior oral or written communications between the parties concerning the program.

19. Order of Precedence. The documents comprising the EA Program Terms are complimentary, and to the extent possible, construed and interpreted consistently. In the event of an inconsistency, conflict, or ambiguity between the EA Program Terms, the order of precedence for any Purchased Suite is first the EUIF, then the Enrollment Description, and then these terms and conditions. The EA Program Terms take precedent over the applicable Licensing Documents.

20. Definitions.

- a. **"Affiliate"** means, with respect to a party, any entity that directly or indirectly Controls, or is Controlled by, or is under common Control with such party. **"Control"** means to: (a) own more than 50% of the relevant party; or (b) be able to direct the affairs of the relevant party through any lawful means (e.g., a contract that allows control).
- b. **"Approved Source"** means Cisco or a Cisco authorized reseller, distributor, or systems integrator.
- c. **"Cisco"** means Cisco Systems, Inc. or its applicable Affiliate delivering the EA Program Terms.
- d. **"Cloud Service"** means the Cisco hosted software-as-a-service listed in the applicable Enrollment Description.
- e. **"Consume"** or **"Consumption"** means to download, install, activate, provision, enable, or otherwise access Software or Cloud Services.
- f. **"EA Program"** has the meaning given to it in the introductory paragraph.
- g. **"EA Program Terms"** has the meaning given to it in the introductory paragraph.
- h. **"EA Workspace"** means the portal from where You Consume Software and Cloud Services and view and manage Your Entitlement.
- i. **"Embedded Software"** means Software that is delivered on newly purchased Cisco hardware.
- j. **"End User," "You," or "Your"** means the final purchasing entity as identified on the EUIF.
- k. **"Enterprise-wide Commitment"** means Your purchase commitment in the Purchased Suite for You and all Participating Affiliates, as reflected on the EUIF.
- l. **"Entitlement"** means, at any point in time during the Suite Term, the type and quantity of Software and Services as determined by the Meter counts for which You have already paid the applicable fees to the Approved Source.
- m. **"Enrollment"** means a combination of Suites belonging to the same Cisco product family. Cisco DNA, Cisco Data Center, Cisco Security Choice, Cisco Meraki, and Cisco Collaboration Flex Plan each represent an Enrollment.
- n. **"Enrollment Description"** means the supplemental program terms and description governing an Enrollment.
- o. **"EUIF"** means the End User Information Form for the Purchased Suite.
- p. **"EULA"** means Cisco End User License Agreement, available at cisco.com/go/eula (or similar terms existing between You and Cisco).
- q. **"Growth Allowance"** means the right to exceed the Initial Entitlement without incurring additional fees as set forth in the applicable Enrollment Description.
- r. **"Importation Fee"** means an import duty or tax on the purchase of Cisco hardware.

- s. **"Initial Entitlement"** means Your Entitlement at the start of the Suite Term as determined by the Meter counts for You and all Participating Affiliates provided on the EUIF.
- t. **"Initial Growth Cap"** means 105% of the Initial Entitlement.
- u. **"Licensing Documents"** means the EULA and SEULAs for the Software and the EULA and ODs for the Cloud Services in the Purchased Suites (or similar terms existing between You and Cisco). The applicable Licensing Documents are listed in the Enrollment Description for each Purchased Suite.
- v. **"Meter"** means the unit of measurement for Software or Cloud Services Consumption.
- w. **"OD"** means the offer description and supplemental licensing terms governing Cloud Services.
- x. **"Participating Affiliates"** means Your Affiliates whose Meter counts are included on the EUIF.
- y. **"Purchased Suites"** has the meaning given to it in the introductory paragraph.
- z. **"Services"** means both Cloud Services and Support Services.
- aa. **"SEULA"** means the supplemental licensing terms governing Software.
- bb. **"Software"** means the Cisco software listed in the applicable Enrollment Description.
- cc. **"Suite"** means a combination of Software and Services in an Enrollment.
- dd. **"Suite Start Date"** means, with respect to each Purchased Suite, the earliest date any Software or Cloud Service in the Purchased Suite is made available for You to Consume.
- ee. **"Suite Term"** means, with respect to each Purchased Suite, the duration of the Purchased Suite.
- ff. **"Support Services"** means maintenance, technical assistance, or other support provided for the Software and Cloud Services in a Purchased Suite.
- gg. **"Term"** means the duration of the EA Program Terms.
- hh. **"True Forward"** means an annual adjustment to account for exceeding the previous year's Entitlement.

End User Information Form

For End Users of the Cisco Flex Plans

To purchase the Cisco Collaboration Flex Plan Enrollment or Cisco Spark Flex Plan under the Enterprise Agreement (“EA”) an authorized representative of the End User must complete this form in its entirety and sign it. Your signature is required on this form prior to receiving access to the program.

This form will be used ensure that You understand the terms of use that apply to Your Flex Plan. You will then be required to place an order for the Purchased Suite(s) according to the process set forth in Your purchasing agreement with the Approved Source.

End User Overview

End User Information	
Full Legal Name of the End User Organization (e.g., company, government entity)	EA ACCOUNT NAME _____
Address of End User’s principal place of business	EA ADDRESS EA ADDRESS 2 EA CITY, STATE, COUNTRY, PC, ZIP _____

Participating Affiliates
Cisco requires any Participating Affiliate(s) for which you are purchasing coverage to be included in this End User Information Form. Cisco relies on this list to define the scope of the agreement, ensure accurate pricing, as well as effective provisioning and support.
Participating Affiliate(s)
<input type="checkbox"/> None <input type="checkbox"/> Only listed Participating Affiliates (to be recorded immediately below)
Participating Affiliates

Cisco Collaboration Flex Plan Enrollment

Your Suite(s) purchased under the Flex Plan
<p>You will have access to the Software and/or Services in the Suite(s) you purchase, as identified in any orders You place through Your Approved Source. Any additional purchases can be made by placing an order for the Purchased Suites according to the process set forth in Your purchasing agreement with the Approved Source.</p>
<p> <input type="checkbox"/> Cisco Collaboration Webex Suite Enterprise Agreement <input type="checkbox"/> Cisco Collaboration Flex Plan Meetings Enterprise Agreement <input type="checkbox"/> Cisco Collaboration Flex Plan Calling Enterprise Agreement <input type="checkbox"/> Cisco Collaboration Flex Plan for Education Meetings Enterprise Agreement <input type="checkbox"/> Cisco Collaboration Flex Plan for Education Calling Enterprise Agreement <input type="checkbox"/> Cisco Collaboration Flex Plan Enterprise Agreement for Public Sector <input type="checkbox"/> Cisco Collaboration Webex Suite Enterprise Agreement for FedRAMP <input type="checkbox"/> Cisco Collaboration Flex Plan Enterprise Agreement for FedRAMP <input type="checkbox"/> Cisco Collaboration Enterprise Agreement Webex for Defense </p>

End User Acceptance

THE UNDERSIGNED REPRESENTS THAT THEY ARE AUTHORIZED TO SIGN THIS FORM ON THE END USER'S BEHALF AND THAT THE INFORMATION PROVIDED IS ACCURATE AS OF THE DATE OF SIGNATURE. THE UNDERSIGNED UNDERSTANDS THAT THE TERMS AND CONDITIONS ABOVE WILL APPLY IF AN ORDER IS PLACED.

End User Organization	
Full Legal Name of the End User Organization (e.g., company, government entity) You Represent	
Last Name, First Name	
Title	
Date	
End User Authorized Representative Signature	

Cisco Collaboration Flex Plan Enrollment Description & Supplemental EA Program Terms

This Enrollment Description lists the available Suites under the Cisco Collaboration Flex Plan and additional terms and conditions that apply to the Cisco Collaboration Flex Plan Enrollment. You may purchase any or all of the Suites listed below, and for any particular Suite You purchase, You may select any or all of the available licenses listed. Purchasing a particular Suite does not give You access to licenses in another Suite.

Suite	Licenses	License Type	Licensing Documents	Meter
Cisco Collaboration Webex Suite	Webex Meetings	Cloud Service	Cisco Collaboration Flex Plan OD ; EULA	Deployed Knowledge Worker
	Webex App	Cloud Service		
	Webex Calling; or Webex Calling Dedicated Instance	Cloud Service		
	Cisco Unified Communications Manager On-Premises Calling	Software		
	Webex Webinars	Cloud Service		
	Webex Events (formerly "Socio")	Cloud Service	Cisco Webex Events OD ; EULA	

Suite	Licenses	License Type	Licensing Documents	Meter
Cisco Collaboration Flex Plan Meetings Enterprise Agreement	Cisco Meeting Server	Software	Cisco Collaboration Flex Plan OD ; EULA	Deployed Knowledge Worker
	Webex Meetings	Cloud Service		
	Webex app	Cloud Service		

Suite	Licenses	License Type	Licensing Documents	Meter
Cisco Collaboration Flex Plan Calling Enterprise Agreement	Webex app	Cloud Service	Cisco Collaboration Flex Plan OD ; EULA	Deployed Knowledge Worker
	Webex Calling; or Webex Calling for SP; or Webex Calling (formerly Cisco Spark Call); or Webex Calling Dedicated Instance	Cloud Service		
	UCM Cloud Calling	Cloud Service		
	Cisco Unified Partner Hosted Communications Manager Calling	Software		
	Cisco Unified Communications Manager On-Premises Calling	Software		

Suite	Licenses	License Type	Licensing Documents	Meter
Cisco Collaboration Flex Plan for Education Meetings Enterprise Agreement	Cisco Meeting Server	Software	Cisco Collaboration Flex Plan OD ; EULA	Deployed Knowledge Worker; Student
	Webex Meetings	Cloud Service		
	Webex app	Cloud Service		

Suite	Licenses	License Type	Licensing Documents	Meter
Cisco Collaboration Flex Plan for Education Calling Enterprise Agreement	Webex Calling (formerly Cisco Spark Call)	Cloud Service	Cisco Collaboration Flex Plan OD ; EULA	Deployed Knowledge Worker
	Cisco Unified Communications Manager On-Premises Calling	Software		

Suite	Licenses	License Type	Licensing Documents	Meter
Cisco Collaboration Flex Plan Enterprise Agreement for Public Sector	Webex Meetings FedRAMP	Cloud Service	Cisco Collaboration Flex Plan OD ; EULA	Deployed Knowledge Worker
	Cisco Unified Communications Manager Cloud for Government Calling	Cloud Service		

Suite	Licenses	License Type	Licensing Documents	Meter
Cisco Collaboration Flex Plan Enterprise Agreement for FedRAMP	Webex Meetings FedRAMP	Cloud Service	Cisco Collaboration Flex Plan OD ; EULA	Deployed Knowledge Worker
	Cisco Unified Communications Manager Cloud for Government Calling	Cloud Service		
	Cisco Unified Communications Manager On-Premises Calling	Software		
	Webex app FedRAMP	Cloud Service		

Suite	Licenses	License Type	Licensing Documents	Meter
Cisco Collaboration Webex Suite for FedRAMP	Webex Meetings FedRAMP	Cloud Service	Cisco Collaboration Flex Plan OD ; EULA	Deployed Knowledge Worker
	Webex App FedRAMP	Cloud Service		
	Cisco Unified Communications Manager Cloud for Government	Cloud Service		
	Cisco Unified Communications Manager On-Premises Calling	Software		
	Webex Webinars FedRAMP	Cloud Service		

Suite	Licenses	License Type	Licensing Documents	Meter
Cisco Collaboration Enterprise Agreement Webex for Defense	Cisco Meeting Server	Cloud Service	Cisco Collaboration Webex for Defense OD ; EULA	Deployed Knowledge Worker
	Cisco IL5 Hosted Unified Communications Manager HCS-D	Cloud Service		

Supplemental Terms and Conditions for Collaboration Flex Plan Enrollment

Applicable Meters

The Meter for the Cisco Collaboration Flex Plan Enrollment is the number of Deployed Knowledge Workers. Your orders through an Approved Source must reflect accurate Knowledge Worker counts for You and your Participating Affiliates. Knowledge Worker count additions can be made through subsequent orders.

“Deployed Knowledge Worker” means a Knowledge Worker who has a profile configured within the Software or Cloud Service provisioning platform and associates that profile with a license as specified in the Offer Description i.e., the applicable desk phone, Jabber client, Webex app, mobile phone, video device, or personal computing device. You must assign each Knowledge Worker a cloud, on-premises, or hosted account to be treated as a single Deployed Knowledge Worker. A Knowledge Worker who is assigned more than one configuration (cloud, on-premises, or hosted) will be counted as multiple Deployed Knowledge Workers. Changing a Knowledge Worker’s configuration to a new deployment model may result in an increased price, with any applicable fees being assessed at the time the new account is configured or subject to a True Forward as specified below.

“Knowledge Worker” means an employee or contractor who utilizes devices capable of running the Software, Cloud Services, or related browser plug-ins as part of their job duties.

If You purchase the Cisco Collaboration Flex Plan for Education Meetings Enterprise Agreement Suite, Your Students may Consume the Purchased Suite free of charge.

“Student” means an individual who is currently enrolled or registered at Your institution for academic study on a full- or part-time basis. Employees, contractors, alumni, former students, prospective students, and students on an extended leave or indefinite absence are not considered Students. You will be required to provide a Student count when you place an order through an Approved Source.

Access to Purchased Suites

The Cisco Collaboration Flex Plan Enrollment does not utilize the EA Workspace. Subject to Your payment of the applicable fees to the Approved Source, Cisco will grant You and all Participating Affiliates access to the Purchased Suites via automated integrated electronic delivery tools and email notification to the point of contact designated in the order.

Purchasing Additional Suites

During the Suite Term, You may purchase an additional Cisco Collaboration Flex Plan Suite by placing an order according to the process set forth in Your purchasing agreement with the Approved Source.

Included Entitlements & Option for Add-on Purchases

Some entitlements (e.g., Common Area, Device Registration, Webex Events) may be included in Your Enterprise Agreement at fixed quantities as either recurring or one-time allotments. Details of these included entitlements can be found in the respective data sheets. If additional quantities are needed for those entitlements, purchase is required. The respective data sheets also describe optional add-on features and benefits that are not necessarily included in a particular entitlement but may be purchased separately (e.g., Speechview, Real-Time Translation).

Term and Termination

At the end of the Suite Term, the Purchased Suite will automatically renew (a **“Renewal Suite Term”**) unless: (a) You elect on the order not to auto-renew; or (b) at least 45 days before the end of the then-current Suite Term, You notify the Approved Source of Your intention not to renew the Purchased Suite. The Approved Source must in turn notify Cisco within 30 Days of this intent. If the Growth Allowance has not been exceeded, the Purchased Suite will renew for the Knowledge Worker count as previously ordered. If the Growth Allowance has been exceeded,

the Purchased Suite will renew the current plus incremental Deployed Knowledge Worker count for the remainder of the Suite Term.

Notwithstanding the foregoing, the Approved Source will notify You of any fee changes reasonably in advance of the Renewal Term. The new fees will apply for the upcoming Renewal Term unless You notify the Approved Source that You do not accept the fee changes before the next Suite Start Date.

Growth Allowance

For Cisco Collaboration Flex Plan:

The Growth Allowance for the Cisco Collaboration Flex Plan Enrollment is 20%. During the Suite Term, You may Consume up to 120% of the Initial Entitlement without incurring any additional charges. The True Forward is calculated once You exceed the Growth Allowance. For clarity, if You exceed the Initial Entitlement but do not exceed the Growth Allowance, You will not incur any True Forward charges.

For Cisco Collaboration Webex Suite:

The Growth Allowance for the Cisco Collaboration Webex Suite is 15%. During the Suite Term, You may Consume up to 115% of the Initial Entitlement without incurring any additional charges. The True Forward is calculated once You exceed the Growth Allowance. For clarity, if You exceed the Initial Entitlement but do not exceed the Growth Allowance, You will not incur any True Forward charges.

Downturn for Cisco Collaboration Webex Suite

“**Downturn**” applies to Cisco Collaboration Webex Suite including Cisco Webex Calling (A-FLEX-EA-SUITE) only and is not applicable to Webex Suite including On-Premises Unified Communications Manager Calling (A-FLEX-EA-P-SUITE) or Webex Suite for FedRAMP (A-FLEX-F-EA-MPL, A-FLEX-F-EA-MUL). “**Downturn**” is defined as an event such as a corporate divestiture, merger, acquisition, or significant restructuring or reorganization of your business that causes a reduction of your Knowledge Workers by 20% or more.

After the first 12 months of the Suite Term, upon proof of an applicable event, You have the ability to reduce Your Knowledge Worker quantity for the Cisco Collaboration Webex Suite Enrollment by up to 20% of Your then-current Entitlement, if such reduction is: a) attributed to Downturn; and, b) does not cause Your Knowledge Worker quantity to fall below the minimum requirement of 250 Knowledge Workers. You may request only one Downturn reduction for the Collaboration Webex Suite during the Suite Term. If You reduce Your Knowledge Worker quantity for the Cisco Collaboration Webex Suite due to Downturn, You may be required to provide Cisco with a revised order. No refunds or credits will be provided for any services that have been delivered and/or invoiced.

Collab Flex True Forward Provision

- a. This is a supplemental provision describing the True Forward operation for Collaboration Flex Plan Enrollment only. In the event of an inconsistency, conflict, or ambiguity between the EA Program Term True Forward provision (Section 6) and this provision, the order of precedence is first this provision within the Enrollment Description, and then the EA Program Terms True Forward provision.
- b. Cisco performs a True Forward for the Purchased Suites on each anniversary of the True Forward Effective Date. The “True Forward Effective Date” is date on which you first enroll in Program Terms with a True Forward provision. On the last day of the 11th lifecycle month, if You have exceeded the Initial Entitlement plus Growth Allowance, the Approved Source will charge You for the Consumption above the Initial Entitlement plus Growth Allowance through the remainder of the Suite Term. On each subsequent last day of the 11th lifecycle month of the Suite Term, the Approved Source will check for any Consumption above the previous year’s Entitlement plus Growth Allowance and charge for additional consumption on the True Forward Anniversary Date and through the remainder of the Suite Term.
- c. True Forwards can also occur if the peak number of Deployed Knowledge Workers exceeds five times (5x) Your then-current EA Entitlement plus Growth Allowance at any time. In this case, the Entitlement is subject to an immediate reset such that it would charge You for the Consumption above the Entitlement plus Growth

Allowance through the remainder of the Term.

- d. Your True Forward payment obligation for each Purchased Suite will be calculated by comparing Your Consumption of Software and Cloud Services to Your Entitlement plus Growth Allowance for the previous year. Any payment owed to the Approved Source will be determined as follows and reflected in the True Forward order: the unit price less any applicable discount or incentives multiplied by the quantity by which You exceeded Your then-current Entitlement. The price used to calculate any True Forward fees will be established when You place the order for each Purchased Suite.
- e. If the Entitlement plus any applicable Growth Allowance is exceeded in the final year of the Suite Term as measured on the last day of the 11th lifecycle month, Cisco may charge a fee.

Support Services

The basic Support Services are set forth in the applicable Offer Description.

Cisco Subscription Service Agreement

This Cisco Subscription Service Agreement (“Agreement”) is entered into between ePlus Technology, inc. (“ePlus”) and the Customer indicated below and sets forth the terms under which ePlus resells to Customer certain Software as a Service offerings (“Cisco SaaS Offerings”) provided by Cisco Systems, Inc. or its applicable affiliates (“Cisco”). Pursuant to this Agreement, Customer hereby orders the Cisco SaaS Offerings set forth in the quote(s) referenced below (“Quote”) as more fully described herein (the “Licensed Services”) and ePlus resells such Licensed Services to Customer.

Project Information	
Customer: Erie County Water Authority	
Subscription 1 – Collaboration Flex Plan 3.0	
Quote #: 22878159 (lines 001-023)	Estimated Start Date: 01/08/23
Initial Term: 12 months	Auto-Renewal: <input checked="" type="checkbox"/> No
Enterprise Agreement <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Cisco PSTN Calling Plan <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Invoicing Scheme: <input type="checkbox"/> Annual Billing <input checked="" type="checkbox"/> Pre-paid Term (please select one)	
Initial Term Subscription Fee: \$28,417.20	Periodic Payments: N/A
Subscription 2 – Flex 3.0 for Contact Center	
Quote #: 22878159 (lines 024-031)	Estimated Start Date: 01/08/23
Initial Term: 12 months	Auto-Renewal: <input checked="" type="checkbox"/> No
Enterprise Agreement <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Cisco PSTN Calling Plan <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Invoicing Scheme: <input type="checkbox"/> Annual Billing <input checked="" type="checkbox"/> Pre-paid Term (please select one)	
Initial Term Subscription Fee: \$11,620.80	Periodic Payments: N/A
Term and Termination	
<p>The subscription term for the Licensed Services (“Subscription Term”) starts on the date the Licensed Services are provisioned by Cisco (the “Go Live Date”) and continues for the Initial Term set forth above and any Renewal Terms (if applicable). The Estimated Start Date is an estimate and is subject to Cisco’s then current lead times. At the end of the Initial Term, Customer will be responsible for ensuring timely renewal in order to continue receiving the Licensed Services.</p> <p>Customer warrants that the Licensed Services are essential and critical to Customer’s proper, efficient and economic business operations for the full Subscription Term. By executing this Agreement, Customer authorizes ePlus to place a non-cancellable order with Cisco for the Licensed Services on Customer’s behalf. As such, Customer’s obligation to make all Payments for Licensed Services under this Agreement is unconditional and non-cancelable for the Subscription Term and shall not be subject to abatement, reduction, offset, defense, termination of services, counterclaim or recoupment due or alleged to be due by any reason. Any such defenses or claims Customer has may only be attempted to be enforced against other parties, such as Cisco, and not against ePlus and shall not be a basis for Customer failing to make all payments due under this Agreement to ePlus. If periodic billing applies, Customer unconditionally agrees to make the required Payments at each interval for the Subscription Term. Customer acknowledges that it is a sophisticated party and understands the meaning of this clause and that this clause is clear and unambiguous. If, and only if, Customer is subject to appropriations and state law requires termination rights when funds are not appropriated, this section is qualified to provide that Customer may terminate if sufficient appropriated and other lawfully-sourced funds are not received after Customer has used all lawful means to obtain them (a “non-appropriation”), provided that Customer shall be obligated to pay all charges incurred through the end of that fiscal year and, where allowed by law, Customer will not use substitutes to perform the functions for which the Licensed Services under this Agreement were obtained for a period of one hundred twenty (120) days after termination of this Agreement for non-appropriation. Customer agrees to provide ePlus with a signed written notice of any termination for non-appropriation describing the non-appropriation event as soon as reasonably possible after a non-appropriation. Customer shall use best efforts to notify ePlus of any termination for non-appropriation at least sixty (60) days prior to the next Periodic Payment due date. Customer agrees that it intends to continue the Licensed Services for the Subscription Term. Without limiting the foregoing, upon any early termination other than for non-appropriation as set forth above, Customer agrees to pay ePlus the entire amount of all Payments then remaining to be paid hereunder for the period which would constitute the balance of the then-current Subscription Term in the absence of such termination.</p>	
Pricing and Payment	
<p>For the Licensed Services, Customer agrees to pay ePlus the applicable Subscription Fee for the Subscription Term plus any overage or per-use charges and True Forward Fees that Customer incurs (collectively, “Payments”). Applicable overage or per-use charges may be described in the ePlus Quote and Cisco End User Terms and Customer agrees to pay such charges if it incurs them. Overage and per-use rates may vary and are subject to change based on changes to Cisco’s list pricing. Customer shall be responsible for any fees due as part of the True Forward process or other subscription quantity adjustment process as described in the applicable Cisco End User Terms (“True Forward Fees”). At each True Forward event, ePlus shall issue a quote for any True Forward Fees due. Fees do not include sales, use, communications or other applicable taxes, tariffs or duties which Customer may be required to pay in accordance with the Purchase Terms (“Taxes”).</p>	

Payment is due upon receipt of invoice in accordance with the Purchase Terms. Invoicing starts on the Go Live Date and continues based on the invoicing scheme set forth above. If the invoicing scheme is “Prepaid Term”, ePlus shall invoice for the total Subscription Fee for the Initial Term and any Renewal Terms in advance on the Go Live Date or the Renewal Term start date (as applicable). If “Prepaid Term” is not selected, the Subscription Fee shall be broken into equal periodic payments (or such other periodic payment amounts set forth herein) (“Periodic Payments”) which are payable in advance in accordance with the applicable invoicing scheme. Overage and per-use charges accrued shall be invoiced monthly in arrears at the applicable rate in effect at the time the service is used. In addition to other remedies, ePlus may suspend or terminate the Licensed Services if Customer fails to pay the fees when due. When Customer receives the Licensed Services but the payment authorization is provided from a third party to be billed pursuant to a lease or financing arrangement, then (a) in the event the third party fails to make timely payment in compliance with the purchase terms set forth herein, Customer shall be responsible for all payments and late fees then unpaid which shall be immediately due and payable; and (b) Customer agrees to pay ePlus for any applicable Taxes, fees or other charges that are not paid by the lender pursuant to Customer’s financing arrangement. At ePlus’ option and notwithstanding anything to the contrary in the Purchase Terms, ePlus may assign all or part of its interest in the Payments due hereunder (but none of its obligations) to a third-party financier. No notice to or prior written consent of Customer shall be required in the event of such an assignment.

Additional Services

- **Add-Ons:** During the Subscription Term, Customer may increase the amount of Licensed Services in a subscription or add offerings or features to a subscription (collectively, “Add-Ons”) as set forth herein. ePlus will provide quotes or change orders for Add-Ons as requested by Customer and such Add-Ons shall be purchased by Customer and added to the applicable subscription upon Customer’s issuance of a purchase order or other payment authorization reflecting the quote or signature on the change order. In the event Customer is able to obtain Add-Ons by submitting a request directly to Cisco via the Cisco site, Customer agrees that Add-Ons shall be purchased by Customer and added to the applicable subscription upon Customer’s submission of such a request. Customer agrees to pay for any Add-Ons purchased pursuant to this paragraph and acknowledges that all Add-Ons are subject to the terms of this Agreement and the then-current End User Terms. Add-Ons shall start on the Go Live Date for such Add-Ons (“Add-On Start Date”) and end co-terminus with the applicable subscription. Prices for Add-Ons will be as set forth in the quote or change order, or, if there is no quote or change order, at ePlus’ then-current price at the time the Add-Ons are ordered. Invoicing for Add-Ons begins on the Add-On Start Date pursuant to the invoicing scheme for the applicable subscription and the Subscription Fee and Periodic Payment amounts (if applicable) shall be adjusted accordingly.
- **New Subscriptions:** Additional Cisco SaaS Offerings outside the scope of an existing subscription may be purchased pursuant to an amendment or change order to this Agreement.
- **Other products and services:** Products or services other than Cisco SaaS Offerings are outside the scope of this Agreement and may be purchased pursuant to a separate agreement between the parties.

Additional Terms for Licensed Services Powered by Cisco

The Licensed Services are powered by Cisco and are subject to any end user agreements, terms of use, service descriptions, policies and other terms and conditions as established by Cisco and updated from time to time (collectively, “End User Terms”). By signing this Agreement, submitting an order for Cisco SaaS Offerings, or using the Licensed Services, Customer agrees to all applicable End User Terms and is solely responsible for any and all claims, liabilities, damages, expenses, penalties, fees and/or expenses arising out of Customer’s breach thereof. The End User Terms for Licensed Services include, without limitation, the following:

- The following Cisco End User Terms apply to all Cisco SaaS Offerings:
- the Cisco End User License Agreement and any applicable Supplemental End User License Agreement and Offer Descriptions located at: <http://www.cisco.com/c/en/us/about/legal/cloud-and-software/software-terms.html>. The following terms apply to Cisco Enterprise Agreement offers:
 - Enterprise Agreement offers are subject to the applicable Cisco Enterprise Agreement Program Terms for End Users and any Supplemental Terms and Conditions (“EA Terms”) that are provided by ePlus or Cisco.
 - During the Initial Term, ePlus’ True Forward quotes for the Suite(s) selected in the Quote referenced above shall not exceed a price (a) per Covered Users, Covered Devices or other applicable meter (as applicable, the “Pricing Meter”) for perpetual software licenses and (b) per Pricing Meter per month for support services and subscription licenses (“NTE Unit Price”) as set forth in the NTE Form provided by ePlus.
- The following applies to Licensed Services that require Customer to have telephony services and/or public switched telephone network (“PSTN”) access (“PSTN Services”). In order to call telephone numbers using PSTN Services, Customer must contract with a third party PSTN provider. Customer acknowledges that PSTN Services are not a complete replacement for voice services and that emergency calling operates differently with PSTN Services. Customer is responsible for verifying the effectiveness of all emergency services calling and ensuring its 911 dialing complies with law. Customer agrees that its usage statistics, personally identifiable information or proprietary network information (such as call logs and information related to calls) may be provided to ePlus, Cisco and the PSTN provider as needed to provide the PSTN Services.
- The following terms apply to Cisco PSTN Calling Plan Services: Cisco Calling Plan services are provided by Broadsoft Adaption LLC, a Cisco affiliate, and ePlus is acting solely as a billing agent on the provider’s behalf and not as a reseller or service provider. ePlus is not responsible for the content or performance of the Cisco Calling Plan services. Because Cisco Calling Plan Services are regulated, taxes and fees are subject to change at any time. In certain situations the provider may not include all billable usage by the End User in the invoice associated with the corresponding month. In such cases future invoices will be inclusive of billable usage that were previously excluded and that occurred up to 12 months prior. Cisco’s affiliate will provide the Cisco Calling Plan

services in accordance with the attached Service Level Addendum. Customer must ensure that its network infrastructure, including LAN and WAN, meet the minimum requirements set forth in the documentation provided by Cisco.

Warranty

ePlus is the reseller of Licensed Services, which are provisioned by Cisco. As such, Licensed Services shall be deemed a “Product” under the Purchase Terms. Licensed Services and any materials provided under this Agreement are provided by ePlus “AS IS”. Any warranty and rights to indemnification for claims or losses related to Licensed Services must come directly from Cisco and Customer shall look solely to Cisco to remedy any performance failures or other losses, claims, liability or damages arising from or related to Licensed Services. THIS SETS FORTH THE ONLY WARRANTIES PROVIDED BY EPLUS FOR THE LICENSED SERVICES. EPLUS HEREBY DISCLAIMS ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, IN CONNECTION WITH THE LICENSED SERVICES INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON INFRINGEMENT, TITLE OR OTHERWISE.

Exclusions

- Customer agrees that ePlus shall retain at least one administrator account to provision and manage the cloud-based environment and grant access to ePlus engineers as needed to provision the Licensed Services and any related service offerings. The benefits and performance of certain service offerings are dependent on this access. Customer acknowledges that if Customer restricts or terminates administrative access to ePlus, the related deliverables may be affected and ePlus shall not be held responsible.
- Customer agrees that it will reasonably cooperate in providing information or personnel upon ePlus and/or Cisco’s reasonable request in a timely manner. ePlus will not be liable for any failure to perform the Licensed Services, to the extent that the failure is caused by Customer’s lack of cooperation.
- Customer is responsible for all content, material, message or data made available or transmitted by or on behalf of Customer or its users on or in connection with the Licensed Service(s) (“Data”) and for its compliance with all applicable federal, state and local laws, regulations, ordinances and codes, import and export control laws and acceptable use policies of any third-party vendors or Web sites. Customer assumes full responsibility to back-up and/or otherwise protect all Data against loss, damage, or destruction. ePlus is not responsible for data loss. All Data is the responsibility of Customer. Customer acknowledges that, during the course of this Agreement, ePlus and Cisco may have access to Data and other information about Customer’s use of the Licensed Services and Customer consents to ePlus and Cisco sharing Data with each other to the extent required to provide the Licensed Services. Customer consents to ePlus’ processing of such information as reasonably required to perform its obligations hereunder, subject to the confidentiality provisions set forth in the Purchase Terms. Customer acknowledges, however, that the security, confidentiality and privacy of the Licensed Services and any data processed therein are governed solely by the applicable End User Terms and ePlus disclaims any and all liability therefor.

Except as otherwise provided in this Agreement, the purchase of Licensed Services shall be governed by the signed agreement between Customer and ePlus that expressly governs the purchase of products, or, if no such agreement exists, then by the Customer Terms and Conditions for Products and/or Services at <https://www.eplus.com/terms-and-conditions> (the “Purchase Terms”). In the event of a conflict between the Purchase Terms and this Agreement, the provisions of this Agreement will prevail with respect to the Licensed Services and any conflicting provisions in the Purchase Terms are hereby disclaimed. This Agreement may be modified only by mutual agreement in writing and no additional or contrary terms referenced in a purchase order, document or electronic communication shall apply. If a provision of this Agreement is held unenforceable under applicable law, the remaining provisions shall not be affected.

The Parties agree to be bound by the terms hereof as of the date of the last signature below (the “Effective Date”) and have caused this Agreement to be executed by their duly authorized representatives.

Customer	ePlus Technology, inc.
Signature	Signature
Name:	Name:
Title:	Title:
Date:	Date:

