**AMENDED AND RESTATED PROFESSIONAL SERVICES AGREEMENT**

**BETWEEN**

**PINELLAS COUNTY, FLORIDA**

**AND**

**VERTEX DATA UTILITY SERVICES LLC**

**DATED: _____, 2019**

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**AMENDED AND RESTATED MASTER SERVICES AGREEMENT**

This Amended and Restate Master Services Agreement ("MSA"), dated as of _____, 2019 (the "Effective Date"), is entered into between Pinellas County, a political subdivision of the State of Florida, with offices located at 14 South Fort Harrison Avenue, Clearwater, Florida 33756 ("Pinellas"), and Vertex Data Utility Services LLC, a Delaware limited liability company, with offices located at 501 W. President George Bush Highway, Suite 350, Richardson, Texas 75080 ("Vertex").

**RECITALS**

A. Pinellas and Vertex (as successor to ADS Alliance Data Systems, Inc.) entered into a Professional Services Agreement dated as of December 6, 2006 (the "Original Agreement"); and

B. Pinellas and Vertex desire to further modify the MSA; and

C. Pinellas and Vertex desire to amend and restate the Original Agreement with this MSA;

**AGREEMENT**

In consideration of the foregoing Recitals (which are incorporated herein) and the mutual covenants and agreements contained herein, the parties hereto agree as follows:

**1.      Term**

This MSA shall be effective as of the Effective Date and shall continue in effect for a period of ten (10) years after the Effective Date (the "Initial Term"), unless earlier terminated as provided herein. At the end of the Initial Term, this MSA is subject to two subsequent two (2) year renewal periods (each, an "Extended Term"), at the request of Pinellas no later than one-hundred eighty (180) days prior to the expiration of the Initial Term or any Extended Term. As used herein, the word "Term" shall include the Initial Term and any Extended Terms. In addition, upon any expiration or termination of this MSA, the Term shall be extended as set forth in Section 23 (Termination/Expiration Assistance Services).

**2.      Services**

**2.1      Transition Services**

2.1.1    Vertex shall provide to Pinellas the transition services described in, and in accordance with the Exhibit F (Implementation Services). Vertex shall use commercially reasonable efforts to provide the transition services without (i) disrupting or adversely impacting the business or operations of Pinellas or Pinellas Authorized Users, (ii) degrading the Services being provided, or (iii) interfering with the ability of Pinellas or Pinellas Authorized Users to obtain the full benefit of the Services, except as may be otherwise provided in the Project Plan.

2.1.2    Pinellas understands that it will be integral to the Project Plan and Vertex's activities depend on Pinellas carrying out its roles and responsibilities. Vertex shall not be responsible for its obligations that are dependent on Pinellas's performance of its obligations to the extent Pinellas has failed to carry out their obligations.

2.1.3    Pinellas acknowledges and agrees that as of the Go-Live Date under this MSA, the existing Customer Information System ("CIS") provided by Vertex under the Original Agreement shall be transitioned to Vertex's then current version of the CIS that utilizes SAP Software to provide the Services as set forth in this MSA. Except as set forth herein, the Original Agreement shall terminate as of the Go-Live Date. Vertex shall cease to provide Pinellas with Services utilizing the current CIS as of the Go-Live Date.

2.1.4    Unless otherwise defined in this MSA, the definitions set forth on Exhibit A shall be incorporated herein and contain the meanings as set forth in Exhibit A.

**2.2    Services**

As of the Effective Date and continuing throughout the Term, Vertex shall provide the Services to Pinellas and the Authorized Users.  Vertex shall provide the Services to Pinellas as an integrated service offering in accordance with this MSA and without regard to the lines of business, intra-Affiliate relationships, or geographic locations within Vertex's organization from which such Services are offered, or the internal profit center within Vertex's organization to which the financial accounting for a Service is ultimately attributed.

**2.3    Vertex Systems**

Except as specifically set forth in this MSA, Vertex shall provide all Vertex Systems, Vertex Intellectual Property, Vertex Third Party Intellectual Property, Vertex Personnel, and other resources necessary to provide the Services in accordance with Exhibit F (Implementation Services), Service Levels and other performance requirements of this MSA.  To the extent specific Vertex Systems, Intellectual Property, tools, policies, procedures, and/or guidelines are identified, referenced, or referred to in the MSA or any Exhibits, such Vertex Systems, Intellectual Property, tools, policies, procedures, and/or guidelines shall include any amendments, modifications, updates, and/or replacements to such items during the Term of this MSA.  Vertex shall be responsible for the proper performance and maintenance of the Vertex Systems.  Vertex shall be responsible for the risk of loss of, and damage to, Vertex Systems. Notwithstanding the above, to the extent Pinellas has requested that Vertex include any of Pinellas Intellectual Property in the Vertex Systems, Vertex shall not be responsible for the performance, maintenance, replacements, or upgrades of such Pinellas Intellectual Property.  For clarification, the SAP Software shall not be considered Vertex or Pinellas Intellectual Property.  Pinellas understands and agrees that the SAP Software shall be maintained at no less than the current level minus one upgrade (provided such upgrades are sufficiently stable for production use) for such SAP Software in order for Vertex to provide the Services.   Pinellas and Vertex acknowledge and agree that Pinellas shall license the SAP Software as set forth on Exhibit I (SAP Software) from Vertex, as a reseller of SAP, which license agreement is attached hereto as Exhibit J (SAP License and Maintenance Agreements) and all software warranties associated with this software license are held directly by Pinellas.  It is further agreed by the parties that since the SAP Software and its performance is absolutely critical and necessary for the Vertex to provide the Services contracted hereunder, Vertex shall act as an authorized agent of Pinellas for the purpose of providing Services as set forth in this MSA and as needed in addressing warranty issues associated with the SAP Software.  Notwithstanding the foregoing, Pinellas maintains direct right to and responsibility for any legal action relative to the warranties and representations set forth in the SAP Software license.  If additional SAP Software is required for use in the Vertex System as a result of Pinellas's use of such software or as a result of any compliance audits, Pinellas shall purchase such additional SAP Software.

**2.4    Vertex / Third Party Intellectual Property**

Vertex shall procure any additional Vertex Intellectual Property and Vertex Third Party Intellectual Property required under this MSA or, in its sole discretion, to provide the Services, meet Service Levels, or otherwise comply with this MSA.

**2.5    Licenses and Permits**

Vertex is responsible for obtaining all licenses, approvals, permits and authorizations required by applicable federal, state, or local laws or regulations that Vertex is required to have in order to perform the Services and, except as otherwise agreed to in writing by the parties or as otherwise provided in this MSA, Vertex is financially responsible for all fees, costs and taxes associated with such licenses, approvals, permits and authorizations.  Vertex shall provide to Pinellas, subject to the terms of Section 25 (Confidentiality), all such licenses, approvals, permits and authorizations within five (5) Business Days after Vertex's receipt of Pinellas's written request.

**2.6** **Reporting Services**

In order to monitor the status, performance, and quality of the Services provided to Pinellas, Vertex shall provide Pinellas with various written reports described in Exhibit D (Services and Service Level Agreements). Pinellas may amend Exhibit D (Services and Service Level Agreements) in its sole discretion to modify, add or subtract reports, without additional charge or cost to Pinellas, within the annual bank of 160 development hours as set forth in Exhibit C (Fees & Costs) of this MSA. Unless stated otherwise in a Statement of Work or as directed by Pinellas, each of such reports shall be comprised of one (1) hard copy and (1) electronic copy to be delivered to each of Pinellas's Outsourcing Relationship Executive and any other individuals designated by Pinellas, together with a formal transmittal letter executed by Vertex's Service Delivery Executive.

**2.7** **Data Protection and Privacy**

Vertex shall comply with its data protection and privacy procedures which shall be consistent with industry practices. In addition, Vertex shall perform a reference and criminal background investigation on all Vertex Personnel with access to Pinellas Data or Vertex Systems. Vertex shall not permit any Vertex Personnel who have been convicted of a crime of dishonesty, breach of trust, or money laundering to provide Services under this MSA, or to have access to any Pinellas Proprietary or Confidential Information or Pinellas Data.

**2.8** **Change Management**

The parties agree to follow the procedures set forth on Exhibit B (Change Control Procedures) with respect to any proposed changes to the Services.

**2.9** **Statement of Work Proposal for New Services**

If Pinellas requests that Vertex perform any New Services, Vertex shall promptly prepare a proposed Statement of Work for New Services for Pinellas's consideration, in the format and structure designated by Pinellas. Vertex shall prepare such proposed Statement of Work at no additional charge to Pinellas. Vertex shall deliver such proposal to Pinellas within no more than ten (10) Business Days of its receipt of Pinellas's request (or such longer period as may be agreed upon by the parties in writing). A Statement of Work proposal shall comply with the Change Control Procedures set out in Exhibit B, and shall include, among other things: (i) a detailed project plan and fixed price or price estimate for the New Service; (ii) a detailed breakdown of such price or estimate, including labor, material, and other related financial components; (iii) a detailed description of the New Service and the service levels to be associated with such New Service; (iv) a schedule for commencing and completing the New Service, including a detailed transition or implementation plan; (v) a description of the new hardware or software to be provided by Vertex in connection with the New Service; (vi) a description of the software, hardware and other resources necessary to provide the New Service; and (vii) any additional facilities or labor resources to be provided by Pinellas in connection with the proposed New Services. Pinellas may accept or reject any New Services proposal in its sole discretion. Unless the parties otherwise agree in writing, if Pinellas accepts Vertex's proposal, the parties shall execute the Statement of Work, and Vertex will perform the New Services and be paid in accordance with the Statement of Work and the provisions of this MSA. Upon execution of a Statement of Work for New Services, the scope of the Services included in the Fees will be expanded and this MSA will be modified to include such New Services. All New Services require prior Pinellas Approval.

**3.** **Pinellas Approvals / Unapproved Work**

Pinellas shall have the right to reject, and not be obligated to pay for the performance of any services, that are not authorized by Pinellas pursuant to a validly executed Statement of Work or Change Order (collectively, "Unapproved Services"). Vertex's monthly invoices shall detail separately Fees for New Services, with reference to the specific numbered Statement of Work or Change Order constituting

the Pinellas Approval. Pinellas will promptly raise any disputes relating to Vertex's failure to obtain the necessary Pinellas Approvals for the Services promptly upon discovery of such dispute.

**4.    Service Levels**

**4.1    Services and Service Level Agreements**

Vertex shall provide the Services in accordance with <u>Exhibit F</u> (Implementation Services) and <u>Exhibit D</u> (Services and Service Level Agreements) and other requirements of this MSA. Such Service Level Performance Credits and Performance Incentives as set forth in <u>Exhibit D</u> (Services and Service Level Agreements) shall not apply to failures occurring during the Burn-In Period as set forth in <u>Exhibit D</u> (Services and Service Level Agreements), or to any failures resulting from: (i) components for which Pinellas is responsible; (ii) the action or inaction of Pinellas's personnel; (iii) changes made to the environment which are not made in accordance with the change management procedures set forth in <u>Exhibit B</u> (Change Control Procedures); (iv) Pinellas's failure to perform Pinellas's obligations under this MSA to the extent such failure materially affects Vertex's ability to meet the applicable Service Levels; (v) the occurrence of an Extraordinary Event as set forth in Section 29 (Extraordinary Events); or (vi) any act or omission of a third party, excluding any Subcontractor of Vertex, or any other event beyond the control of Vertex.

**4.2    Root-Cause Analysis and Resolution**

Upon Vertex's failure to provide the Services in accordance with the <u>Exhibit F</u> (Implementation Services) and <u>Exhibit D</u> (Services and Service Level Agreements), within ten (10) Business Days of Pinellas's request (or as otherwise agreed by the parties), Vertex shall: (a) provide such services necessary to identify the cause of such failure or problem, (b) correct such failure or problem, (c) provide Pinellas with a written report detailing the cause of, and procedures for correcting, such failure or problem, and (d) provide Pinellas with reasonable evidence that such failure or problem will not reoccur. The foregoing does not limit other remedies available to Pinellas.

**5.    Pinellas Designee**

Any third-party outsourcing vendor contractor, agent, or other person or entity designated by Pinellas in writing and approved by Vertex in writing, which approval shall not be unreasonably withheld, (the "Pinellas Designee") shall be entitled to enforce and/or perform any responsibilities, obligations, or other provisions attributed to Pinellas under this MSA. Vertex shall fully cooperate, communicate, coordinate with, and respond to all the requests of the Pinellas Designee, and Vertex will provide the Pinellas Designee appropriate information in the possession of Vertex relating to the Services. Vertex shall be entitled to reasonably rely on the Pinellas Designee, provided, however, that Pinellas Approval shall be required for any work effort requested by a Pinellas Designee that is reasonably anticipated to result in additional fees and/or expenses. Pinellas shall be entitled to amend and/or terminate its use of the Pinellas Designee at any time upon advance notice to Vertex. Pinellas will require each Pinellas Designee to enter into an agreement containing appropriate confidentiality and non-use provisions with respect to Vertex Proprietary or Confidential Information. Pinellas shall remain responsible to Vertex for any and all performance required under this MSA by Pinellas. Pinellas shall be entitled to provide the Pinellas Designee with Vertex Proprietary or Confidential Information as required for the Pinellas Designee to provide its services to Pinellas pursuant to this Section.

**6.    Safety and Security Procedures**

A.    Vertex shall maintain and enforce at the Vertex Service Locations safety and security procedures in accordance with industry standards for such Vertex Service Locations.

B.    At all Pinellas Sites, Vertex shall comply with Pinellas's Policies and Procedures as set forth in <u>Exhibit E</u> (Pinellas Policies & Procedures). Vertex shall observe and comply with

all Pinellas rules (disclosed to Vertex or Vertex Personnel in writing or by other means generally used by Pinellas to disseminate such information to employees or contractors) with respect to safety, health, security, and the environment, and shall take all commercially reasonable action necessary to avoid injury, property damage, spills or emissions of hazardous substances, materials or waste, and other dangers to persons, property or the environment. To the extent required by Pinellas, Vertex Personnel shall receive prescribed training from Pinellas without charge prior to entering certain Pinellas Sites.

C.    In addition to the foregoing requirements, and as more specifically described in any Statement(s) of Work, Vertex shall adopt security measures for itself and its employees which shall include, but not be limited to:

(i)    The development, updating, monitoring, and enforcement of an information security, access, and confidentiality policy;

(ii)    Prohibition of the disclosure of Proprietary or Confidential Information within Vertex's organization except to individuals identified as requiring access to such information solely to perform Vertex's obligations under this MSA;

(iii)    Precluding access to Proprietary or Confidential Information by any Vertex Personnel until such individual has been trained with regard to the handling of the Proprietary or Confidential Information, use of security measures identified herein, and has executed Vertex's form confidentiality agreement;

(iv)    Requiring all new Vertex Personnel to execute Vertex's form confidentiality agreement;

(v)    Providing each individual authorized to access Proprietary or Confidential Information with a unique access code and notifying such individual that disclosure of any password, access code, or security device shall result in disciplinary action, including termination;

(vi)    Promptly canceling any password or security access code when an individual is terminated, transferred, or on a leave of absence;

(vii)    In the event any Vertex Personnel is terminated involuntarily, ensuring that the individual's access to Proprietary or Confidential Information is blocked upon notifying the individual of the involuntary termination; and

(viii)    Maintaining audit trails with regard to access by Vertex Personnel to the Vertex's Systems, Vertex shall investigate any security breach resulting in unauthorized access to such data, and provide additional security protections, at no additional charge to Pinellas, to correct any security deficiencies identified by Pinellas and attributable to Vertex.

7.    **Business Continuity and Disaster Recovery**

Vertex shall maintain a plan to address business continuity and disaster recovery procedures (the "Business Continuity and Disaster Recovery Plan") with respect to the Vertex Systems, and Services, and shall implement such plan in the event of any unplanned interruption of the Services (including without limitation, any unplanned interruption of the use of, or access to, the Vertex Systems).

8.    **Disaster Avoidance**

Vertex shall maintain disaster avoidance procedures designed to safeguard Pinellas Data and the data processing capability, and availability of the Services, throughout the Term.

**9. Communications Systems and Access to Information**

To the extent required for Vertex to provide the Services, Vertex understands that Vertex may receive access to Pinellas's computers and electronic communications systems ("Systems"), including voicemail, email, customer databases, and internet and intranet systems. Such Systems are intended for legitimate business use related to Pinellas's business. Vertex acknowledges that Vertex does not have any expectation of privacy as between Vertex and Pinellas in the use of or access to Pinellas's Systems and that all communications made with such Systems by or on behalf of Vertex are subject to Pinellas's scrutiny, use and disclosure (subject to the protections of Proprietary or Confidential Information herein), in Pinellas's sole discretion. Pinellas reserves the right, for business purposes, to monitor, review, audit, interpret, access, archive and/or disclose (subject to the protections of Proprietary or Confidential Information herein) materials sent over, received by or from, or stored in any of its Systems. This includes, without limitation, email communications sent by users across the Internet and intranet from and to any and all domain names maintained by Pinellas. Pinellas reserves the right to override any security passwords to obtain access to Pinellas's Systems. Vertex also acknowledges that Pinellas reserves the right, for legitimate business purposes related to investigations of wrongful use of Pinellas's Systems, to search all work areas at Pinellas Sites (for example, offices, cubicles, desks, drawers, cabinets, computers, computer disks and files) and all personal items brought onto Pinellas Sites.

**10. Services Team**

**10.1 Vertex Personnel**

Vertex shall appoint sufficient numbers of highly qualified Vertex Personnel with suitable training, education, experience, and skills to provide the Services. While at the Pinellas Sites, the Vertex Personnel shall, at all times: (1) comply with reasonable requests, standard rules, and regulations of Pinellas communicated to Vertex regarding personal and professional conduct (including the wearing of an identification badge and adhering to Pinellas regulations and general safety practices or procedures) generally applicable to such Pinellas Sites, (2) acknowledge in writing the receipt and reading of the applicable provisions of Pinellas's Policies and Procedures, and (3) otherwise conduct themselves in a businesslike manner. Vertex shall maintain good working conditions and policies that advocate affirmative action and promote employee development.

Should Pinellas reasonably be dissatisfied with the performance, competence, responsiveness, capabilities, cooperativeness, or fitness for a particular task of any Vertex Personnel assigned by Vertex to perform services under this MSA, Pinellas may request the replacement of that person. The replacement request shall be in writing specifically setting forth the reasons for such request. Upon receipt of the request, Vertex shall make commercially reasonable efforts to furnish a qualified replacement within fifteen (15) Business Days. In the event Vertex should ever need to remove any Vertex Employee from performing services under this MSA, Vertex shall provide Pinellas with adequate notice, except in circumstances in which such notice is not possible and shall work with Pinellas on a mutually agreeable transition plan so as to provide an acceptable replacement and ensure project continuity.

**10.2 Unlawful Acts / Substance Abuse**

Upon notice from Pinellas, Vertex agrees to immediately remove any Vertex Personnel who (i) engage in any criminal or unlawful acts or (ii) engage in substance abuse while on Pinellas Sites, in a Pinellas vehicle, or while performing Services. Substance abuse includes the sale, attempted sale, possession or use of illegal drugs, drug paraphernalia, or alcohol, or the misuse of prescription or non-prescription drugs. Vertex shall adhere strictly to its own substance abuse policy in the event of any suspected substance abuse by any Vertex Personnel. Vertex represents and warrants that Vertex has and will maintain (at all times during the Term) a substance abuse policy and that such policy will be applicable to all Vertex Personnel performing Services under this MSA.

### 11. Management and Control

#### 11.1 Governance

Vertex shall comply with the governance model set forth on <u>Exhibit G</u> (Operational Governance Guidelines).

#### 11.2 Meetings

##### A. Monthly Performance Reviews

Every month, Pinellas and Vertex shall meet to discuss the status of the MSA (the "Monthly Performance Reviews"). All Monthly Performance Reviews shall, at a minimum, address the issues set forth in the Monthly Performance Review Agenda included in <u>Exhibit G</u> (Operational Governance Guidelines). Pinellas and Vertex shall be entitled to designate specific members of its staff to attend the Monthly Performance Reviews. Vertex shall prepare a written report addressing the standing agenda issues and be prepared to discuss the reports.

##### B. Meetings Cumulative

The meetings set forth in this Section 11.2 (Meetings) are in addition to, and cumulative with, all other meetings set forth in a Statement of Work or otherwise requested by Pinellas from time to time.

#### 11.3 Pinellas Outsourcing Relationship Executive

Pinellas's Outsourcing Relationship Executive for this MSA shall be as set forth below (or his or her designee):

> Georges Gonzalez
> Pinellas County Utilities
> 14 S Fort Harrison Ave.
> Clearwater, FL 33756

Pinellas shall notify Vertex in writing of any change in the name or address of Pinellas's Outsourcing Relationship Executive. Pinellas's Outsourcing Relationship Executive shall be (i) responsible for Pinellas's performance of its tasks under the Statements of Work; (ii) meet or confer with the Vertex Pinellas Executive on a regular basis; and (iii) have the right to inspect any and all Services provided by or on behalf of Vertex.

#### 11.4 Pinellas Personnel

Unless otherwise stated in this MSA, all Pinellas personnel assigned to this project shall be under the exclusive supervision of Pinellas. Except as otherwise provided in this MSA, Vertex understands and agrees that all such Pinellas personnel are assigned only for the convenience of Pinellas. Pinellas shall assign qualified personnel to perform and fulfill its obligations pursuant to this MSA.

## 12. Intellectual Property

### 12.1 Pinellas Intellectual Property

Subject to Section 25 (Confidentiality), Pinellas hereby grants to Vertex, solely for the performance of the Services under this MSA, a non-exclusive, non-transferable right to access, operate and use the Pinellas Intellectual Property necessary to provide the Services. Except as may otherwise be provided in a Statement of Work, Vertex shall only use the Pinellas Intellectual Property in the form provided by Pinellas, and solely in connection with this MSA. Vertex shall not use the Pinellas Intellectual Property for any other purpose. Upon expiration or termination of this MSA for any reason, (i) the rights granted to Vertex and Vertex Personnel in this Section shall immediately revert to Pinellas, and (ii) Vertex shall (a) deliver to Pinellas, at no cost to Pinellas, a current copy of all of the Pinellas Intellectual Property in the form in use as of the date of such expiration or termination and (b) destroy or erase all other copies of the Pinellas Intellectual Property in Vertex's or a Vertex Personnel's possession.

### 12.2 Custom Intellectual Property

Pinellas and Vertex agree that good and marketable title to any Custom Intellectual Property shall remain with Vertex. At Vertex's request and expense, Pinellas will provide assistance to perfect Vertex rights and title to such Custom Intellectual Property. Vertex will compensate Pinellas for such assistance in accordance with the change control procedures as set forth in Exhibit B (Change Control Procedures). Vertex grants to Pinellas, an irrevocable, royalty-free, non-exclusive, right to access, operate and use the Custom Intellectual Property solely for Pinellas's business purposes related to its receipt of the Services during the Term of this MSA. Following the expiration or termination of this MSA, and subject to the confidentiality and other restrictions set forth in this MSA, Vertex may grant to Pinellas an irrevocable, perpetual, non-exclusive right to access, operate and use the Custom Intellectual Property, and to create Derivative Works thereof, to perform services that are the same as or similar to the Services solely for its internal use. Pinellas shall not use the Custom Intellectual Property for any other purpose.

### 12.3 Vertex Intellectual Property

Vertex grants to Pinellas, an irrevocable, royalty-free, non-exclusive, right to access, operate and use the Vertex Intellectual Property solely for Pinellas's business purposes related to its receipt of the Services during the Term of this MSA. Following the expiration or termination of this MSA, and subject to the confidentiality and other restrictions set forth in this MSA, Vertex hereby grants and agrees to grant Pinellas an irrevocable, perpetual, non-exclusive right to access, operate and use the Vertex Intellectual Property, and to create Derivative Works thereof, to perform services that are the same as or similar to the Services solely for its internal use. Pinellas shall not use the Vertex Intellectual Property for any other purpose.

### 12.4 Vertex Third Party Intellectual Property

Vertex shall obtain and maintain all rights that may be necessary for Vertex to access, operate and use the Vertex Third Party Intellectual Property to provide the Services as required by this MSA, at Vertex's sole cost and expense. If, in order to receive the Services during the term of this MSA, Pinellas needs the right to access, operate or use the Vertex Third Party Intellectual Property, Vertex shall also obtain and maintain such rights for Pinellas at Vertex's sole cost and expense.

### 12.5 Proprietary Rights

12.5.1 Except as provided below, Vertex shall, at its own cost and expense, defend Pinellas, its Affiliates, and its and their current and former directors, officers, agents, employees, successors-in-interest and assigns (the "Pinellas Parties" or individually, a "Pinellas Party") from and against any claim, demand, suit, proceeding or other action (in any case, an "Infringement Claim") brought against any Pinellas Party if the Infringement Claim is based upon a claim or allegation that any Service,

Vertex Intellectual Property, Vertex Third Party Intellectual Property or Custom Intellectual Property licensed, developed or provided pursuant to this MSA infringes upon any patent, copyright, trade secret or other proprietary right of any third party. Vertex's obligations with respect to Custom Intellectual Property shall be excused hereunder if and to the extent any alleged infringement is necessarily caused by (and would have been avoided but for) specific designs, plans or instructions provided by Pinellas to Vertex. Pinellas shall promptly notify Vertex of any such Infringement Claim if Pinellas is in receipt of such, and at Vertex's sole expense, shall reasonably provide cooperation, information, and assistance in connection therewith. Vertex shall have sole control and authority with respect to the defense, settlement, or compromise of any such Infringement Claim, except that Vertex shall not enter into any settlement or compromise of any such Infringement Claim containing either of the following terms: (i) any admission of liability on behalf of Pinellas, or (ii) payment of any sort by Pinellas. Vertex shall pay all losses, costs, damages, expenses, claims, demands or other liabilities, including attorneys' fees and other costs of defense, arising from or related to any such Infringement Claim.

Without limiting Vertex's obligations set forth above, if any Service, Vertex Intellectual Property, Custom Intellectual Property or Vertex Third Party Intellectual Property becomes or in Vertex's opinion, is likely to become, the subject of any Infringement Claim or injunction preventing its use as contemplated herein, Vertex may, at its option, (i) procure for Pinellas the right to continue using such Intellectual Property or receive such Service, or (ii) replace or modify such Intellectual Property or such Service so that it becomes non-infringing without any material degradation of its features or functionality or other characteristics.

If Vertex (i) fails to procure the right for Pinellas to continue to use the Service, Custom Intellectual Property, Vertex Intellectual Property, or Vertex Third Party Intellectual Property, or (ii) fails to complete the remedial acts set forth above within sixty (60) days of the date of the written notice of an Infringement Claim (or likely imposition of an Infringement Claim) from Pinellas or any third party, Pinellas shall have the right to take such remedial acts it determines to be reasonable to mitigate any impairment of its use of the Service, Vertex Intellectual Property, Custom Intellectual Property or Vertex Third Party Intellectual Property or damages (hereafter referred to as "Pinellas's Remedial Acts"). Vertex shall reimburse Pinellas for all amounts paid and direct and indirect costs associated with Pinellas's Remedial Acts. Failure by Vertex to pay such amounts within thirty (30) days of invoice by Pinellas shall, in addition to, and cumulative to all other remedies entitle Pinellas to immediately withhold payments due to Vertex under this MSA up to the amount paid in connection with Pinellas's Remedial Acts.

### 13. Pricing

#### 13.1 General

During the Term of this MSA, Pinellas shall pay Vertex the Fees as set forth in Exhibit C (Fees & Costs) for the Services. The amounts paid by Pinellas includes all Vertex costs, including Vertex overhead, profit margin, and all costs of service, product, and goods delivery within the definition of Services and total compensation to Vertex shall be limited to the annual not-to-exceed sum of 4,000,000 for any County fiscal period during which this Agreement is in effect, unless this amount is modified by mutual written amendment in accordance with the terms of this Agreement.

#### 13.2 All Fees Stated

Except as provided in this Section 13 (Pricing) and Exhibit C (Fees & Costs), in any Statement of Work, or as otherwise Approved in advance by Pinellas, there are no other rates or charges applicable to the Services provided under this MSA, except for pre-Approved travel, living, and/or incidental expenses as set forth in Section 13.4 (Travel Procedures and Guidelines).

### 13.3 Taxes

Pinellas shall provide Vertex with appropriate documentation to support Pinellas's exemption from any state or federal sales, use, transportation and certain excise taxes. If any state or federal sales, use, transportation and certain excise taxes are imposed on the Services set forth herein and not covered by Pinellas's exemption, Pinellas shall be responsible for such taxes. Vertex shall be responsible for all other taxes existing as of the date of this Agreement, and the compensation of their respective employees and agents, including any expatriate benefits, reimbursement of expenses, and the payment of all payroll taxes. The parties agree to evaluate any newly imposed taxes upon their creation and to determine which party shall be responsible for such taxes. Vertex Personnel shall be responsible for all individual income taxes, including, any taxes resulting from such Vertex Personnel performing Services in a nation other than the nation in which such Vertex Personnel is domiciled. The parties agree to cooperate with each other to minimize any applicable sales, use, or similar tax and, in connection therewith, the parties shall provide each other with any relevant tax information as reasonably requested (including, without limitation, resale or exemption certificates, multi-state exemption certificates, information concerning the use of assets, materials and notices of assessments).

### 13.4 Travel Procedures and Guidelines

On specific occasions during the MSA, Pinellas shall reimburse Vertex for its reasonable travel and living-related expenses. Vertex shall submit invoices for reimbursable transportation and living expenses within thirty (30) days of completion of the travel events. Vertex shall list the transportation and living charges as separate items on each invoice for the period covered, which shall be in the same detail and accompanied by the same receipts as are required for Pinellas's on-roll employees generally. All travel and living expenses included on invoices shall be approved by Pinellas prior to submission for payment for compliance with the pre-Approved travel and living expenses. Vertex shall retain all such travel and living records for a period of not less than one (1) calendar year after the expiration of this MSA.

### 14. Invoices and Payments

### 14.1 General

Vertex shall invoice Pinellas monthly, within thirty (30) days following the end of the month, for the Services that have been provided by Vertex pursuant to the terms of this MSA in such month. Vertex shall not invoice Pinellas, and Pinellas shall not be obligated to pay, any charges or other invoiced amounts (including pass through expenses) that are not properly invoiced within six (6) months after the end of the month in which such charges were incurred, unless a request for an extension is approved in writing by the Pinellas Outsourcing Relationship Executive within the six (6) month window. All invoices are due and payable by Pinellas on or before the forty-fifth (45th) day following Pinellas's receipt of a correct invoice. Pinellas agrees that it shall make all commercially reasonable efforts to pay each such invoice within thirty (30) days of Pinellas's receipt of a correct invoice. Any bills not paid when due which are not based on a good faith dispute regarding such payment shall accrue interest at the rate of 12% per annum, in accord with Florida Statute Section 218.70 et. Seq. All invoices under this MSA shall be submitted to the following address:

Pinellas County Utilities
14 South Ft. Harrison Avenue
Clearwater, FL  33756
Attn:

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### 14.2 Invoice Summary

Except as otherwise directed by Pinellas in writing, each invoice submitted by Vertex shall be substantially similar to the invoice attached hereto as Exhibit P (Invoice Sample), and shall include a summary section that includes, at minimum, the following information:

(1) Period of time covered by the invoice;

(2) Total invoice amount for Pinellas and Pinellas department according to Service type;

(3) Calculations utilized to establish the Fees;

(4) Identification of all pass-through expenses for the month to which the invoice corresponds as well as providing Pinellas with a copy of the third-party invoice except for consumables and postage;

(5) Comprehensive activity summary, including a sufficiently-detailed breakdown that enables Pinellas to Approve the Fees;

(6) Identification of the amounts of any taxes the Vertex is collecting from Pinellas; and

(7) Such other details and billing information as is necessary to satisfy Pinellas's internal accounting or as specified by Pinellas to meet its Sarbanes-Oxley requirements, including as necessary to allow Pinellas to accurately allocate Fees by legal entity, business unit, department, Pinellas Site, Statement of Work, and/or any client.

### 14.3 Billing Adjustments

Vertex shall provide Pinellas's Outsourcing Relationship Executive with a monthly summary of credit and debit billing adjustments. The summary shall include, but not be limited to, the number and types of adjustments identified, the number of adjustments resolved, and the number and types of adjustments that are outstanding. Vertex shall insure that all billing debits and credits, including associated taxes, are distributed on the billing reports and the invoice and are shown at the proper hierarchy level. These will include performance credits and incentives identified in Exhibit D.

### 14.4 Billing Disputes and Reports

The County may dispute any payments invoiced by Vertex in accordance with the County's Invoice Payments Dispute Resolution Process established in accordance with Section 218.76, Florida Statutes, and any such disputes shall be resolved in accordance with the County's Dispute Resolution Process.

### 15. Limitations of Liability and Damages

### 15.1 Damage Recovery Exclusion and Limitation

A.      NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING LOST PROFITS, REGARDLESS OF THE FORM OF THE ACTION OR THE THEORY OF RECOVERY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

B.      EACH PARTY'S TOTAL LIABILITY TO THE OTHER, WHETHER IN CONTRACT OR IN TORT (INCLUDING BREACH OF WARRANTY, NEGLIGENCE AND STRICT

LIABILITY IN TORT) WILL BE LIMITED TO THE TOTAL FEES PAID TO SUPPLIER BY THE CLIENT PURSUANT TO THE AGREEMENT OVER THE PREVIOUS TWELVE MONTHS. TO CALCULATE, THE PARTIES SHALL USE THE AVERAGE MONTHLY FEE IN EFFECT FOR THE PERIOD BETWEEN THE REFERENCE DATE AND MONTH DURING WHICH THE EVENT THAT GAVE RISE TO THE CLAIM OCCURRED, NOT INCLUDING IMPLEMENTATION FEES, MULTIPLIED BY TWELVE (12).

### 15.2 Exclusions

The limitations of liability and exclusions of certain damages set forth in Section 15 (Limitations of Liability and Damages) above shall not apply to claims or liability arising from:

A.      Either party's indemnity obligations under this MSA and the obligations of each party under Section 12.5 (Proprietary Rights);

B.      A material breach by Pinellas or Vertex of the non-disclosure and confidentiality obligations set forth in Section 25 (Confidentiality);

C.      Any infringement or misappropriation by Pinellas of the Vertex Intellectual Property or Vertex Third Party Intellectual Property;

D.      Any infringement or misappropriation by Vertex of Pinellas Intellectual Property;

E.      Fraud, willful misconduct or gross negligence of a party; or

F.      Any insurance coverage as set forth in Section 24.1 below and Exhibit K.

IN ADDITION TO THE PROVISION OF SECTION 38 (FORCE MAJEURE), NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY DAMAGES TO THE EXTENT SUCH DAMAGES RESULT FROM THE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE OTHER PARTY, INCLUDING BUT NOT LIMITED TO, INSTRUCTING THE OTHER PARTY TO ADHERE TO POLICIES AND PROCEDURES THAT NECESSARILY RESULT IN CLAIMS, LOSSES, LIABILITY OR PROCEDURES RECOMMENDED OR ESTABLISHED BY THE OTHER PARTY FOR COMPLIANCE WITH ANY FEDERAL, STATE OR LOCAL LAWS, RULES, REGULATIONS, JUDICIAL ORDERS; PROVIDED, HOWEVER, THAT EACH PARTY SHALL PROMPTLY NOTIFY THE OTHER PARTY IF IT BECOMES AWARE OF ANY SUCH NON-COMPLIANCE.

Each Party will have a duty to mitigate damages for which the other Party is responsible.

### 16.      Vertex's Representations, Warranties, and Covenants

### 16.1      Product(s) & Services Warranty

Vertex represents, warrants and agrees that during the Term of this MSA, Vertex will provide the Services in a prompt, diligent and workmanlike manner, in accordance with the best practice standards used in well-managed operations performing services similar to the Services. Vertex further represents, warrants and agrees that Vertex will provide the Services in accordance with the Service Levels. Additionally, the Vertex warrants and agrees that if the Pinellas notifies the Vertex that specified Services and/or work products provided hereunder were provided in material error or contain material errors, the Vertex shall re-perform such specified Services and/or reproduce such specified work products and/or take necessary corrective action(s) where such specified Services, work products or material errors are reasonably subject to being re-performed, reproduced or corrected at Vertex's sole expense until the Pinellas reasonably determines that the errors have been corrected.

### 16.2 Litigation Warranty

Vertex represents, warrants and agrees that as of the Effective Date there is no existing or threatened claim, litigation, proceeding, arbitration, investigation or material controversy that would have a material adverse effect upon: (i) its ability to enter into, or perform its obligations under, this MSA; or (ii) its financial condition or operations.

### 16.3 Services Not to be Withheld

Vertex represents, warrants and agrees that during the Term of this MSA it will not withhold support for Services provided hereunder, for any reason except for nonpayment of services for more than four (4) months, including, a dispute between the parties arising under this MSA, except as may be specifically authorized herein.

### 16.4 Assignment of Warranties

Vertex represents, warrants and agrees that it shall assign and deliver, and agrees to assign and deliver, to Pinellas all representations and warranties received by Vertex from Third Party Vendors, to the extent such warranties are assignable and relate to the Services, including rights to recovery. Vertex shall, upon Pinellas' request and at Pinellas's cost, enforce such warranties that are not assignable, and track and notify Pinellas of each warranty, and deliver to Pinellas, subject to the terms of Section 25 (Confidentiality) and to any contractual restrictions preventing Vertex from disclosing such information, any documentation issued by a warrantor evidencing such warranty.

### 16.5 Viruses

Vertex represents, warrants and agrees that it shall use commercially reasonable efforts to ensure that no forms of harmful or surreptitious code, including, malware, trojan horses, system monitors/keyloggers, dialers, adware, and adware cookies (collectively, "Virus(es)") are introduced into the Vertex Systems or into any Pinellas software or other technology through the Vertex Systems. If a Virus is found to have been introduced into any Vertex System or into any Pinellas software or other technology via the Vertex Systems, Vertex shall promptly notify Pinellas in writing and, at no additional charge to Pinellas, shall assist Pinellas in reducing the effects of, and mitigating the losses and restoring any Deficiencies resulting from, the Virus. If a Virus is found to have been introduced into any Vertex System by means of the Pinellas Intellectual Property, Vertex shall promptly notify Pinellas in writing, and at no charge to Vertex, Pinellas shall assist Vertex in reducing the effects of and mitigating the losses and restoring any Deficiencies resulting from the Virus.

### 16.6 Disabling Devices

Vertex represents, warrants and agrees that it shall not cause any unplanned interruption of the operations of, or accessibility to the Vertex Systems through any device, method or means including, the use of any "virus," "lockup," "time bomb," "key lock" device program, or disabling code, for which a purpose is to: (1) cause any unplanned interruption of the operations of (other than devices that are necessary to safeguard the device or the Vertex Systems) the Vertex Systems to Pinellas or any Authorized User, (2) alter, destroy, or inhibit the use of the Vertex Systems, or (3) block access to, or prevent the use/accessibility of, the Vertex Systems by Pinellas or Authorized Users (collectively referred to for purposes of this Section as "Disabling Device(s)"). Vertex agrees that it has not, and will not, place any Disabling Device in the Vertex Systems, nor shall it invoke any Disabling Devices contained on the Vertex Systems at any time (including upon expiration or termination of this MSA for any reason). In the event of a breach of this Section by Vertex, Vertex shall remove the Disabling Device and restore the Vertex Systems at no cost to Pinellas.

### 16.7 Insurance Premiums

Except for premiums and costs that are paid by Pinellas as set forth in Section 24, Vertex represents, warrants and agrees that it will pay all premiums, deductible amounts, and other costs required to maintain all insurance policies in accordance with Section 24 (Insurance and Indemnity) and Exhibit K herein.

### 16.8 Compliance with Laws

Vertex represents, warrants and agrees that it shall comply with all material U.S., national, state, and local laws, rules, directives, and regulations relating to, Vertex's activities under this MSA (collectively "Vertex Regulatory Requirements"). Vertex shall identify, obtain and pay for permits, certificates, approvals, and inspections required under such Vertex Regulatory Requirements. Pinellas shall comply, and shall require its subcontractors to comply, as applicable, with all material U.S., national, state, and local laws, rules, directives, and regulations relating to Pinellas business energy regulations related to the provision of Pinellas products and services to its end users (collectively "Pinellas Regulatory Requirements").

### 16.9 Changes in Law and Regulations

Vertex represents, warrants and agrees that it shall identify the impact of changes in Vertex Regulatory Requirements on its ability to deliver the Services and perform its obligations under the MSA. Vertex shall notify Pinellas of such Vertex Regulatory Requirements within thirty (30) days after enactment of any such Vertex Regulatory Requirements and shall work with Pinellas to identify the impact of such changes on how Pinellas uses the Services or on how Vertex delivers the Services. If Pinellas becomes aware of such Vertex Regulatory Requirements and such requirements have not previously been identified or discussed with Vertex, Pinellas shall notify Vertex. Pinellas and Vertex shall promptly make any resulting modifications to the Services as reasonably necessary as a result of such Vertex Regulatory Requirements through Pinellas's Policies and Procedures. Subject to the foregoing, upon Approval by Pinellas of a change request, Vertex shall implement Pinellas Regulatory Requirements, and shall implement any necessary modfications to the Services, and/or an applicable Statement of Work. Except as provided in this Section, Vertex shall have no obligation to identify regulatory changes.

### 16.10 Inducements

Vertex represents, warrants and agrees that it has not and will not violate foreign and U.S., national, provincial, state, and local laws, rules, directives, and regulations, or any Pinellas policies of which Vertex has been given notice, regarding the offering or receiving of unlawful inducements in connection with the MSA.

### 16.11 Representations and Warranties Throughout MSA

It is understood and agreed by the parties that Vertex's representations and warranties are set forth throughout this MSA and are not confined to this Section 16 (Vertex's Representations, Warranties, and Covenants).

### 17. Pinellas Representations, Warranties, and Covenants

### 17.1 Litigation Warranty

Pinellas represents, warrants and agrees that as of the Effective Date there is no existing, or threatened claim, litigation, proceeding, arbitration, investigation or material controversy that would have a material adverse effect upon: (i) its ability to enter into, or perform its obligations under, this MSA; or (ii) its financial condition or operations.

### 17.2 Viruses

Pinellas represents, warrants and agrees that it shall use commercially reasonable efforts to ensure that no forms of harmful or surreptitious code, including, malware, trojan horses, system monitors/keyloggers, dialers, adware, and adware cookies (collectively, "Virus(es)") are introduced into the Vertex Systems or into any Vertex software or other technology through the Pinellas systems. If a Virus is found by Pinellas to have been introduced into any Vertex System or into any Vertex software or other technology via the Pinellas systems, Pinellas shall promptly notify Vertex in writing, and at no charge to Pinellas, Vertex shall assist Pinellas in reducing the effects of and mitigating the losses and restoring any Deficiencies resulting from the Virus.

### 17.3 Disabling Devices

Pinellas represents, warrants and agrees that it shall not cause any unplanned interruption of the operations of, or accessibility to the Vertex Systems through any device, method or means including, the use of any "virus," "lockup," "time bomb," "key lock" device program, or disabling code, for which a purpose is to: (1) cause any unplanned interruption of the operations of (other than devices that are necessary to safeguard the device or the Vertex Systems) the Vertex Systems to Vertex or any Authorized User, (2) alter, destroy, or inhibit the use of the Vertex Systems, or (3) block access to, or prevent the use/accessibility of, the Vertex Systems by Vertex or Authorized Users (collectively referred to for purposes of this Section as "Disabling Device(s)"). Pinellas agrees that it has not, and will not, place any Disabling Device in the Vertex Systems, at any time (including upon expiration or termination of this MSA for any reason). In the event of a breach of this Section by Pinellas, Pinellas shall remove the Disabling Device and restore the Vertex Systems at no cost to Vertex.

### 17.4 Changes in Law and Regulations

Pinellas represents, warrants and agrees that it shall identify the impact of changes in Pinellas Regulatory Requirements to suppliers that affect Vertex's ability to deliver the Services and perform its obligations under the MSA. Pinellas shall notify Vertex of such Pinellas Regulatory Requirements within thirty (30) days after enactment of any such Pinellas Regulatory Requirements and shall work with Vertex to identify the impact of such changes on how Vertex provides the Services. If Vertex becomes aware of such Pinellas Regulatory Requirements and such requirements have not previously been identified or discussed with Pinellas, Vertex shall notify Pinellas. Vertex and Pinellas shall promptly make any resulting modifications to the Services as reasonably necessary as a result of such Pinellas Regulatory Requirements through the change control process. All costs associated with identification and compliance with the Pinellas Regulatory Requirements shall be borne by Pinellas.

### 17.5 Representations and Warranties Throughout MSA

It is understood and agreed by the parties that Pinellas's representations and warranties are set forth throughout this MSA and are not confined to this Section 17 (Pinellas's Representations, Warranties, and Covenants).

### 18. Warranty Disclaimer

THE WARRANTIES SET FORTH IN THIS AGREEMENT ARE MADE TO, AND FOR THE BENEFIT OF, SUPPLIER AND CLIENT EXCLUSIVELY. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES AND NEITHER PARTY RECEIVES ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

## 19. Remedies

This MSA utilizes a number of "interim remedies" (including service level remedies, dispute resolution processes, payment withholds, credit assessment mechanisms and correction of material errors pursuant to Section 16.1 (Product(s) & Services Warranty)) to assist the parties in effectively addressing performance issues that may arise during the Term. Pinellas deems the various remedies as essential tools to its management of this MSA. Nevertheless, Vertex's effective ongoing performance is the critical behavior such remedies are designed to achieve. Consequently, recognizing that circumstances may arise in which the imposition of the interim remedies as structured may not fairly reflect corrective and other efforts made by Vertex, subject to Section 31 (Waiver), the Pinellas Outsourcing Relationship Executive, may, in such individual's sole discretion waive, in an individual occurrence, Pinellas's right to use, or collect a credit resulting from, such interim remedies. Factors that will be considered by the Pinellas Outsourcing Relationship Executive in assessing whether to waive an interim remedy include: (1) Vertex's proactive involvement in identifying a problem before operational impacts are manifested; (2) the timing, quality, and accuracy of communications from Vertex relating to a problem; (3) the speed with which corrective actions are taken and the problem is fixed; (4) the quality of Vertex's root cause analysis and the likelihood that appropriate steps have been taken to prevent a reoccurrence of the problem; (5) the quality of Vertex's overall performance at the time the remedy right accrues and during the Term; and (6) the impact of other causal factors, including Pinellas's actions or inaction relating to the problem.

## 20. Internal Dispute Resolution

### 20.1 Intent

The parties shall resolve their disputes informally to the maximum extent possible in accordance with the procedures set forth in Exhibit H (Dispute Resolution). The parties shall negotiate all matters of joint concern in good faith, with the intention of resolving issues between them in a mutually satisfactory manner. Only disputes within the scope of this MSA are subject to this Section. However, nothing in this Section shall preclude the parties from exercising their termination rights pursuant to Section 22 (Termination). Each party shall bear its own costs associated with internal dispute resolution (including without limitation, any attorney's fees or costs). The parties agree all statements made in connection with internal dispute resolution efforts shall not be considered admissions or statements against interest by either party.

## 21. Injunctive Relief

Either party may seek immediate injunctive relief if it makes a good faith determination that a breach is such that the damages to the party resulting from the breach will be so immediate, so large, or so severe, and so incapable of adequate redress after the fact, that a temporary restraining order or other immediate injunctive relief is the only adequate remedy. Each party shall bear their own fees and costs.

## 22. Termination

### 22.1 Termination for Cause by Pinellas

A. Pinellas may terminate this MSA, in whole or in part, if Vertex materially breaches any of its duties or obligations under the MSA and Pinellas provides written notice of such breach to Vertex, unless within fifteen (15) days after such written notice from Pinellas of such breach, Vertex proposes a reasonable plan to cure such breach: (i) within thirty (30) days after written notice specifying the alleged breach; or (ii) if such breach is not reasonably capable of being cured within thirty (30) days, within a commercially reasonable time subject to Vertex's continuous, diligent efforts to cure such breach throughout such extended cure period. Any such plan to cure proposed by the Vertex shall be subject to Pinellas's review and approval. Pinellas's approval will not be unreasonably withheld. Pinellas agrees that it shall exercise any termination right pursuant to this Section 22.1(a) within ninety (90) days of the time Pinellas first becomes entitled to terminate this Agreement.

B.     Pinellas may terminate this MSA, in whole or in part with thirty (30) days prior written notice, if Vertex fails to meet the same Service Level set forth in Exhibit D (Services and Service Level Agreements) by more than 10 percentiles below the designated Service Level Target percentage for the applicable Service Level at least four (4) times within any rolling six (6) month period and Pinellas notifies Vertex within thirty (30) days of the occurrence of such fourth failure in the applicable rolling six month period.  Pinellas agrees that it shall exercise any termination right pursuant to this Section 22.1(b) within the ninety (90) days following such fourth applicable failure by Vertex to meet the applicable Service Level.  This right to terminate shall not apply to failures occurring during the Burn-In Period as set forth in Exhibit D (Services and Service Level Agreements), or to any failures resulting from: (i) components for which Pinellas is responsible; (ii) the action or inaction of Pinellas's personnel; (iii) changes made to the environment which are not made in accordance with the change management procedures set forth in Exhibit B (Change Control Procedures); (iv) Pinellas's failure to perform Pinellas's obligations under this MSA to the extent such failure materially affects Vertex's ability to meet the applicable Service Levels; (v) the occurrence of an Extraordinary Event as set forth in Section 30 (Extraordinary Events); or (vi) any act or omission of a third party, excluding any Subcontractor of Vertex, or any other event beyond the control of Vertex.  For example, with regard to the Application Availability Service Level, the Service Level Target is greater than or equal to 99.5%.  Therefore, delivery by Vertex of less than 89.5% Application Availability would be considered an individual Service Level failure for purposes of this Section 22.1(b).

## 22.2     Termination for Cause by Vertex

In the event that Pinellas fails to pay undisputed amounts when due under this MSA, Vertex shall promptly provide Pinellas with written notice specifying the alleged material breach. Pinellas shall have thirty (30) days within which to cure such breach or propose a reasonable plan to cure such breach.  In the event of Pinellas's failure within such thirty (30) day period as the case may be to cure such breach or to propose a reasonable plan for the cure thereof, Vertex may terminate this MSA upon written notice to Pinellas.

## 22.3     Termination for Convenience or Non-Appropriation

Pinellas may deliver notice to Vertex of its intention to terminate this MSA for convenience by giving Vertex notice of the termination at eighteen months prior to the termination date specified in the notice.  The Agreement is not a general obligation of the County. It is understood that neither this Agreement nor any representation by any County employee or officer creates any obligation to appropriate or make monies available for the purpose of the Agreement beyond the fiscal year in which this Agreement is executed. No liability shall be incurred by the County, or any department, beyond the monies budgeted and available for this purpose. If funds are not appropriated by the County for any or all of this Agreement, the County shall not be obligated to pay any sums provided pursuant to this Agreement beyond the portion for which funds are appropriated. The County agrees to promptly notify Contractor in writing of such failure of appropriation, and upon receipt of such notice, this Agreement, and all rights and obligations contained herein, shall terminate without liability or penalty to the County.

## 22.4     Termination for Insolvency

In addition to Pinellas's rights under Section 27 (Bankruptcy and Liquidation), in the event that Vertex becomes or is declared insolvent, becomes subject to a voluntary or involuntary bankruptcy or similar proceeding, or makes an assignment for the benefit of all or substantially of all of its creditors, then in such event Pinellas may terminate this MSA on ten (10) days written notice to Vertex.

## 22.5     Payment of Fees

In the event of any termination under this Section 22 (Termination), Pinellas agrees to pay to Vertex the Fees for Services satisfactorily performed by Vertex under this MSA through the date of actual termination, but shall not pay other Fees or fees related to such termination, unless specifically described in this Section 22 (Termination) or elsewhere in this MSA.  In addition, Pinellas accepts

responsibility for paying any outstanding Software License Fees due to SAP in accordance with the terms of the SAP License and Maintenance Agreement.

### 22.6    Cumulative Remedies

The parties understand and agree that the rights and remedies available to Pinellas at law, in equity and/or under this MSA shall be cumulative and nonexclusive in nature.

### 22.7    Treatment of Credits Upon Termination

Any and all credits that have accrued under this MSA but have not yet been issued to Pinellas as of the termination or expiration of this MSA, shall be paid to Pinellas by Vertex within thirty (30) days of the Vertex's cessation of Services under this MSA.

### 23.    Termination/Expiration Assistance Services

### 23.1    Termination/Expiration Schedule

Vertex understands and agrees that Pinellas's business operations are dependent on the Services, and that Pinellas's inability to receive the Services would result in irreparable damages to Pinellas.  Therefore, upon the expiration of this MSA or its termination by either party for any reason, including the breach of this MSA by the other party, Termination Assistance Services shall be provided as set forth in this Section 23 (Termination/Expiration Assistance Services).  Within fifteen (15) days of either party's receipt of any notice of termination or notice of non-renewal, the parties shall work together in good faith to develop a Termination Schedule that is consistent with the requirements of this Section 23 (Termination/Expiration Assistance Services).  If no Termination Schedule has yet been agreed to at the time of termination, the rights of Pinellas upon any expiration or termination of this MSA shall be as set forth in this Section 23 (Termination/Expiration Assistance Services).  If a Termination Schedule has been agreed to, then the rights of Pinellas upon any expiration or termination of this MSA shall be as set forth in the most recent approved Termination Schedule, and also as set forth in this Section (Termination/Expiration Assistance Services).  In the event of any inconsistency between this Section 23 (Termination/Expiration Assistance Services) and the applicable Termination Schedule, the Termination Schedule shall govern.  If no Termination Schedule has been agreed to by the parties at the time of any termination of this MSA, then Vertex shall provide the professional services staff necessary to provide (1) the Services (as requested by Pinellas) at performance standards and Service Levels in effect at the time of termination or expiration, and (2) the Termination Assistance Services as described below in Section 23.2 (Performance of Services).

### 23.2    Performance of Services

Vertex and Pinellas acknowledge and agree that their mutual cooperation is important to an effective transition of technology services provided by Vertex to Pinellas or its designated provider(s).  As requested by Pinellas, Vertex shall provide Pinellas with all of the Services, including all of the Termination Assistance Services set forth in this Section 23 (Termination/Expiration Assistance Services) and as set forth in the then most recent version of the Termination Schedule.  Vertex shall have no right to withhold or limit any of the Services (including the Termination Assistance Services) on the basis of any alleged breach of this MSA by Pinellas, other than a failure by Pinellas to timely pay the amounts due for Services (including Termination Assistance Services) rendered during the termination transition period (as set forth in Section 23.3 (Termination Assistance Period).  If the MSA has been terminated by Vertex pursuant to Section 22.2 (Termination for Cause by Vertex), 22.3 (Termination for Convenience) or 22.3 (Termination for Non-Appropriation of Funds), Vertex may require Pinellas to place up to two (2) months of Fees into the escrow, to be paid to Vertex upon the completion of Services.  If and when such escrowed Fees are paid to Vertex, Vertex may again request the escrow of up to two (2) months of Fees into the escrow, and such process shall repeat itself (if requested by Vertex) until the Termination Assistance Period is complete.  Pinellas shall have the right to seek specific performance of this Section

23 (Termination/Expiration Assistance Services) in any court of competent jurisdiction and Vertex hereby waives and agrees to waive any defense that damages are an adequate remedy. In addition to the Services as set forth in this MSA, the Termination Assistance Services shall include, at a minimum, (i) converting data; (ii) providing parallel services until transition to a new system, (iii) providing on-site technical support, (iv) cooperating with Pinellas or its designated vendor in developing required interfaces, (v) meeting with Pinellas as soon as practicable after a notice of termination or notice of a decision to not extend this MSA has been given, to discuss any potential modifications to the then most current Termination Schedule; (vi) using all commercially reasonable efforts to assist Pinellas in effecting a transition of the Services, in accordance with industry best practices, to Pinellas or another vendor chosen by Pinellas; (vii) providing the number and types of resources necessary to complete the transition in accordance with the Termination Schedule; and (viii) such other services as shall be necessary or appropriate to facilitate, without interruption to the Services, the orderly transition of Services to Pinellas or its new provider of services in accordance with industry best practices. Vertex acknowledges and agrees that all Pinellas Data shall remain the sole and exclusive property of Pinellas. If Vertex is providing any Services hereunder at the time of such transition utilizing any software license from a Third-Party Vendor, Vertex shall, at the request of Pinellas and expense of Pinellas subject to any Third-Party Vendor license restrictions, transfer such license to Pinellas or sublicense such software to Pinellas. Notwithstanding anything in this MSA to the contrary, Pinellas and Vertex may increase and/or decrease the scope of the Services and Termination Assistance Services during any termination transition period; provided that any increased scope shall be agreed upon by the parties, and such agreement shall not be unreasonably withheld. Vertex shall be compensated for all Services by payment by Pinellas in accordance with the rates set forth in this MSA for Services.

### 23.3 Termination Assistance Period

Unless otherwise directed by Pinellas, commencing: (i) six (6) months prior to the expiration of the MSA; (ii) upon any notice of termination or non-renewal of the MSA; or (iii) six (6) months prior to any other ceasing of Service under the MSA, and continuing for a period defined in the Termination Schedule but in no event less than twelve (12) months following the expiration or termination of this MSA, unless a shorter time period is requested by Pinellas (the "Termination Assistance Period"), Vertex will continue to provide the Services (including the Termination Assistance Services) as requested by Pinellas.

### 24. Insurance and Indemnity

### 24.1 Required Insurance Coverage

Vertex shall obtain and maintain insurance as provided in Exhibit K.,

### 24.2 General Indemnity

#### A. Vertex Indemnification of Pinellas

Vertex agrees to indemnify, pay the cost of defense, including attorney's fees, and hold harmless Pinellas, its officers, employees and agents from all damages, suits, actions or claims, including reasonable attorney's fees incurred by the County, of any character brought on account of any injuries or damages received or sustained by any person, persons, or property, or in any way relating to or arising from the Agreement; or on account of any act or omission, neglect or misconduct of Vertex; or by, or on account of, any claim or amounts recovered under the Workers' Compensation Law or of any other laws, regulations, ordinance, order or decree; or arising from or by reason of any actual or claimed trademark, patent or copyright infringement or litigation based thereon; except to the extent such injury or damage has been determined by a court of competent jurisdiction to have been caused by the negligence of Pinellas.

### B. Indemnification Procedure

A party indemnified by the indemnifying party (an "Indemnitee") under this Section shall promptly notify the indemnifying party of any Claim with respect to which it seeks indemnity under this Section. An indemnifying party may participate, at its own expense, in the defense of such Claim. If it so elects within a reasonable time after receipt of such notice, an indemnifying party may, except as provided in the immediately following sentence and the last sentence of this paragraph, assume the defense of such Claim, with counsel reasonably satisfactory to the Indemnitee to represent the Indemnitee and any others the indemnifying party may designate in such proceeding and shall pay the fees and disbursements of such counsel related to such proceeding. In any such proceeding, any Indemnitee shall have the right to retain its own counsel, but the fees and expense of such counsel shall be at the expense of such Indemnitee unless (i) the indemnifying party and the Indemnitee shall have mutually agreed to the retention of such counsel and the payment of such fees or (ii) the named parties to any such proceeding (including any impleaded parties) include both the indemnifying party and the Indemnitee and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. It is understood that the indemnifying party shall not, in respect of the legal expense of any Indemnitee in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the fees and expenses of more than one separate firm (in addition to any local counsel) for all such Indemnitee and that all such fees and expenses shall be reimbursed as they are incurred. The indemnifying party shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there is a final judgment for the plaintiff, the indemnifying party agrees to indemnify the Indemnitee from and against any Loss by reason of such settlement or judgment. No indemnifying party shall, without the prior written consent of the Indemnitee, effect any settlement of any pending or threatened proceeding in respect of which any Indemnitee is or could have been a party and indemnity could have been sought hereunder by such Indemnitee (i) if such settlement involves any form of relief other than the payment of money or any finding or admission of any violation of any law, regulation or order or any of the rights of any person or has any adverse effect on any other Claims that have been or may be made against the Indemnitee, or (ii) if such settlement involves only the payment of money, unless it includes an unconditional release of such Indemnitee of all liability on claims that are the subject of such proceeding. An Indemnitee may assume control of the defense of any Claim if (i) it irrevocably waives its right to indemnity under this Section, or without prejudice to its full right to indemnity under this Section, (ii) the indemnifying party fails to provide reasonable assurance to the indemnified party of its financial capacity to defend or provide indemnification with respect to such Claim, (iii) the Indemnitee determines in good faith that there is a reasonable likelihood that a Claim would materially and adversely affect it or any other indemnitees other than as a result of monetary damages that would be fully reimbursed by an indemnifying party under this MSA, or (iv) the indemnifying party refuses or fails to timely assume the defense of such Claim. An indemnifying party required to provide an indemnity to an Indemnitee under this Section shall have no obligation for any Claim under this Article if:

(i) the Indemnitee fails to notify the indemnifying party of such Claim as provided above, but only to the extent that the defense of such Claim is prejudiced by such failure;

(ii) the Indemnitee fails to tender control of the defense of such Claim to the indemnifying party as provided in this Section; or

(iii) the Indemnitee fails to provide the indemnifying party with all reasonable cooperation in the defense of such Claim (the cost thereof to be borne by the indemnifying party) but only to the extent that the defense of such Claim is prejudiced by such failure.

### 25. Confidentiality

Without limiting the generality of the following, Vertex understands that Pinellas is a governmental entity and must adhere to Florida Statutes - Chapter 119, the Public Records Law. Pinellas acknowledges and agrees that this Agreement and all Exhibits and other documents created or executed

pursuant thereto, may contain confidential and proprietary information belonging to Vertex, which information is secret, of value to Vertex, used in Vertex's business and which provides a competitive advantage to Vertex.  Accordingly, all such documents will be treated as public according to Florida Statute Section 119, except to the extent such documents are exempt from disclosure, pursuant to Florida Statute Section 815.04(3) or otherwise. Without limiting the generality of the foregoing, in the event a public records request is made relating to any of the documents listed above, Pinellas will follow the notification and other procedures set forth below in Section 25.5 in a timely manner, so as to allow Vertex to obtain a protective order or other applicable protection for its confidential and proprietary information, and will provide reasonable cooperation and assistance to Vertex in obtaining and enforcing such protection.

### 25.1    Definition of Proprietary or Confidential Information

"Proprietary or Confidential Information" shall mean, with respect to a party hereto, all information or material that: (i) gives that party some competitive business advantage, gives that party the opportunity of obtaining some competitive business advantage, or the disclosure of which would be detrimental to the interests of that party; and (ii) is either (a) marked "Confidential," "Restricted," "Proprietary," or with some other, similar, marking, (b) known by the parties to be considered confidential and proprietary. Proprietary or Confidential Information includes, but is not limited to all source and object code, prices, trade secrets, mask works, databases, hardware, software, designs and techniques, programs, engine protocols, models, displays and manuals, and the selection, coordination, and arrangement of the contents of such materials; and (iii) any unpublished information concerning research activities and plans, customers, marketing or sales plans, product development or time to market, sales forecasts or results of marketing efforts, pricing or pricing strategies, costs, operational techniques, strategic plans, Pinellas Data and unpublished financial information, including information concerning revenues, profits and profit margins will be deemed proprietary and confidential to the Disclosing Party, provided that such information was disclosed intentionally and marked as "confidential" or "proprietary," provided, however, that such Proprietary or Confidential Information may also be used as otherwise expressly permitted by license or otherwise in this MSA.

### 25.2    Exclusions

Proprietary or Confidential Information will not include any information or material, or any element thereof, whether or not such information or material is Proprietary or Confidential Information for the purposes of this MSA, to the extent any such information or material, or any element thereof:

A.    has previously become or is generally known, unless it has become generally known through a breach of this MSA or a similar confidentiality or non-disclosure agreement;

B.    was already rightfully known to the party receiving such information (the "Receiving Party") prior to being disclosed by or obtained from the party (or its agents or affiliates) disclosing such information (the "Disclosing Party") as evidenced by written records kept in the ordinary course of business of or by proof of actual use by the Receiving Party;

C.    has been or is hereafter rightfully received by the Receiving Party from a third person (other than the Disclosing Party) without restriction or disclosure and without breach of a duty of confidentiality to the Disclosing Party; or

D.    has been independently developed by the Receiving Party without access to Proprietary or Confidential Information of the Disclosing Party.

It will be presumed that any Proprietary or Confidential Information in a Receiving Party's possession is not within exceptions (b), (c) or (d) above, and the burden will be upon the Receiving Party to prove otherwise by records and documentation.

### 25.3 Non-disclosure and Non-Use

The parties agree, both during the Term of this MSA and for a period of five (5) years after termination of this MSA, to hold each other's Proprietary or Confidential Information in strict confidence, except for Pinellas Data and the trade secrets of either party which shall be held in such confidence in perpetuity. Each party recognizes the importance of the other's Proprietary or Confidential Information. In particular, each party recognizes and agrees that the Proprietary or Confidential Information of the other is critical to their respective businesses and that neither party would enter into this MSA without assurance that such information and the value thereof will be protected as provided in this Section 26 (Confidentiality) and elsewhere in this MSA. Accordingly, each party agrees as follows:

A. The Receiving Party will hold any and all Proprietary or Confidential Information it obtains in strictest confidence and will use and permit use of Proprietary or Confidential Information solely for the purposes of this MSA;

B. The Receiving Party may disclose or provide access to its responsible employees who have a need to know and may make copies of Proprietary or Confidential Information only to the extent reasonably necessary to carry out its obligations hereunder; and

The Receiving Party will notify the Disclosing Party immediately of any unauthorized disclosure or use, and will cooperate with the Disclosing Party to protect all proprietary rights in and ownership of its Proprietary or Confidential Information.

### 25.4 Treatment of Pinellas Data

The Pinellas Data is and shall remain the property of Pinellas and Pinellas shall retain exclusive rights and ownership of the Pinellas Data. Without limiting any other warranty or obligation specified in this MSA, and in particular the confidentiality provisions this Section 25 (Confidentiality), during the Term and thereafter in perpetuity, Vertex will not gather, store, log, archive, use or otherwise retain any Pinellas Data in any manner and will not disclose, distribute, sell, share, rent or otherwise transfer any Pinellas Data to any third party, except as expressly provided in this MSA or as Vertex may be expressly directed in advance in writing by Pinellas. Vertex represents, covenants, and warrants that Vertex will use Pinellas Data only in compliance with (i) this MSA, (ii) Vertex's then current privacy policies, and (iii) all applicable laws.

### 25.5 Compelled Disclosures

To the extent required by applicable law or by lawful order or requirement of a court or governmental authority having competent jurisdiction over the Receiving Party, the Receiving Party may disclose Proprietary or Confidential Information, including Pinellas Data, in accordance with such law or order or requirement, subject to the following conditions: As soon as possible after becoming aware of such law, order or requirement and prior to disclosing Proprietary or Confidential Information, including Pinellas Data, pursuant thereto, the Receiving Party will so notify the Disclosing Party in writing and, if possible, the Receiving Party will provide the Disclosing Party notice not less than five (5) Business Days prior to the required disclosure. The Receiving Party will use reasonable efforts not to release Proprietary or Confidential Information, including Pinellas Data, pending the outcome of any measures taken by the Disclosing Party to contest, otherwise oppose or seek to limit such disclosure by the Receiving Party and any subsequent disclosure or use of Proprietary or Confidential Information, including Pinellas Data, that may result from such disclosure. The Receiving Party will cooperate with and provide assistance to the Disclosing Party regarding such measures. Notwithstanding any such compelled disclosure by the Receiving Party, such compelled disclosure will not otherwise affect the Receiving Party's obligations hereunder with respect to Proprietary or Confidential Information, including Pinellas Data, so disclosed.

Public Records. Vertex acknowledges that information and data it manages as part of the services may be public records in accordance with Chapter 119, Florida Statutes

and Pinellas County public records policies. Vertex agrees that prior to providing services it will implement policies and procedures to maintain, produce, secure, and retain public records in accordance with applicable laws, regulations, and County policies, including but not limited to the Section 119.0701, Florida Statutes. Notwithstanding any other provision of this Agreement relating to compensation, the Vertex agrees to charge the County, and/or any third parties requesting public records only such fees allowed by Section 119.07, Florida Statutes, and County policy for locating and producing public records during the term of this Agreement.

**If Vertex has questions regarding the application of Chapter 119, Florida Statutes, to Vertex's duty to provide public records relating to this contract, contact the Pinellas County Board of County Commissioners, Purchasing Department, Operations Manager custodian of public records at 727-464-3311, purchase@pinellascounty.org Pinellas County Government, Purchasing Department, Operations Manager, 400 S. Ft. Harrison Ave, 6th Floor, Clearwater, FL 33756.**

### 25.6    Return of Proprietary or Confidential Information

On either party's written request or upon expiration or termination of this MSA for any reason, the other Party will promptly and in accordance with Pinellas applicable record retention laws:

A.    return or destroy, at the requesting party's option, all originals and copies of all documents and materials it has received containing the other party's Proprietary or Confidential Information, including Pinellas Data if Pinellas is the requesting Party; and

B.    deliver or destroy, at Pinellas's option, all originals and copies of all summaries, records, descriptions, modifications, negatives, drawings, adoptions and other documents or materials, whether in writing or in machine-readable form, prepared by Vertex, prepared under its direction, or at its request from the documents and materials referred to in subparagraph (a), and provide a notarized written statement to Pinellas certifying that all documents and materials referred to in subparagraphs (a) and (b) have been delivered to Pinellas or destroyed, as requested by Pinellas.

The foregoing obligations of Pinellas shall not apply to any Intellectual Property owned by Pinellas or licensed by Pinellas (for the duration of the license).

### 25.7    Nonexclusive Equitable Remedy

Each party acknowledges and agrees that due to the unique nature of Proprietary or Confidential Information of each party, including the Pinellas Data, there can be no adequate remedy at law for any breach of its obligations hereunder, that any such breach or threatened breach may result in irreparable harm to such party, and therefore, that upon any such breach or any threat thereof, each party will be entitled to appropriate equitable and injunctive relief from a court of competent jurisdiction without the necessity of proving actual loss, in addition to whatever remedies either of them might have at law or equity.  Any breach of this Section 26 (Confidentiality) in which material Proprietary or Confidential Information is disclosed will constitute a material breach of this MSA and be grounds for immediate termination of this MSA in the exclusive discretion of the non-breaching party.

### 26.    Audit, Inspection, and Examination of Records

#### 26.1    Maintenance of Books and Records

Vertex shall maintain accurate and complete financial records of its activities and operations relating to this MSA.  Vertex shall also maintain accurate and complete corporate documents, contractual agreements, employment agreements, and all other documents, agreements, and records relating to this MSA.

#### 26.2    Audits Authorized by Pinellas

Vertex agrees that upon reasonable advance notice Pinellas, or individuals or entities authorized by Pinellas shall, no more than once annually, have access to any Vertex Service Locations and Vertex's Subcontractors' locations, and any of Vertex's or Vertex's Subcontractor's agents, employees or representatives, and the right to examine and audit such Vertex Service Locations and Vertex's Subcontractors' locations, and to examine, audit, excerpt, copy or transcribe any and all pertinent documents, records, agreements, transaction, activity, or records relating to this MSA for any reasonable business purpose, including: (a) the accuracy of Fees and invoices; (b) audits and examinations by Pinellas's regulatory authorities; (c) validating performance as required by this MSA; (d) the conduct of Vertex operations and procedures; (e) compliance with Section 16.8 (Compliance with Laws); (f) compliance with the Sarbanes-Oxley Corporate Reform Act; (g) the efficiency and costs of Vertex in performing the Services; (h) the functionality of the Vertex Systems; and (i) security.  Vertex shall provide to such auditors and agents any assistance they may reasonably require in connection with such audits and inspections.  All such material, including, all documents, agreements, financial records, time cards and other employment records shall be kept and maintained by Vertex and Vertex's contractors and shall be made available to Pinellas during the Term and for a period of five (5) years thereafter unless Pinellas's written permission is given to dispose of any such material prior to such time.  Such audit shall only take place annually at Pinellas request.

#### 26.3    Audit Settlements

Vertex and Pinellas shall promptly meet to review the audit report, and shall mutually agree upon an appropriate and effective manner in which to respond to any identified deficiencies, and to discuss commercially reasonable methods to implement changes agreed upon between the parties. If, at any time during or after the Term, representatives of Pinellas conduct an audit of Vertex regarding the work performed under this MSA, and if such audit finds that Pinellas's dollar liability for any such work is at least ten (10%) percent less than payments made by Pinellas to Vertex for the work that is the subject of the audit, then the difference, together with Pinellas's reasonable costs of audit and interest at the rate of one percent (1%) per month (calculated from the date of receipt by Vertex of the overcharged amount until the date of payment to Pinellas), shall be deducted from any amounts due to Vertex from Pinellas, whether under this MSA.

#### 26.4    SSAE 18 SOC 1 Type II Audit

If Pinellas requires or requests, Vertex shall, at Pinellas's sole cost and expense, engage a nationally recognized independent third-party auditor to conduct a SSAE 18 SOC 1 Type II audit according to the standards established by the AICPA.  The SSAE SOC 1 Type II audit will cover the Services provided to Pinellas by Vertex for the period September 1 of the previous year through August 31 of the current year.  Vertex shall provide Pinellas with a written copy of the SSAE Type II audit opinion within a reasonable time after completion of audit.  Vertex will provide an update on any changes in the control environment from the end of the SSAE 18 SOC 1 Type II audit period through the end of each calendar year, on or before January 31st of the following year.

## 27. Bankruptcy and Liquidation

Vertex and Pinellas acknowledge and agree that in the event of either party's bankruptcy:

A. any and all property belonging to the non-bankrupt entity of any nature whatsoever, including intellectual property, data and Proprietary or Confidential Information, in the bankrupt party's possession or under control shall not constitute part of the bankrupt party's estate in bankruptcy under Section 541 of the Bankruptcy Code; and

B. in addition to any other rights and remedies of the non-bankrupt entity as stated herein, to the maximum extent permitted by law, the non-bankrupt entity will have the immediate right to retain and take possession for safekeeping any and all property belonging to the non-bankrupt entity of any nature whatsoever, including intellectual property, data and Proprietary or Confidential Information, in the bankrupt party's possession or under the bankrupt party's control until such time as the trustee or receiver in bankruptcy can provide the non-bankrupt entity with adequate assurances and evidence to the non-bankrupt entity that all of the non-bankrupt entity's property will be protected from sale, release, inspection, publication or inclusion in any publicly accessible record, document, material or filing. Vertex and Pinellas agree that without this material provision, Pinellas would not have entered into this MSA.

## 28. Assignment and Merger

Neither party may assign this MSA without the prior written consent of the other, except that either party may assign its rights and delegate its obligations under the MSA, in whole or in part without the approval of the other party (i) to an entity which acquires all or substantially all of the assets of the assigning party; or (ii) to any subsidiary or Affiliate; or (iii) to any successor in a divestiture, merger, or acquisition involving the assigning party. Any assignment as permitted herein must: (1) be in writing; and (2) contain a written acknowledgement of the assignee that it is accepting all obligations of the assignor under this MSA and agrees to be bound by and discharge each of the MSA's terms, conditions, and obligations as if it were the original party hereto.

## 29. Extraordinary Events

### 29.1 Defined

As used in this MSA, an "Extraordinary Event" shall mean a circumstance in which an event or discrete set of events has occurred or is planned with respect to the business of Pinellas that results or will result in a change in the scope, nature or volume of the Services that Pinellas will require from Vertex, and which is expected to increase or decrease Pinellas' utilization of the Services by (10%) or more, and such changes persist or are expected to continue for three (3) or more months.

Examples of the kinds of events that might cause such substantial increases or decreases include:

A. changes in products of, or in markets served by, Pinellas;

B. mergers, acquisitions or divestitures by Pinellas;

C. changes in the method of service delivery;

D. changes in market priorities or market conditions; or

E.      changes in the number of business units being serviced by Vertex that were not anticipated as of the Effective Date.

### 29.2    Extraordinary Event Pricing

If an Extraordinary Event occurs, Vertex and Pinellas shall determine the efficiencies, economies, additional costs and savings resulting from such Extraordinary Event and Vertex shall implement such efficiencies, economies, additional costs or savings in accordance with a mutually agreed to Statement of Work.  Fee adjustments shall be based on Vertex's costs (including appropriate indirect and overhead costs) and related profit, and shall be phased in accordance with the Statement of Work as required to pass through to Pinellas the full benefit of the efficiencies, economies, and savings or additional costs as appropriate.

### 30.    Amendment of MSA

No alteration, amendment, or modification of the terms of this MSA shall be valid or effective unless in writing and signed by Vertex and Pinellas.

### 31.    Waiver

All waivers under this MSA shall be in writing in order to be effective.  No waiver by a party of any breach of this MSA or waiver of any warranty, representation, or other provision hereunder shall be deemed to be a waiver of any other breach, warranty, representation, or provision (whether preceding or succeeding, and whether or not of the same or similar nature), and no acceptance of performance by a party after any breach by the other party shall be deemed to be a waiver of any breach of this MSA or of any representation, warranty, or other provision, whether or not the party accepting performance knows of such breach at the time of acceptance.  No failure or delay by a party to exercise any right it may have by reason of the default of the other party shall operate as a waiver of default or modification of this MSA or shall prevent the exercise of any right of the non-defaulting party under this MSA.

### 32.    Independent Contractor

Vertex acknowledges that it is at all times acting as an independent contractor under this MSA and except as specifically provided herein, not as an agent, employee, or partner of Pinellas.  Vertex agrees to be solely responsible for all matters relating to compensation of its employees, including, compliance with local, state, federal, and foreign laws governing Vertex Personnel, including, the European Union Acquired Rights Directive and associated national implementing legislation, workers' compensation, Social Security, withholding and payment of any and all federal, state and local personal income taxes, disability insurance, unemployment, and any other taxes for such persons, including any related employer assessment or contributions required by law, and all other regulations governing such matters, and the payment of all salary, vacation and other employee benefits.  At Vertex's expense as described herein, Vertex agrees to defend, indemnify, and hold harmless Pinellas, its officers, agents, employees, members, subsidiaries, joint venture partners, and predecessors and successors in interest from and against any claim, action, proceeding, liability, loss, damage, cost, or expense, including, attorneys' fees as provided herein arising out of Vertex's alleged failure to pay, when due, all such taxes and obligations (collectively referred to for purposes of this Section as "Employment Claim(s)").  Vertex shall pay to Pinellas any and all Vertex expenses or charges relating to or arising from any such Employment Claim(s) as they are incurred by Pinellas.

### 33.    Subcontractors

### 33.1    Request for Approval

Pinellas hereby acknowledges and approves AT&T, Kubra Data Transfer Ltd. and Fujitsu America, Inc. as approved subcontractors of Vertex to provide services under this MSA, If Vertex

desires to subcontract any other material portion of its performance, obligations, or responsibilities under this MSA, Vertex shall notify Pinellas prior to entering into the particular subcontract. Vertex's request to Pinellas shall include:

(a)     The reason(s) for the particular subcontract;

(b)     A detailed description of the work to be performed by the proposed Subcontractor;

(c)     Identification of the proposed Subcontractor and an explanation of why and how the proposed Subcontractor was selected; and

(d)     Any other information reasonably requested by Pinellas.

### 33.2    Vertex Obligations Remain Unchanged

Vertex shall remain responsible to Pinellas for any and all performance required under this MSA by Vertex or its approved Subcontractors, including, the obligation to properly supervise, coordinate, and perform all work required under the Services, and no subcontract shall bind or purport to bind Pinellas or excuse Vertex of performance. Vertex shall be solely liable and responsible for any and all payments and other compensation to, and the performance of, all Subcontractors and their officers, employees, agents, and independent contractors. All agreements between Vertex and any Subcontractors shall include provisions at least as favorable to Pinellas as those contained in this MSA.

### 33.3    Subcontractor Personnel/Termination

Vertex shall have the right to subcontract any of its responsibilities under this MSA. Vertex shall remain liable for all actions of Subcontractor, as between Vertex and Pinellas, as if Vertex was performing the Services.

### 34.    Interpretation of MSA

### 34.1    Conflict Between MSA and Exhibits

The Exhibits listed in the "Exhibit Index" on the page following the signature page of this MSA are attached to, incorporated herein by reference, and form a part of this MSA. Subject to the foregoing, in the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any task, subtask, deliverable, goods, service, or other work, or otherwise, between the body of this MSA and the Exhibits, such conflict or inconsistency shall be resolved by giving precedence first to the body of this MSA, then to the Exhibits attached hereto, then to Approved Statements of Work, then to Approved Change Orders.

### 34.2    Choice of Law, Venue and Jurisdiction

This MSA and performance under it shall be governed by and construed in accordance with the laws of the State of Florida, without the application of its conflict of laws provisions. The parties agree that all actions or proceedings arising in connection with this MSA shall be tried and litigated exclusively in the state or federal (if permitted by law and a party elects to file an action in federal court) courts located in or for Pinellas County, Florida. This choice of venue is intended by the parties to be mandatory and not permissive in nature, and to preclude the possibility of litigation between the parties with respect to, or arising out of, this MSA in any jurisdiction other than that specified in this Section. Each party waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding brought in accordance with this Section. Notwithstanding the foregoing, if any action or proceeding outside of the state or federal courts in Florida is necessary to

collect or enforce any order, injunction, award or judgment of the courts set forth above, there shall be no contractual restriction on the jurisdiction or venue for such action or proceeding.

### 34.3 MSA Drafted by All Parties

This MSA is the result of arm's length negotiations between the parties and shall be construed to have been drafted by all parties.

### 34.4 Terminology

All personal pronouns used herein, whether used in the feminine, masculine, or neuter gender, shall include all other genders, and the singular shall include the plural and vice versa. Unless otherwise expressly stated, the words "herein," "hereof," and "hereunder" and other words of similar import refer to this MSA as a whole and not to any particular Section, Subsection or other subpart. The words "include" and "including" shall not be construed as terms of limitation.

### 34.5 Section Headings

The Section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this MSA.

### 34.6 Counterparts

This MSA may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties as of the Effective Date at such time as all the signatories hereto have signed a counterpart of this MSA.

### 35. Notices

Any notices required or permitted to be given hereunder by either party to the other shall be given in writing: (1) by personal delivery; (2) (2) by bonded courier or by a nationally recognized overnight delivery Pinellas; or (3) by United States first class registered or certified mail, postage prepaid, return receipt requested, in each case, addressed to the parties as follows (or to such other addresses as the parties may request in writing by notice given pursuant to this Section):

TO: Pinellas

Director – Customer Service
14 South Ft. Harrison Ave.
Clearwater, FL 33756

And

TO: Vertex

Vertex Data Utility Service LLC
501 W. President George Bush Highway
Suite 350
Richardson, Texas 75080
Attn: General Counsel

Notices shall be deemed received on the earliest of personal delivery, twenty-four (24) hours following deposit with a bonded courier or overnight delivery, or seventy-two (72) hours following deposit in the U.S. Mail as required herein.

### 36. Entire Agreement

This MSA contains the entire agreement between Vertex and Pinellas with respect to the subject matter of this MSA, and with the exception of the Original Agreement which shall survive until Go-Live of this MSA, it supersedes all other prior and contemporary agreements, understandings, and commitments between Vertex and Pinellas with respect to the subject matter of this MSA.

### 37. Severability

If any provision of this MSA is found to be invalid or unenforceable by any court, such provision shall be ineffective only to the extent that it is in contravention of applicable laws without invalidating the remaining provisions hereof.

### 38. Force Majeure

Neither party shall be liable for any delay or failure to perform (i) if and to the extent such delay or failure arises from an act of God or of the public enemy, act of civil disobedience, epidemic, war, or insurrection; and (ii) provided the non-performing party is without fault and the delay or failure could not have been prevented by reasonable precautions. In such event, the non-performing party is excused from further performance for as long as such circumstances prevail and the party continues to use its best efforts to recommence performance and mitigate the impact of its non-performance. Any party so delayed shall promptly notify the other party and describe the circumstances causing the delay. If an event substantially prevents or delays performance of the Services necessary for the performance of critical Pinellas functions for more than seventy-two (72) hours, Pinellas, at its sole discretion, may procure Services from an alternate source, and Vertex shall be liable for payment for such Services. The existence of a force majeure event shall not relieve Vertex of its obligation to use its commercially reasonable efforts to execute the Business Continuity and Disaster Recovery Plan for Pinellas, except to the extent that execution of the Business Continuity and Disaster Recovery Plan is itself prevented by the force majeure event.

### 39. Liens

Vertex agrees to keep Pinellas, all of the real and personal property of Pinellas, and the services free and clear of all liens or lien claims. Should any lien or lien claim be asserted for any reason, Pinellas may, at its sole discretion (i) pay the amount of such lien or lien claim; (ii) deduct such amounts from payments due to Vertex; and/or (iii) require Vertex to obtain a properly executed release of lien satisfactory to Pinellas.

### 40. Promotions

#### 40.1 Promotions Referring to the Parties

Each party agrees that the other party shall be entitled to review and approve any and all promotional materials prepared by one party that contain a reference to the other party as contemplated herein before publication or distribution of same. No public disclosures by either party relating to this MSA, except for internal announcements or disclosures required to meet legal or regulatory requirements, shall be made without the prior written approval of authorized representatives of the other party.

IN WITNESS WHEREOF, the parties have executed this MSA to become effective as of the Effective Date.

**PINELLAS COUNTY, FLORIDA**

By: _____

Title: _____

Date: _____

**VERTEX DATA UTILITY SERVICES LLC**

By: _____

Title: CFO

Date: 5/23/19

APPROVED AS TO FORM

By: _____

Office of the County Attorney

# Exhibit A
# Definitions

The following terms, when used in this MSA, shall have the following meanings:

**1.1** **"Administrative Policies and Procedures"** shall mean those Policies and Procedures designated as Administrative Policies and Procedures on Exhibit E (Pinellas Policies and Procedures).

**1.2** **"Affiliate"** as to Vertex or Pinellas, shall mean any corporation, partnership, limited liability company, or other domestic or foreign entity (a) of which a controlling interest is owned directly or indirectly by a party, or (b) controlled by, or under common control with, a party. Notwithstanding the foregoing, "Affiliate" shall not include any portfolio companies of investment funds advised or managed by Oak Hill Capital ("Oak Hill") or limited partners in Oak Hill Capital's or Oak Hill's affiliates' investment funds.

**1.3** **"AICPA"** shall mean the American Institute of Certified Public Accountants.

**1.4** **"Approve" or "Approval"** shall mean the written authorization of the applicable Pinellas Approval Representative.

**1.5** **"Authorized User(s)"** shall mean any individual or entity authorized by Pinellas to receive or use the Services under this MSA, whether on-site or accessing remotely.

**1.6** **"Billable Account"** shall mean contract accounts in the SAP Software at the end of each calendar month that are not flagged for archiving or deletion.

**1.7** **"Billable Account Base"** shall mean the aggregate number of Billable Accounts.

**1.8** **Business Day(s)"** shall mean Pinellas's designated business days for Pinellas or the Pinellas Affiliate for which the Services are being provided.

**1.9** **"Business Continuity and Disaster Recovery Plan"** shall have the meaning set forth in Section 7 (Business Continuity and Disaster Recovery).

**1.10** **"Business Process Support Fee"** shall be those Charges designated as Business Process Support Fees in Exhibit C (Fees & Costs).

**1.11** **"Change"** shall mean any change to the Services described in Exhibit D (Services and Service Level Agreements), and Exhibit F (Implementation Services), other than the addition of New Services.

**1.12** **"Change Control Procedures"** shall mean the process and procedures to be followed by Pinellas and Vertex when either party wishes to make a Change, as set forth in Exhibit B (Change Control Procedures).

**1.13** **"Claim"** shall have the meaning set forth in Section 24.7(A) (Vertex Indemnification of Pinellas).

**1.14** **"Contract Year"** shall mean the twelve (12) month period beginning with the Effective Date and each anniversary thereof.

**1.15** **"Custom Intellectual Property"** shall mean Intellectual Property made, conceived, or developed by Vertex after the Reference Date at the request of or on behalf of Pinellas as part of the Services. Custom Intellectual Property does not include any of the following: (i) Vertex Intellectual Property, (ii) Pinellas Intellectual Property, or (iii) Vertex Third Party Intellectual Property.

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**1.16** **"Daily Transactions"** shall mean those transactions that are mutually agreed during implementation as the transactions that are time sensitive and shall be measured to determine service level performance.

**1.17** **"Deficiencies"** shall mean and include defect(s) in design, materials, services, products, Software, Hardware, or workmanship; error(s), omission(s), or deviation(s) from any of the Specifications which result in the Services not performing, or the Services not being performed, in accordance with the provisions of this MSA.

**1.18** **"Derivative Work"** shall mean a work based on one or more pre-existing works, including a condensation, modification, transformation, expansion or adaptation, that, if prepared without authorization of the owner of the copyright of such pre-existing work, may constitute a copyright infringement.

**1.19** **"Disabling Device(s)"** shall have the meaning set forth in Sections 16.6 and 17.3 (Disabling Devices).

**1.20** **"Disclosing Party"** shall have the meaning set forth in Section 25.2 (Exclusions).

**1.21** **"Documentation"** shall mean all policies and procedures relating to Services, training course materials (including knowledge transfer and computer based training programs or modules), technical manuals, logical and physical designs, application overviews, functional diagrams, data models, production job run documents, specifications, reports, or other written materials identified, provided, or developed under this MSA (as to each, whether in hard or soft copy).

**1.12** **"Effective Date"** shall have the meaning as set forth in the preamble to the MSA.

**1.13** **"Executive Steering Committee"** shall have the meaning set forth in Exhibit F (Implementation Services).

**1.22** **"Extended Term"** shall have the meaning set forth in Section 1 herein.

**1.23** **"Extraordinary Event"** shall have the meaning set forth in Section 29.1 (Defined).

**1.24** **"Fee(s)"** shall mean the amounts set forth in Exhibit C (Fees & Costs) or elsewhere as charges for the Services.

**1.25** **"Functional Area Leads"** shall mean those Pinellas employees designated as subject matter experts and will perform or support tasks as set forth in the project plan.

**1.26** **"Go-Live"** shall mean the first date on which full operational Services are initiated for all Pinellas customers by Vertex in a production environment following full performance and completion of

implementation services and after successful completion of the tests and processes described in Exhibit F (Implementation Services).

**1.27** **"Implementation"** shall mean the implementation of VertexOne for Pinellas and the transition of application management and bill print, mail and archival services to Vertex.

**1.28** **"Implementation Services"** shall mean the Services designated as Implementation Services in Exhibit F (Implementation Services).

**1.29** **"Including"** and its derivatives (such as "include" and "includes"), shall mean "including without limitation." This term is as defined, whether or not capitalized in the MSA.

**1.30** **"Indemnitee"** shall have the meaning set forth in Section 24.7(B) (Indemnification Procedure).

**1.31** **"Inflationary Index"** shall have the meaning set forth in Exhibit C (Fees & Costs).

**1.32** **"Infringement Claim"** shall have the meaning set forth in Section 12.5.1 and 12.5.2.

**1.33** **"Initial Term"** shall have the meaning set forth in Section 1 herein.

**1.34** **"Integration Testing"** shall mean the testing of a group of transactions that, when executed in series, enable a business process. These transactions can move across multiple modules within the CIS Solution.

**1.35** **"Intellectual Property"** shall mean all inventions (whether or not subject to protection under patent laws), works of authorship, information fixed in any tangible medium of expression (whether or not subject to protection under copyright laws), Moral Rights, trademarks, trade names, trade dress, trade secrets, publicity rights, know-how, ideas (whether or not subject to protection under trade secret laws), and all other subject matter subject to protection under patent, copyright, Moral Right, trademark, trade secret or other laws, including, all new or useful art, configurations, Documentation, methodologies, best practices,

operations, routines, combinations, discoveries, formulae, manufacturing techniques, technical developments, artwork, Software, programming, applets, scripts, designs, or other business processes.

**1.36** **"Law"** shall mean all federal, state and local laws, statutes and regulations applicable to the Services.

**1.37** **"Losses"** shall have the meaning set forth in Section 24.7(A) (Vertex Indemnification of Pinellas).

**1.38** **"Mandatory Change"** shall have the meaning set forth in Exhibit B (Change Control Procedures).

**1.39** **"Market"** shall mean any geographical region whose boundaries are governed by the area of a specific utility Pinellas's distribution region.

**1.40** **"MSA"** shall mean this Professional Services Agreement, together with the Exhibits, Documentation, future Pinellas-Approved Statements of Work, and all other materials incorporated herein by reference.

**1.41** **"Monthly Performance Reviews"** shall have the meaning set forth in Section 11.2(A) (Monthly Performance Reviews).

**1.42** **"Moral Rights"** shall mean any personal or non-economic right to a work, including rights of attribution, integrity of the work, any right to object to any distribution or other modification of a work, and any similar right existing under the law of any country in the world or under any treaty.

**1.43** **"New Services"** shall mean those services that are materially different in purpose from, and in addition to, the then-current Services as described in the MSA and any subsequent Change Orders. All New Services require Pinellas Approval.

**1.44** **"OSS Notes"** shall mean the service provided by SAP that provides Pinellas access to a previous notes database, news and information, problem reporting, patch downloads, and remote consulting.

**1.45** **"Operational Policies and Procedures"** shall mean those Policies and Procedures designated as Operational Policies and Procedures on Exhibit E (Pinellas Policies and Procedures).

**1.46** **"Operational Services"** shall be those Services designated as Operational Services in Exhibit D (Services and Service Level Agreements).

**1.47** **"Operational Year"** shall mean the twelve (12) month period beginning with the Go-Live and each anniversary thereof.

**1.48** **"Pinellas"** shall mean Pinellas County, Florida, a political subdivision of the State of Florida.

**1.49** **"Pinellas Business Rule"** shall mean a rule as determined by client that sets forth the parameters to be configured within the CIS Solution for automated or programmatic processing.

**1.50** **"Pinellas Core Team"** shall mean those Pinellas employees that will be assigned to key and dedicated roles as part of the implementation project.

**1.51** **"Pinellas Data"** shall mean data, records, and information (1) processed by or input into the Vertex Systems, (2) utilized, accessed, or maintained by Vertex, or (3) which is otherwise provided to Vertex

(including, any modifications to any such data, records and information, any Derivative Works created therefrom, and any sorting routines applied thereto) under this MSA in connection with the Services.

**1.52** **"Pinellas Designee"** shall have the meaning set forth in Section 5 (Pinellas Designee).

**1.53** **"Pinellas Holidays"** shall mean the days when Pinellas's employees are not required to be present at work.

**1.54** **"Pinellas Intellectual Property"** shall mean any Intellectual Property including software provided by Pinellas to Vertex for use in connection with the Services.

**1.55** **"Pinellas Outsourcing Contract Manager"** shall have the meaning specified in Exhibit G (Operational Governance Guidelines).

**1.56** **"Pinellas Outsourcing Relationship Executive"** shall have the meaning specified in Section 11.3 (Pinellas Outsourcing Relationship Executive) and Exhibit G (Operational Governance Guidelines).

**1.57** **"Pinellas Parties"** shall have the meaning set out in Section 12.5.1 herein.

**1.58** **"Pinellas Policies and Procedures"** shall mean the Pinellas Documentation, policies, procedures, and guidelines as set forth in Exhibit E (Pinellas Policies and Procedures), and as such Documentation, policies, procedures, and guidelines are amended, modified, and/or replaced by Pinellas from time to time and made available to Vertex during the Term of this MSA.

**1.59** **"Pinellas's Remedial Acts"** shall have the meaning set forth is Section 12.5.1 herein.

**1.60** **"Pinellas Regulatory Requirements"** shall have the meaning set forth in Section 16.8 (Compliance with Laws).

**1.61** **"Program Manager"** shall mean the employee of Vertex assigned to lead the implementation project and perform those tasks as set forth in Exhibit F (Implementation Services).

**1.62** **"Project Manager"** shall mean the employees of Vertex and Pinellas assigned to lead specific implementation project tasks as set forth in Exhibit F (Implementation Services).

**1.63** **"Project Plan"** shall have the meaning set forth in Exhibit F (Implementation Services).

**1.64** **"Proprietary or Confidential Information"** shall have the meaning set forth in Section 25.1 (Definition of Proprietary or Confidential Information).

**1.65** **"Receiving Party"** shall have the meaning set forth in Section 25.2 (Exclusions).

**1.66** **"SAP Software"** shall mean the software licensed by SAP to Pinellas as set forth in the Exhibit I (SAP Software).

**1.67** **"Service Levels"** shall mean those Vertex performance criteria as set forth in the Service Level set forth in Exhibit D.

**1.68** **"Services"** shall mean all functions, responsibilities, tasks, subtasks, deliverables, goods, products, work product, Software, Hardware, and other deliverables/services: (1) identified in the Statement(s) of Work or Specifications; (2) identified in this MSA; (3) otherwise necessary to comply with the terms of this MSA. Without increasing the scope of the Services, if any component task, subtask, service, or function is an inherent, necessary, or customary part of the Services defined in subparts (1), (2), or (3) of this Section 1.68 (Services), but is not specifically described in this MSA, such service or function shall be deemed to be part of the Services. Any Vertex Systems, Vertex Intellectual Property, Vertex Third

Party Intellectual Property and/or Custom Intellectual Property provided to Pinellas by Vertex pursuant to this MSA shall be deemed part of the Services.

**1.69** **"Software"** shall mean individually each, and collectively all, of the computer programs and/or software, licensed by Pinellas or Vertex from a Third Party Vendor, or otherwise provided by Vertex or Pinellas under this MSA, including any: (1) embedded and/or re-marketed Third Party Vendor software and/or computer programs, (2) interfaces, (3) source code, and/or (4) object code.

**1.70** **"Software License Fee"** shall have the meaning set forth in Exhibit C (Fees & Costs) and the software license fees Pinellas pays to SAP for the SAP Software.

**1.71** **"Specifications"** shall mean (1) the Statements of Work, as attached and as modified and appended, including all documents incorporated therein; (2) all other performance and other requirements and standards included or incorporated by reference into this MSA, including without limitation, the Pinellas Policies and Procedures (Exhibit E) and the Services and Service Level Agreement (Exhibit D); and (3) to the extent it is not inconsistent with the above, the Documentation.

**1.72** **"Statement(s) of Work"** shall mean the statement(s) of work set forth in Exhibit D (Services and Service Level Agreements), as they shall be amended from time to time in accordance with this MSA, and such other statements of work that Pinellas and Vertex may enter into from time to time.

**1.73** **"Subcontractor(s)"** shall mean any person, entity, or organization to which Vertex proposes to delegate or has delegated any of its obligations hereunder in accordance with Section 34 (Subcontractors).

**1.74** **"Systems"** shall have the meaning set forth in Section 9 (Communications Systems and Access to Information).

**1.75** **"Term"** shall have the meaning set forth in Section 1 (Term).

**1.76** **"Termination Assistance Period"** shall have the meaning set forth in Section 23.3 (Termination Assistance Period).

**1.77** **"Termination Assistance Services"** shall mean those transition, information technology, and related services provided by Vertex to Pinellas upon the termination or expiration of this MSA for any reason as set forth in the Termination Schedule or in Section 23 (Termination/Expiration Assistance Services) of this MSA (as applicable). The Termination Assistance Services shall be deemed part of the Services.

**1.78** **"Termination Schedule"** shall mean an integrated plan developed by Pinellas and Vertex to effectuate a seamless transition of the Services, from Vertex to Pinellas (or another vendor) in the event of

termination or expiration of this MSA for any reason and as further set forth in Section 23.1 (Termination/Expiration Schedule).

**1.79** **"Third Party Vendor"** shall mean any person or entity (excluding Pinellas or Vertex) contracting directly or indirectly with Pinellas or Vertex to provide Vertex Systems, Intellectual Property, Services or other products or services that are used or provided under this MSA.

**1.80** **"Transition Period"** shall mean the period of time encompassing implementation and post Go Live implementation support.

**1.81** **"Unapproved Work"** shall have the meaning set forth in Section 3 (Pinellas Approvals/Unapproved Work).

**1.82** **"Unit Testing"** shall mean the testing of a specific transaction including a defined input, action, and output based on a specific data set within the CIS Solution.

**1.83** **"Vertex"** shall mean Vertex Data Utility Services LLC and Subcontractors, employees, consultants, agents, contractors, or other third parties providing services on behalf of Vertex under this MSA.

**1.84** **"Vertex Service Delivery Executive"** shall have the meaning specified in Exhibit G (Operational Governance Guidelines).

**1.85** **"Vertex Intellectual Property"** shall mean Intellectual Property made, conceived, developed or owned by Vertex prior to the Reference Date, or independent and apart from its obligations under this MSA, including without limitation all Vertex user stories, as well as all Derivative Works of such Intellectual Property that may be made, conceived or developed after the Reference Date, that is contained in, comprising, or otherwise necessary or used to provide the Services. Vertex Intellectual Property shall also include any other Intellectual Property that the parties mutually agree in writing constitutes "Vertex Intellectual Property."

**1.86** **"Vertex Parties"** shall have the meaning set forth in Section 12.5.2 herein.

**1.87** **"Vertex Personnel"** shall mean the employees, agents, contractors, subcontractors, or representatives of Vertex, Vertex Subcontractors, and Vertex Affiliates who provide a product or perform any Services under this MSA.

**1.88** **"Vertex Regulatory Requirements"** shall have the meaning set forth in Section 16.8 (Compliance with Laws).

**1.89** **"Vertex's Remedial Acts"** shall have the meaning set out in Section 13.5.2 herein.

**1.90** **"Vertex Systems"** shall mean individually and in the aggregate the (i) hardware, machines and other equipment owned or leased by Vertex; (ii) software licensed to the Pinellas under this MSA or software owned or licensed by Vertex; and (iii) other technology, all as set forth in this MSA or as otherwise necessary

to provide the Services as set forth in this MSA, as well as the Vertex Intellectual Property and Vertex Third Party Intellectual Property.

**1.91** **"Vertex Third Party Intellectual Property"** shall mean Intellectual Property licensed, made, conceived, or developed by a Third-Party Vendor and used by Vertex in performing the Services.

**1.92** **"VertexOne"** shall mean the configuration of the CIS, customer self-service portal, print and mail functions, electronic bill presentment and payment services, in order to deliver the Services set forth in this MSA.

**1.93** **"Virus(es)"** shall have the meaning set forth in Section 16.5 and 17.2 (Viruses).

**1.94** **"Web IC Business Role"** shall mean the Customer Interaction Profile in the SAP application that defines the view and functions accessible to an individual user or group of users of the CIS Solution**.**

**1.95** **Work Product** shall mean the documented output of specific Pinellas-requested or Vertex-initiated changes to Vertex Systems or the CIS Solution.

**EXHIBIT B**

**CHANGE CONTROL PROCEDURES**

The definitions set out in the provisions of the MSA shall apply in this Exhibit B unless the context requires otherwise.

1.      **PURPOSE**

        1.1      In addition to the change management process set forth in Exhibit F, that will be relied upon primarily during the Implementation process, where either Party sees the need for a Change to the MSA, Pinellas may at any time request, and Vertex may, at any time recommend such Change by an amendment to this MSA in accordance with this Exhibit B.

        1.2      A Party shall not unreasonably withhold its agreement or approval of any other Changes, other than the Changes that will cause material technical problems, disruption, damage or inconvenience to the business of either Party where such problems, disruption, damage or inconvenience cannot be easily remedied.  Further, it will constitute a reasonable cause for the purpose of this Paragraph 1.2  for Vertex to reject a request for a Change if the Parties cannot agree to the cost impact of the Change in question.

2.      **CHANGE MANAGEMENT PROCESS**

        2.1      **Pinellas Change Requests**

                2.1.1     Pinellas shall submit a request for Change in writing.

                2.1.2     Where a request for a Change is received from Pinellas, Vertex shall, unless otherwise agreed, submit a proposal to Pinellas as soon as reasonably possible taking the nature and scope of the request into consideration.  Vertex will use reasonable efforts to submit such proposal to Pinellas no later than fifteen (15) Business Days after receipt of Pinellas's request. Vertex will inform Pinellas as soon as possible should this not be possible and provide an alternative time estimate for when a proposal will be submitted.

        2.2      **Vertex Recommendations to Change**

                2.2.1     A recommendation for a Change by Vertex shall be submitted in writing.

                2.2.2     Each proposal (as reply to Pinellas's request) or recommendation for a Change from Vertex to Pinellas shall as a minimum contain:

                        (a)      the title of the Change;

                        (b)      the originator and date of the request or recommendation for the Change;

                        (c)      the reason for the Change;

(d)        full details of the nature of the Change including any specifications;

(e)        a preliminary timetable for implementation of the Change;

(f)        the impact, if any, of the Change on other aspects of the Agreement, including Schedules;

(g)        the date of expiry of validity of the proposal or recommendation for the Change in question;

(h)        provision for signature by Vertex and Pinellas; and

(i)        a schedule of the charges (including any changes to the existing Charges) in respect of such Change together with relevant supporting information and justification for the charges and a breakdown of how the charges are made up.

2.3      **General**

2.3.1    For each proposal or recommendation submitted by Vertex, Pinellas shall approve this in writing by signing the proposal or recommendation.

2.3.2    Vertex shall allocate a unique number to the proposal or recommendation.

2.3.3    Without limiting the generality of Paragraph 0 (Purpose), Pinellas shall evaluate a proposal or recommendation from Vertex and within ten (10) Business Days after receipt of the proposal or recommendation, as appropriate, either:

(a)        request further information or relevant and reasonable changes to the proposal or recommendation;

(b)        approve the proposal or recommendation; or

(c)        notify Vertex of the rejection of the proposal or recommendation; and

2.3.4    If the proposal or recommendation is approved by Pinellas and signed by Vertex, each party shall arrange for a copy of an approved proposal or recommendation to be signed by a duly authorised signatory for and on behalf of Pinellas and Vertex, respectively.

3.      **COSTS**

3.1      Save as set out in Paragraph 3.2 (Costs), any costs incurred in performing the Change Management Process shall be borne by Pinellas at the rates set forth in Exhibit C.

3.2      Any of Vertex's costs incurred in performing the Change Management Process shall be borne by Vertex to the extent the Change is recommended by Vertex and rejected by Pinellas pursuant to this Exhibit B, including Paragraphs 0 and 1.2.

Exhibit C — Fees & Costs

**EXHIBIT C**
**FEES & COSTS**

All Fees and pricing terms set forth in this Exhibit shall become effective as of the Effective Date. Capitalized terms used in this Exhibit but not otherwise defined herein shall have the meanings set forth in the Master Agreement.

**Implementation Services Fees:**

Pinellas agrees to pay Vertex for the Implementation Services Fees, including travel & living, as set forth in the following chart:

| | |
|---|---|
| Payment Due on signing of the Agreement: | $1,030,000 |
| Payment Due on Go Live: | $1,030,000 |
| Payment Due on Final Acceptance: | $1,030,000 |
| Total Payments: | $3,090,000 |

The following are assumptions related to travel and living costs ($30,000) in each of the above payments) included in the numbers above:

- Vertex and the Pinellas will manage on-site and off-site resources and travel to a mutually acceptable schedule as detailed in the resource plan and according to the Vertex methodology.
- Pinellas requested changes in the schedule or additional requested on-site resources may increase the Travel and Living costs and will be handled via a Change Request.
- Substantial weather or travel incidents may impact the resource plan and will be handled via a Change Request.

**Operational Services**

Effective on Go-Live, Vertex will bill Pinellas for Business Process Support Fees according to the schedule below.

| Description | Volume | Business Process Support Fee |
|---|---|---|
| Operational CIS Hosting Services | 115,000 Billable Accounts | $0.9689631 per Billable Account / month |
| Bill Print/Mail Services | 55,000 mailed pieces/month | $0.09365 per mailed piece |

**Professional Services**

| Additional Disc Storage Space | $2.75 per GB per month |
| Refresh Training Environment | $5,250 annually (assumes 2 refreshes per year) |

**Operational Pricing Parameters**

A minimum of 115,000 Billable Accounts will apply. In the event Pinellas' customer base is below 115,000 Billable Accounts at any time during the Term of the Master Agreement, Business Process Support Fees will be calculated by multiplying the applicable fees by 115,000 Billable Accounts.

In the event Vertex contracts for and manages network connectivity between Pinellas facilities and Vertex facilities, applicable fees will be passed through to Pinellas. In the event Pinellas contracts for and manages network connectivity between Pinellas facilities and Vertex facilities, Pinellas will be billed directly by its provider for these services.

Pricing does not include the cost of consumables. Pinellas may elect to procure and provide consumables, which will be stored by Vertex. If consumables are provided by Pinellas, Pinellas shall ensure that consumables adhere to quality guidelines provided by Vertex. If consumables are provided by Vertex, the cost of consumables, passed through to Pinellas will include a 5% administrative charge.

Postage will be billed to Pinellas as a pass-through expense.

Pricing includes printing a single page, simplex statement using $8 \frac{1}{2}$ x 11" bill stock and an average of one (1) insert per month. Additional pages or parameters will be subject to an additional charge as detailed in Appendix A.

Pricing includes an annual bank of 160 development hours to support Pinellas-specific changes and report development requests. All changes will be managed in accordance with Exhibit B, Change Control Procedures.  These hours are expected to be used on an annual basis and no unused hours will roll over to any subsequent year.

Additional required services will be billed at a blended rate of $175.00 per hour (subject to any applicable cost of living adjustments based on percentage change of the publication by the U.S. Department of Labor, Bureau of Labor Statistics named "Consumer Price Index – All Urban Consumers U.S. All items, or failing the publication of such index, that other index as the parties may agree most closely resembles such index).

Pinellas will be billed by Vertex for annual SAP Maintenance and Support fees, in accordance with the terms and conditions set forth in Pinellas's Maintenance & Support Agreement with SAP.

Pinellas will be billed as a pass-through cost for the additional insurance maintained by Vertex in accordance with Exhibit K and Pinellas agrees to pay such pass-through amount. Pinellas will not be responsible for increases in premiums due to claims or losses due to Vertex negligence.  Vertex shall supply Pinellas with a copy of the quote from the insurance carrier, a copy of the invoice from the carrier/broker and evidence of payment.

## Appendix A — Charges for Additional Print/Mail Services

**The table below describes committed pricing by Vertex for additional work activities related to the Bill Print/Mail Process:**

| Bill Print/Mail Work Activity | Price |
|---|---|
| Additional Page | $0.03872/Additional Page |
| Additional Insert | $0.01289/Additional Insert |

**Exhibit D**

**Services & Service Level Agreements**

1. **Hosted Services -  Solution Overview:**

    1.1     The definitions set out in the provisions of the MSA shall apply in this Exhibit D unless the context requires otherwise.

    1.2     The Hosted Services provided by Vertex to Pinellas will consist of the following configured Software components and services, as more particularly described in this Schedule and the MSA:

    - o   Hosted Service as set forth of this Exhibit D
    - o   Configuration of the Software as required
    - o   Hosting of the Software
    - o   Application Management services
    - o   Disaster recovery services
    - o   Print and mail services

    1.3     The Services defined in this Exhibit, shall become effective as of Go-Live.

2. **Hosted Services – Description ("Hosted Services")**

    2.1     The Hosted Services are provided using a software delivery method that provides access to software and its functions remotely as a Web-based service.  In order for Vertex to provide the Hosted Services in compliance with the Service Levels, Vertex will provide the following services:

| # | Function | Pinellas | Vertex |
|---|----------|----------|--------|
| | **Hosted Services -  IT Infrastructure Management** | | |
| 1 | Maintain and administer hardware/server infrastructure, troubleshoot and support hardware/server infrastructure, manage utilization and capacity of hardware/servers according to reasonable standards following the Change Management Process | | X |
| 2 | Maintain and administer server Operating System (OS) configuration, maintain level of Operating System components (e.g. patches, service packs, upgrades) according to reasonable standards following the Change Management Process, troubleshoot and support server OS | | X |
| 3 | Maintain and administer software/application configuration, maintain level of software/application with current, new, and updated components (e.g. patches, service packs, upgrades) according to | | X |

| # | Function | Pinellas | Vertex |
|---|----------|----------|--------|
| | reasonable standards following the Change Management Process, troubleshoot and support software/application | | |
| 5 | Monitor, manage, and report on the performance of the environment. | | X |
| | **Backup Recovery and Management** | | |
| 7 | Schedule, perform and monitor backups at defined intervals | | X |
| 8 | Perform data restore / data recovery, as required. | | X |
| 9 | Manage and support the backup hardware library platforms | | X |
| 10 | Maintain and support backup subsystem software components on servers (e.g. patches and software upgrades) | | X |
| 11 | Coordinate off-site storage functions (authorization lists, audits, etc.) | | X |
| 12 | Collect metrics, produce reports on backup timeliness, success rate, missed files, restore requests, and restore timing, etc. | | X |
| | **Performance and Capacity Management** | | |
| 13 | Maintain capacity plan based on requirements (e.g. users, new apps. etc.) | | X |
| 14 | Perform trend analysis as input to capacity forecasting. | | X |
| 15 | Monitor online performance of all in-scope environments and take appropriate action to address performance issues. | | X |
| 16 | Perform performance tuning. | | X |
| | **Database Management** | | |
| 17 | Manage and administer the Database environment. | | X |
| 18 | Maintain and administer the Database and object configuration, manage utilization and capacity of the Database according to reasonable standards following the Change Management Process, troubleshoot and support the Database. | | X |
| 19 | Receive and evaluate manufacturer provided DBMS patches, updates, upgrades, and prioritize as appropriate for implementation within | | X |

| # | Function | Pinellas | Vertex |
|---|---|---|---|
| | documented severity time frames following the Change Management Process. | | |
| 20 | Perform database object and software tuning | | X |
| | **Security Services** | | |
| 21 | Implement security administration requests in accordance with approved processes. | | X |
| 22 | Perform user moves, adds, changes, and deletions (MACD) per approved processes and procedures. | | X |
| 23 | Administer application security (i.e., end user authorization files, profile moves/adds/changes/deletes (MACD), database security ids, forms). | | X |
| 24 | Report security incidents. | | X |
| 25 | Maintain and support firewall subsystem software components (e.g. patches and software upgrades). | | X |
| 26 | Monitor virus/security alerts and vulnerabilities from manufacturers and determine appropriate action per procedure. | | X |
| 27 | Ensure compliance with generally accepted PCI standards in order to help protect sensitive customer information, including masking of credit/bank account numbers and social security numbers. | | X |
| | **Network Management** | | |
| 28 | Perform 24x7x365 monitoring of the Local Area Network (LAN) for the environment for satisfactory operation. | | X |
| 29 | Notification to designated client representative(s) of service interruption | | X |

### 3. Application Management

The Software is a common codebase with unique configuration in each Pinellas instance. The Pinellas will operate on its own instance of the Hosted Services Solution and Vertex will manage, monitor and support Pinellas's instance of the Software.

When an event occurs within the Software, a user is required to record an incident.  Resolution of Incidents when the application does not function as originally designed is included within the Hosted Services. Incident resolution priorities will be allocated in accordance with the Incident Priority Table set forth at Section 5 of this Schedule.

- Incidents relate to individual occurrences.
- Pinellas will be responsible for resolving data and end user training related Incidents

The responsibilities table below details repairs with the associate responsibilities.
Incidents are assigned a severity as well a release for deployment into the production environment.

| # | Incident | Responsibility | |
|---|----------|----------|--------|
| | | Pinellas | Vertex |
| 1 | Identify application incident (performance, bug, system generated error message) | X | X |
| 2 | Log application incident | X | X |
| 3 | Assign severity to incident | X | |
| 4 | Categorize incident as repair | | X |
| 5 | Resolve application defects (code and configuration fixes) | | X |
| 6 | Resolve technical interface issues | | X |
| 7 | Resolve system performance issue | | X |
| 8 | Resolve data errors | X | |
| 9 | Address end user errors or training issues | X | |

Incidents may also be classified as requests.  A request can be a **modification**, **addition or MACD**.  These are detailed below.

#### Modifications
A modification is a change to the design.  Modifications are classified as either standard or normal.

A standard modification is a permissible change that Vertex has anticipated.  For example, the addition of new rate structures or creation of new routes.  The inventory of standard changes is documented within the configuration specifications that are created and approved during the implementation.  Once determined, the standard modification is assigned a release for deployment into production.

A normal modification is a request to change functionality that was not anticipated as part of the original VertexOne solution.  Normal modifications are evaluated to determine if the modification will not adversely impact other VertexOne tenants. Vertex will not implement normal modifications that could adversely impact other VertexOne tenants.

An effort estimate will be provided to Pinellas for normal modifications.    Approval will be required as defined by the VertexOne governance process prior to work commencing on normal modifications.

The table below details modifications with associate responsibilities

| # | Request - Modification | Normal/Standard | Responsibility | |
|---|---|---|---|---|
| | | | Pinellas | Vertex |
| 1 | Request modification | Both | X | X |
| 2 | Classify modification | Both | | X |
| 3 | Provide Requirements for modification | Both | X | |
| 4 | Document Requirements | Both | | X |
| 5 | Follow Hosted Services change control process | Both | X | X |
| 6 | Allocation to Release | Both | | X |
| 7 | Develop and document modification design | Normal | | X |
| 8 | Provide an estimate for the modification | Both | | X |
| 9 | Provide written approval for the modification | Both | X | |
| 10 | Develop and document test procedures | Both | | X |
| 11 | Change existing code (Form, Enhancement, Report or Interface) | Normal | | X |
| 12 | Perform permissible configuration change | Standard | | X |
| 13 | Perform configuration change | Normal | | X |
| 14 | Implement system patches | Standard | | X |
| 15 | Perform unit testing of the solution component as appropriate | Both | | X |
| 16 | Perform user acceptance testing of the end to end solution | Both | X | |
| 17 | Provide final functional sign-off | Both | X | |
| 18 | Validate changes before they are moved to production | Both | X | |
| 19 | Deploy all Hosted Services changes to production | Both | | X |

**Additions**
An addition is net new functionality introduced to the Software.
Additions are evaluated to determine if:
1. The addition will benefit all VertexOne tenants
2. The addition will not adversely impact other VertexOne tenants

If the above conditions are realized, the addition added to the product roadmap and assigned to a release.

An estimate of effort will be provided to Pinellas for additions that do not benefit other VertexOne tenants and do not adversely impact the tenants on the VertexOne platform.  Vertex will not implement additions that could adversely impact other VertexOne tenants. Approval will be required as defined by the VertexOne governance process prior to work commencing on additions.

Estimates will also be provided to Pinellas for additions if the assigned release date does not meet Pinellas's needs and it wishes to expedite the request.

| # | Request, Addition | Responsibility | |
| | | Pinellas | Vertex |
|---|---|---|---|
| 1 | Request addition | X | X |
| 2 | Provide requirements for addition | X | |
| 3 | Document Requirements | | X |
| 4 | Follow VertexOne change control process | X | X |
| 5 | Allocation to release | | X |
| 6 | Develop and document design | | X |
| 7 | Provide an estimate | | X |
| 8 | Provide written approval to proceed | X | |
| 9 | Develop and document test procedures | | X |
| 10 | Develop code (Form, Enhancement, Report or Interface) | | X |
| 11 | Perform new configuration change | | X |
| 12 | Perform unit testing of the solution component as appropriate | | X |
| 13 | Perform user acceptance testing of the end to end solution | X | |
| 14 | Provide final functional sign-off | X | |
| 15 | Validate changes before they are moved to production | X | |
| 16 | Deploy all VertexOne changes to production | | X |

**MACD**

An Incident is categorized as a MACD request when a request is made to move, add, change or delete a user record.  Vertex will perform all MACD requests.

**Business Support Functions**
Vertex will maintain and support functionality of the Software to facilitate effective daily business operations.  This includes oversight of interfaces to 3rd parties, performing basic configuration, providing general business analyst support, running and monitoring batch, managing security changes and delivering system generated exceptions.

Pinellas is responsible for data changes in the system and data analysis. This includes price changes, creation of technical master data, working and resolving exceptions and confirming system changes before they are moved into production.

Vertex will provide reporting to Pinellas for use in monitoring its business operations.  Pinellas will execute these reports as required.

The table below further defines business support functions responsibilities

| # | Function | Pinellas | Vertex |
|---|----------|----------|--------|
| 1 | Manage, monitor and support VertexOne Pinellas Solution | | X |
| 2 | Manage, monitor, support and coordinate interfaces to/from the Software and the Hosted Services environment. | | X |
| 3 | Retrieve Hosted Services delivered reports | | X |
| 4 | Execute tests on any fixes before moving to production. | X | X |
| 5 | Acknowledge acceptance of fixes prior to deployment in production | X | |
| 6 | Generate and log application, transactional exceptions (i.e. meter read, billing) | | X |
| 7 | Manage and resolve application, transactional exceptions (i.e. billing exceptions, meter read) | X | |
| 8 | Record user support questions as incidents | X | |
| 9 | Respond to user support questions | | X |
| 10 | Rate Modelling | X | |
| 11 | Manage Price Changes | X | |
| 12 | Implement changes to meter reading routes | X | |
| 13 | Master Data Creation and maintenance | X | |
| 14 | User Creation and Role Assignment | | X |
| 15 | Batch Processing | | X |

**4. Service Level Requirements**

## 4.1 Overview

This Exhibit D provides the Service Levels that Vertex shall meet during the Term of this MSA and the Performance Credits to be provided to Pinellas by Vertex based on the efficiency and quality with which Vertex performs the Operational Services and related tasks, and the mechanisms with which such performance will be measured.

## 4.2 Framework Overview

A portion of Vertex's total compensation for the delivery of the Operational Services shall be affected based on the Performance Credit framework described herein.

## 4.3 Business Rule

Vertex shall not be penalized for failing to meet any particular Service Level if such failure results from Vertex adhering to a Pinellas Business Rule that directly conflicts with or contradicts a Service Level. In the event that such a failure occurs, Vertex and Pinellas shall work together in good faith to modify the Service Level as appropriate.

## 4.4 Burn-in Period

No Performance Credits will apply during Implementation or for the first 3 months after Go-Live Date on Vertex systems.

## 4.5 Performance Credit

No single Service Level will result in Performance Credits that are greater than 5% of the Business Process Support Fees. The Performance Credits will be netted each month and the net total of Performance Credit will not exceed 15% of the Business Process Support Fees. For the purpose of calculating Performance Credits, each measurement will be rounded to the nearest whole number unless specifically noted within the Performance Credit.

## 4.6 Service Levels

Vertex shall provide the Hosted Services in accordance with the following service levels:

| Service Level # | Service Level Item | Service Level Target | Performance Credit | Service Level Target | Metric | Calculation |
|---|---|---|---|---|---|---|
| 1 | Application Availability | 99.5% | 0.25% of monthly Business Process Support Fees | 99.5% | This metric measures the availability of the Service. This measurement is calculated as the total uptime of the Service excluding scheduled down time, divided by the total number of minutes in the reporting period, expressed as a percentage. | Percentage = A/B x 100% WHERE: A = the total amount of actual Service uptime excluding scheduled downtime within the reporting period. B = the total scheduled Service uptime during the reporting period |
| 2 | Application Response Time | 95% </= 2 seconds | 0.25% of monthly Business Process Support Fees | 95% </= 2 seconds | This metric measures the response time for mutually agreed upon transactions per included application. These response times are measured within the applications to assess the performance of the application. The method of measure is unique per application | Percentage = (A / B) x 100 (%)  WHERE: A = the total number of measured response times excluding during scheduled downtime </= 2 seconds within the reporting period. B = the total number of measured response times excluding during scheduled downtime within the reporting period. |
| 3 | Incident Response Time P1 | 95% of P1s </= 1 hour | 0.25% of monthly Business Process Support Fees | 95% of P1s </= 1 hour | This metric measures the response time to a P1 incident. This measurement is calculated as the | Percentage = (A / B) x 100 (%)  WHERE A = the number of P1 incidents in the reporting period that met the target response time  B = the |

| Service Level # | Service Level Item | Service Level Target | Performance Credit | Service Level Target | Metric | Calculation |
|---|---|---|---|---|---|---|
| | | | | | percentage of P1 incidents during the reporting period in which they were responded to within the defined response time. | total number of P1 incidents in the reporting period |
| 4 | Incident Response Time P2 | 95% of P1s </= 2 hour | 0.25% of monthly Business Process Support Fees | 95% of P1s </= 2 hour | This metric measures the response time to a P2 incident. This measurement is calculated as the percentage of P2 incidents during the reporting period in which they were responded to within the defined response time. | Percentage = (A / B) x 100 (%)  WHERE: A = the number of P2 incidents in the reporting period that met the target response time  B = the total number of P2 incidents in the reporting period |
| 5 | Batch Processing Completion | > 98%of batch jobs completed within timeframe set forth in the processing schedule | 0.25% of monthly Business Process Support Fees | > 98%of batch jobs completed within timeframe set forth in the processing schedule | The total number of batch jobs completed in accordance with the timeframe set forth in the processing schedule divided by total number of batch jobs initiated. Includes nightly batch and daily batch for processing files | Batch jobs measured will include nightly batch and any business critical daily jobs with time dependencies.  These will be detailed during implementation. |
| 6 | Interface Delivery | Key Interface batch file availability from CIS as | 0.25% of monthly Business Process Support Fees | Key Interface batch file availability from CIS as | Compliance to a schedule mutually agreed to during implementation | All outbound SFTP interfaces to be measured |

| Service Level # | Service Level Item | Service Level Target | Performance Credit | Service Level Target | Metric | Calculation |
|---|---|---|---|---|---|---|
| | | per Exhibit (Services) > 98% | | per Exhibit (Services) > 98% | for file delivery timing of critical daily and/or monthly file based interfaces Calculated by dividing the total number of interfaces delivered in accordance with the interface timing schedule by the total number of interfaces delivered | |

## 4.7 Incident Priority Table

| Priority | Impact Definition | Response times & Target Resolution Objective | Update Frequency |
|---|---|---|---|
| Priority 1 (P1) | Emergency: Business is not operational with significant performance issues, financial impact and/or number of customers impacted. Specifically, critical business function(s) cannot be performed, a key component is unavailable or is nonfunctional. There is no immediate work around. Goes to top of work queue and is top priority until resolved E.g. system down, inability to perform key function like billing, meter read upload, cash posting, an event that impacts significant number of customers or revenue. | 1 Hour Response 24 Hour Resolution Objective | 1 Hour |
| Priority 2 (P2) | Critical: Business is operational but with degraded performance, defined as response times on transactions (Screens) are 3 times the normal SLA or if the batch window runs into daytime operations. | 2 Hour Response 2 Business Day Resolution Objective | 2 Hours |

| Priority | Impact Definition | Response times & Target Resolution Objective | Update Frequency |
|---|---|---|---|
| | Specifically, a critical business function is partially functional, or is functional via a work around at a limited capacity or has a defect which creates errors or anomalous results to customers and/or financials. E.g. a rate for a city is incorrect. Bills printing with incorrect information affecting moderate number of customers | | |
| Priority 3 (P3) | Restricted: Business is operational but with either reduced performance, whereby reduced performance is if response times are higher than 2 times the normal SLA or batch window runs longer than schedule, but completes in time for daytime operations or minor financial impact and/or customer impact. Specifically, a business function has a slight restriction of function of a non-critical nature, or a work around is required to maintain normal operations, or a function has a defect which creates errors or anomalous results. | 4 Hour Response 5 Business Day Resolution Objective | When work starts and upon completion |
| Priority 4 (P4) | Not Urgent: The component is fully functional and may only contain a cosmetic flaw, a misspelled or cryptic message, or a documented misinterpretation of functionality. | 24 Hour Response 1 Month Resolution Objective | When work starts and upon completion |
| Priority 5 (P5) Requests | Request: Request for change of a new service, feature, or hardware | As per Change Management Process | When work starts and upon completion |
| MACD | MACD: Request for a user move/add/change/deletion | 1 Business Day Response 24 Hour Execution Objective | |
| Business Day is Monday – Friday 08:00 – 17:00 ET excluding Holidays | | | |

5. **Disaster Recovery.**

Disaster Recovery - Vertex will provide and maintain Disaster Recovery and Business Continuity strategies as set forth in the MSA, so that the Services delivered by Vertex are not unduly interrupted in

the event of a disaster or unforeseen event.  Vertex will test and maintain the integrity of these Disaster Recovery services so that they can be counted upon to reliably protect Pinellas's business.

6. **Print and Mail Services**

As part of its Bill Print/Mail responsibilities, Vertex shall:

a. Receive an error-free bill print file transmitted to Vertex as a result of Pinellas batch processing from Vertex's data center for formatting and creation of paper bills and electronic replicas of paper bills.

b. Format and print hard copy bills including special instructions, messages and remittance stub,

c. Enclose bills / inserts (based on Pinellas's marketing and customer segmentation rules) into envelopes.

d. Presort, USPS certify and mail.  Pinellas will provide all hard copy bill inserts to Vertex for inclusion with bills.

e. Send electronic notification of new bill / invoice (if applicable).

f. Promptly archive electronic bill images generated by Supplier and make available online for customers/CSRs, for the period of time Vertex is obligated to retain billing history, as described elsewhere in this MSA.

**Exhibit E – Pinellas Policies and Procedures**


Vertex agrees to adhere to Pinellas County employee policies and procedures as instructed by Pinellas that are currently in place as of the time of this MSA. If such policies are materially changed and the result of such changes creates a substantial increase in Vertex's costs to deliver the Services, such changes shall be managed through the Change Control procedures set forth in Exhibit B.

**Exhibit F – Implementation Services**

The definitions set out in the provisions of the MSA shall apply in this Exhibit F unless the context requires otherwise.

**Outline**

1.0     Implementation Services
2.0     Implementation Details
3.0     Roles & Responsibilities
4.0     Project Deliverables
5.0     Key Assumptions
6.0     Deliverables Acceptance Procedure
7.0     Appendices
        Appendix A – Pinellas Migration Objects and Assumptions
        Appendix B – FRICEW List
        Appendix B – Deliverable Acceptance Form


**1.0     Implementation Services**

This Exhibit F Implementation Services establishes the framework for the activities to be performed during the Implementation of VertexOne under the MSA. This includes replacing the existing SAP CIS, upgrading the Customer Self Service Portal (Customer Advantage) and print and mail services (currently, Kubra) platform for Pinellas.

The purpose of this project involves upgrading Pinellas from the current hosted environment and capabilities to the VertexOne platform that utilizes the SAP Software which are summarized below.

| Component | What Pinellas has Today | What Pinellas gets with VertexOne |
|---|---|---|
| CIS | SAP ECC 6.0 | SAP S/4 1809 |
| User Interface | SAP GUI and the customer interaction center (CICO) | Fiori for back office, Web interaction center for front office |
| Database | Oracle | S/4 HANA |
| Reporting | BW on Oracle | Fiori Dashboards utilizing HANA views |
| Integration | Direct calls most using sFTP | ESB (PI/PO) for interfaces |
| Architecture | Oracle database replication for DR, no redundancy | HANA replication for DR, no redundancy |
| Customer Self Service Portal | VertexOne Self Service Portal (VSSP), original version | Customer Advantage 2.0 with mobile application |
| Electronic Bill Presentment | Kubra bill print | Migration to newest Kubra platform; DocWeb & iDoc |
| Network | T1 line and VPN tunnel for redundancy | MPLS |

This Implementation will adhere to Vertex's deployment methodology which is based on the SAP Activate Methodology.

This Exhibit F - Implementation also describes Implementation details, roles and responsibilities for Vertex and Pinellas, project deliverables, key assumptions and deliverables acceptance procedures.

**2.0     Implementation Details**

The Implementation duration spans 11 months to migrate from Pinellas's existing SAP CIS to VertexOne. High level activities to be performed in each phase are detailed below.

|          | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |
|----------|---|---|---|---|---|---|---|---|---|----|----|
| Discover |   |   |   |   |   |   |   |   |   |    |    |
| Prepare  |   |   |   |   |   |   |   |   |   |    |    |
| Explore  |   |   |   |   |   |   |   |   |   |    |    |
| Realize  |   |   |   |   |   |   |   |   |   |    |    |
| Deploy   |   |   |   |   |   |   |   |   |   |    |    |
| Run      |   |   |   |   |   |   |   |   |   |    |    |

**Discover Phase**

|          | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |
|----------|---|---|---|---|---|---|---|---|---|----|----|
| **Discover** |   |   |   |   |   |   |   |   |   |    |    |
| Prepare  |   |   |   |   |   |   |   |   |   |    |    |
| Explore  |   |   |   |   |   |   |   |   |   |    |    |
| Realize  |   |   |   |   |   |   |   |   |   |    |    |
| Deploy   |   |   |   |   |   |   |   |   |   |    |    |
| Run      |   |   |   |   |   |   |   |   |   |    |    |

During the discover phase, the following key activities are carried out:

- Required infrastructure is provisioned
- Extraction and transformation programs are developed and tested
- A fit gap analysis is performed against VertexOne using Pinellas's current CIS applications.

The discover phase is performed by Vertex and no involvement from Pinellas is required.

These activities are further detailed below.

Infrastructure

SAP Software instances for Pinellas are provisioned.  These include development, quality, production and training environments.

Extraction and Transformation

To enable the migration of data from Pinellas's existing SAP CIS solution to VertexOne under this MSA, the extraction and transformation approach is vetted.  This includes the development and testing of data extraction programs.  These are developed within Pinellas's existing SAP CIS solution.  Refer to Appendix A for details related to Pinellas migration assumptions.

Fit Gap Analysis

To execute a fit gap analysis, customizations performed on Pinellas's existing SAP CIS solution are evaluated against functionality that is delivered with VertexOne under this MSA. The list containing every customization that has been performed on Pinellas's SAP CIS solution can be found in Appendix B.

The gap fit analysis entails the Vertex team evaluating the items on this list against the VertexOne . Each item on the list will be classified as follows:

1. Classification 1 - Customization is no longer required.  This occurs when functionality can be accomplished using standard SAP functionality due to additional features and functions that are now delivered within the SAP Software.  It can also occur for enhancements related to obsolete functionality – for example - enhancements originally performed to support the customer interaction center (CIC0) will no longer be required given VertexOne utilizes the Web Interaction center.
2. Classification 2 - Customization is required and can be ported to the VertexOne  instance with no alteration.  This occurs for development items that are specific to Pinellas where there is no upgrade impact to the development area.  An example of this includes a Pinellas specific FICA event.
3. Classification 3 - Customization is required but must be altered prior to porting to the VertexOne . This occurs when a Pinellas specific development item is required however there is an upgrade impact.  This could occur when the underlying structures have changed due to the later versions or the technical architecture dictates a change. An example of classification 3 includes updating Pinellas interfaces from point to point to a service-oriented architecture.

The discover phase is performed by Vertex and requires no involvement from Pinellas.  At the end of the discover phase, environments are available to commence the prepare phase of the project, Pinellas data has been extracted, transformed and ready to load into VertexOne and the effort to deploy Pinellas specific developments within the Pinellas VertexOne instance is understood.

**Prepare Phase**

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Discover | | | | | | | | | | | |
| Prepare | | | | | | | | | | | |
| Explore | | | | | | | | | | | |
| Realize | | | | | | | | | | | |
| Deploy | | | | | | | | | | | |
| Run | | | | | | | | | | | |

During the prepare phase, the following key activities are carried out:

- Pinellas instance of VertexOne is provisioned
- Pinellas specific configuration is transferred into the Pinellas VertexOne instance
- Pinellas specific forms, reports, interfaces, conversions, enhancement and workflows ("FRICE-W") is transferred into the Pinellas  VertexOne instance
- Unit and functional testing of required configurations and FRICE-W items
- VertexOne User Stories are evaluated
- The solution validation workshop schedule is finalized
- Mock 1 data migration is executed
- Prepare phase quality gate is evaluated

Transfer Pinellas Specific Configurations

Pinellas specific configuration is migrated from Pinellas's existing SAP CIS solution to the VertexOne instance. Existing Pinellas configurations will be evaluated to determine if changes are required prior to moving to the VertexOne . Changes to existing configuration will be performed, if the functional area is impacted by the newer SAP version (for example, the customer interaction center) or if the team identifies improvement opportunities.  An inventory for changed configuration is maintained.

Transfer and Develop Pinellas Specific FRICE-W

Pinellas development objects that have been identified during analysis are captured in the VertexOne instance.

Unit and Functional Testing

Development objects and configurations that require alteration are unit tested. Pinellas specific development items and configuration that are migrated without changes – i.e., no upgrade impact – will be regression tested as part of system integration testing during the deploy phase.

User Story Analysis

The VertexOne solution is with Vertex's user stories.  User stories are process documents that detail how a user interacts with the solution in order to accomplish their job function.  The Vertex user stories will be evaluated to determine which user stories are relevant for the Pinellas implementation.  The relevant user stories are used to group and schedule the validations workshops as well as in subsequent phases as a basis for end user training material.

Finalize Solution Validation Workshops Schedule

Solution validation workshops are conducted during the explore phase.  Solution validation workshops entail demonstrating VertexOne CIS processes using Pinellas specific configurations, Pinellas data and the VertexOne user stories.  The audience for the solution validation workshops are Pinellas subject matter experts.  The schedule for the solution validation workshops is finalized during the prepare phase to ensure the correct subject matter experts are available to attend.

Mock 1 Data Migration

Pinellas data extracted during the discover phase will be loaded into the Pinellas VertexOne instance. This is required to support the solution validation workshops.

Prepare Phase Quality Gate

Prepare phase Deliverables listed below are evaluated to facilitate formal phase closure to enable Vertex to move to the next stage of the Implementation process.

**Explore Phase**

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Discover | | | | | | | | | | | |
| Prepare | | | | | | | | | | | |
| Explore | | | | | | | | | | | |
| Realize | | | | | | | | | | | |
| Deploy | | | | | | | | | | | |
| Run | | | | | | | | | | | |

During the explore phase, the following key activities are carried out:

- Solution validation workshops are conducted
- Additional FRICE-W are identified and added to the inventory (if required)
- Unit and functional testing of required configurations and FRICE-W items is performed
- Mock 2 data migration is executed
- Explore phase quality gates are evaluated

Solution Validation Workshops

Validation workshops scheduled during the prepare phase are conducted for each functional area.  Using the VertexOne user stories and a Pinellas configured instance of VertexOne loaded with Pinellas's data, Vertex will demonstrate the impacted core process functionality to Pinellas subject matter experts.  Pinellas subject matter experts identify any residual gaps in the solution as an outcome to these solution validation workshops.

Addition FRICE-W identification

Solution gaps identified by Pinellas subject matter experts are resolved by identifying additional FRICE-W or configuration items.  These will be classified as "Customization 3" and added to the inventory of developments.  These items will be staged for build and functional test in the realize phase.

Mock 2 Data Migration

A second data load is performed.  This is used during the realize phase.  Pinellas data extracted during the explore phase will be loaded into the Pinellas VertexOne instance.  This is required to support the next phase QA efforts.

Explore Phase Quality Gate

Explore phase deliverables are evaluated to facilitate formal phase closure. Please refer to the deliverables for this phase for quality gate related deliverables.

**Realize Phase**

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Discover | | | | | | | | | | | |
| Prepare | | | | | | | | | | | |
| Explore | | | | | | | | | | | |
| Realize | | | | | | | | | | | |
| Deploy | | | | | | | | | | | |
| Run | | | | | | | | | | | |

During the realize phase, the following key activities are carried out:

- Remaining FRICE-W items are developed, and unit tested
- Training material is developed
- Mock 3 data migration is executed
- Realize phase quality gate evaluated

Develop FRICE-W

 Agreed remaining FRICE-W inventory items identified staged for this phase are built and unit tested by the technical and functional teams.  This is the final build iteration of the project.

Develop Training Material

The Pinellas training team will utilize the VertexOne  user stories as a basis to develop Pinellas specific end user training course material.

Mock 3 Data Migration

A third Mock is performed during this phase.   This will be a full extraction, transformation and Load of Pinellas production data and is required for the subsequent deploy phase.

Realize Phase Quality Gate

Realize phase deliverables are evaluated to facilitate formal phase closure. Please refer to the deliverables for this phase for quality gate related deliverables.

**Deploy Phase**

|          | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |
|----------|---|---|---|---|---|---|---|---|---|----|----|
| Discover |   |   |   |   |   |   |   |   |   |    |    |
| Prepare  |   |   |   |   |   |   |   |   |   |    |    |
| Explore  |   |   |   |   |   |   |   |   |   |    |    |
| Realize  |   |   |   |   |   |   |   |   |   |    |    |
| Deploy   |   |   |   |   |   |   |   |   |   |    |    |
| Run      |   |   |   |   |   |   |   |   |   |    |    |

During the deploy phase, the following key activities are carried out:

- System integration testing is performed
- Parallel testing is performed
- End user training is conducted
- Mock 4 data migration is executed
- Dress rehearsal is conducted
- Deploy phase quality gate evaluated

System Integration Test

System integration testing (SIT) starts during this phase entailing testing of agreed upon end to end processes, including integration with external systems (Interface objects and Integration scenarios are confirmed during SIT).

SIT includes stringing functional tests together. The dependencies between different functional areas are validated.  SIT includes external applications that integrate with VertexOne.

The project test team executes SIT scenarios and validates results.

To prepare for System integration testing, the project team performs connectivity testing. This ensures the various systems in the solution are connected and that the data communication paths are working (e.g. file transfer).

Below is a list of responsibilities during SIT:

(S – Support, R – Responsible)

| Tasks | Vertex | Pinellas |
|---|---|---|
| **System Integration Test Planning:** | | |
| Track metrics and provide project status | R | S |
| Identify test conditions to be used for Integration Test | S | R |
| Group test conditions into test scenarios and define data requirements for scripts | R | S |
| Write steps for test scenarios | R | S |
| QA steps for test scenarios | R | S |
| Select test accounts for execution | S | R |
| Create testing partner agreements with any downstream systems | S | R |
| **Environment Set-up:** | | |
| Setup technical infrastructure for needed SIT environments | R | |
| Validate that all Pinellas and 3rd Party interfaces are properly connected to the SIT environment | R | |
| Create batch schedule in SIT environments | R | |
| Load data into SIT environments after mocks have been performed | R | |
| Migrate code and configuration to SIT environment prior to execution | R | |
| Perform any non-transportable configuration in the SIT environment prior to execution and shakedown the system | R | |
| Setup Test Security Profiles in the SIT Environment | R | |

Parallel Testing

Parallel test includes bill to bill comparison of Pinellas's current SAP CIS to Pinellas's VertexOne instance for 1 portion.

End User Training

Pinellas schedules and conducts end user training.

Mock 4 Data Migration

A final mock is performed during this phase into the staging area for dress rehearsal.   This will be a full extraction, transformation and load of Pinellas's production data.

Dress Rehearsal

The purpose of the dress rehearsal is to conduct a practice cutover for Go-Live, validating successful data migration/conversion and production system activation within the agreed cutover window. During the dress rehearsal, the following occurs:

- the detailed step-by-step cutover plan is validated
- a backout plan is identified.

Deploy Phase Quality Gate

Deploy phase deliverables are evaluated to facilitate formal phase closure. Please refer to the deliverables for this phase for quality gate related deliverables.

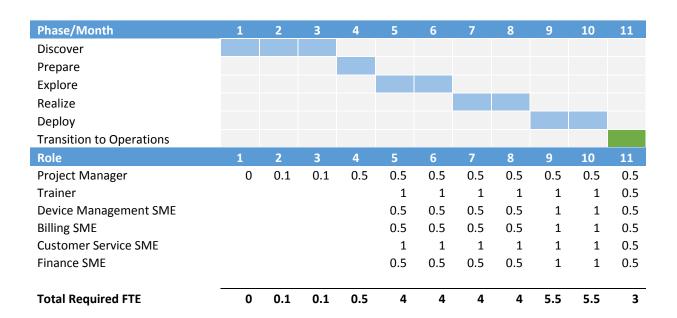**3.0      Roles & Responsibilities**

**Vertex Project Team**

The Vertex project team roles and responsibilities for the implementation are defined in the matrix below.

| Project Role | Role Responsibilities |
|---|---|
| Project Sponsor | <ul><li>Set strategic framework for implementation project</li><li>Conduct and engage in Executive Steering Committee</li><li>Address and resolve major project escalations (engage Executive Steering Committee as warranted)</li><li>Authorize major changes to the project scope</li><li>Oversee relationships with key implementation partners</li><li>Manage relationship with Pinellas project executive sponsor</li></ul> |
| Project Manager | <ul><li>Creates and maintains the MS Project Plan</li><li>Manages the following aspects for the project implementation<ul><li>Master project plan</li><li>Scope and planning</li><li>Scheduling resources</li></ul></li></ul> |

| | |
|---|---|
| | o Project management and scrum meetings<br>o Measuring team performance<br>o Financials including budget, travel expenses and invoices<br>o Reporting status and metrics as agreed in the project charter<br>o Issues and risks<br>o Project change process<br>o Deliverables acceptance approval process<br>o Cutover planning & execution activities<br>• Enforces adherence to program implementation strategy, methodology, tools and standards |
| Functional Consultants<br>• Device/Service Management<br>• Billing<br>• CS/CRM<br>• FICA | • Prepare content and run solution validation workshops associated with SAP Activate Methodology<br>• Complete required design documentation from workshops (e.g., functional specifications)<br>• Develop baseline SAP configuration<br>• Develop and execute test scripts<br>• Defect resolution orchestration<br>• Support UAT/business validations<br>• Support training material collateral development<br>• Advise on cutover plan development<br>• Support in mock dress rehearsals as well as official cutover activities<br>• Participate in cutover planning and execution |
| Technical Architect | • Maximize the productivity of the project team by installing an effective development environment, establishing programming & technical standards<br>• Conduct architecture sizing and capacity assessments to ensure adequate performance of the environments to meet the scalability and transactional volumes of the client<br>• Coordinate with network systems and connectivity circuit providers in support of the hosted and managed data center and telecommunication infrastructure<br>• Provide a focal point for all technical issues and initiatives on the project<br>• Providing technical advisory and trouble-shooting support |
| Migration Consultant | • Support data migration |

| | |
|---|---|
| | • Support in mock dress rehearsals as well as official cutover activities<br>• Address data migration technical issues and challenges<br>• Support to setting up ability to measure data migration percent success metrics and other required statistics required to validate quality of data migration capabilities |
| Developers | • Responsible for client specific ABAP development<br>• Complete required build functional technical specification documents<br>• Support development of test scripts<br>• Support testing execution<br>• Support resolution of testing defects |
| Reporting | • Own all specific reporting by client<br>• Address Fiori reporting setup and enablement efforts for project<br>• Support training material collateral development |
| Basis | • Implement and maintain the multiple SAP instances that comprise the VertexOne environments (development, QA, production, training)<br>• Maintain the integrity of the VertexOne environment by managing the SAP Correction & Transport System (CTS) to ensure all configuration and development objects are promoted properly<br>• Introduce technical changes into the environment using a structured approach that minimizes risk and achieves high reliability, availability and performance of each VertexOne instance<br>• Manage VertexOne users, authorizations and profiles<br>• Monitor all VertexOne systems (work processes, users, system logs, short dumps, locks, developer traces, system traces, disk space, etc.) |
| Security | • Develop user profiles<br>• Provide user access to system<br>• Responsible for overseeing security-related testing |

**Pinellas Project Team**

The Pinellas project team roles and responsibilities for the implementation are defined in the matrix below.

| Project Roles | Project Responsibilities |
|---|---|
| Project Sponsor | • Set the strategic direction for the overall project<br>• Conduct and engage in Executive Steering Committee<br>• Address and resolve major program escalations (engage Executive Steering Committee as warranted)<br>• Authorize major changes to the project scope<br>• Oversee relationships with key implementation partners<br>• Manage relationship with Vertex project executive sponsor |
| Project Manager | • Communicate and champion project scope, vision, and approach<br>• Assign and manage client project resources and project plan activities<br>• Administer the change request process<br>• Vertex primary point of contact for risk register and issue escalation process<br>• Vertex primary point of contact for project status reporting<br>• Vertex primary point of contact for Deliverables approval process<br>• Manage project communications with Pinellas business stakeholder community |
| Trainers | • Guide the development of role-based training material including role guides<br>• Guide the development of end-user training materials including:<br>    o Business process overviews<br>    o Training CBT session, guides and presentations<br>    o Coordinate training environment logistics with Vertex<br>    o Quick reference guides<br>    o On-line help and self-help training<br>• Deliver end-user training<br>• Report training status to Project Managers |
| Functional Leads<br>• Device Management<br>• Billing<br>• Customer Service | • Develop and champion future state processes based on reference solution leading practices<br>• Client leadership for solution validation workshop session decision-making |

| | |
|---|---|
| • Finance | • Obtain buy-in from both the business process owners and users<br>• Ensure business area level sign-off of solution business process designs<br>• Resolve all issues assigned to the business function including change management issues; leverage project change process escalations as warranted<br>• Sign-off on designs, testing and documentation for areas of accountability within defined project turn-around criteria<br>• Support data migration activities including data validations<br>• Support project cutover and engage in floor walking business support post Go-Live to support end-user adoption and proactive issue identification |

**Pinellas Staffing**

For Pinellas to support the above roles and responsibilities by phase of the project, an indicative client staffing plan view is shown below. The chart below details the staffing levels (FTE) by phase that Vertex requires from Pinellas for each of the specified roles.

| Phase/Month | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Discover | | | | | | | | | | | |
| Prepare | | | | | | | | | | | |
| Explore | | | | | | | | | | | |
| Realize | | | | | | | | | | | |
| Deploy | | | | | | | | | | | |
| Transition to Operations | | | | | | | | | | | |
| **Role** | **1** | **2** | **3** | **4** | **5** | **6** | **7** | **8** | **9** | **10** | **11** |
| Project Manager | 0 | 0.1 | 0.1 | 0.5 | 0.5 | 0.5 | 0.5 | 0.5 | 0.5 | 0.5 | 0.5 |
| Trainer | | | | | 1 | 1 | 1 | 1 | 1 | 1 | 0.5 |
| Device Management SME | | | | | 0.5 | 0.5 | 0.5 | 0.5 | 1 | 1 | 0.5 |
| Billing SME | | | | | 0.5 | 0.5 | 0.5 | 0.5 | 1 | 1 | 0.5 |
| Customer Service SME | | | | | 1 | 1 | 1 | 1 | 1 | 1 | 0.5 |
| Finance SME | | | | | 0.5 | 0.5 | 0.5 | 0.5 | 1 | 1 | 0.5 |
| | | | | | | | | | | | |
| **Total Required FTE** | **0** | **0.1** | **0.1** | **0.5** | **4** | **4** | **4** | **4** | **5.5** | **5.5** | **3** |

**4.0      Project Deliverables**

The following table outlines the Deliverables by Phase to be produced by Vertex as part of this project implementation.  Vertex will ensure that all Deliverables are completed in a satisfactory manner.

| Phase | No. | Deliverable Name | Description of Deliverable | Format | Owner | Support | Acceptance Required? |
|-------|-----|------------------|---------------------------|--------|-------|---------|----------------------|
| Discover | 1.01 | Initial Project Plan | This deliverable is a work plan that identifies the tasks, milestones, activities, resources, dependencies and Deliverables required for all project phases. | MS Project | Vertex | -- | N |
| Discover | 1.02 | Project Data Migration Extraction Programs | This deliverable confirms migration (objects and history) and development of initial data extraction programs. This includes to conduct the initial data migration extraction from source system for use in initial Mock run in next phase into VertexOne target system. | MS Excel | Vertex | -- | N |
| Discover | 1.03 | Project Development Landscape Technical Activation | This deliverable is the setup the development landscape (Golden Client, Dev Client). Completion of the activities to install the development system and perform the master data configuration of SAP application. | VertexOne | Vertex | -- | N |
| Discover | 1.04 | Pinellas FRICE-W Analysis & Plan | This deliverable is a work product that includes an analysis of the existing FRICE- | MS Excel | Vertex | -- | N |

| | | | W capabilities to categorize these items into how these need to be dispositioned as part the implementation. For those items that are net new and/or require modifications, the initial set of functional and technical specifications will be prepared as part of this deliverable as well. | | | | |
|---|---|---|---|---|---|---|---|
| Discove r | 1.0 5 | Prepare Development Plan to be executed during prepare phase | This deliverable is to package the initial set of Pinellas specific configuration to be transferred to VertexOne and specific FRICE-W and configuration items to be developed and unit tested into a development plan for the next phase. | MS Project | Vertex | -- | N |
| Discove r | 1.0 6 | QG1 – Discover-to Prepare Quality Gate | This deliverable is to validate the completion of Deliverables of this phase as exit criteria to move to the next phase of the project.<br><br>The gating for this phase included a mutually agreed upon set of exit criteria outcomes defined as the start of this phase by Vertex and Pinellas, which includes at least: 1) Key | | | | |

| | | | activities and Deliverables of this phase are sufficiently addressed to not impede the effective start of the next phase; 2) Overall project status reporting health does not indicate material systemic challenges that need to be addressed prior to kicking off the next phase; and 3) Critical project resources are mobilized for the effective ramp-up of the next phase.<br><br>This quality gate includes to consider the following factors:<br>• Effectiveness and quality of the collaboration of the project team<br>• Soundness of project plans<br>• Baseline Fit-Gap analysis complete | | | | |
| --- | --- | --- | --- | --- | --- | --- | --- |
| | | | | | | | |
| Prepare | 2.01 | Project Development Landscape Baseline Configuration | This deliverable is to ensure that the appropriate S/4HANA baseline configuration has been applied and validated for Development Environment. This includes for the | VertexOne | Vertex | -- | N |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | Pinellas specific configuration is transferred into the new VertexOne environment. | | | | |
| Prepare | 2.0 2 | Create Functional & Technical Specification s for prepare phase items | This deliverable includes to create or update any required functional and technical specifications that pertain to this development round. | MS Word | Vertex | -- | N |
| Prepare | 2.0 3 | Execute prepare phase development plan | This deliverable includes the development and unit testing of the Pinellas specific FRICE-W and configuration items targeted for this phase of the project implementation. | VertexOn e | Vertex | -- | N |
| Prepare | 2.0 4 | Prepare & Validate Design Workshop Schedule | This deliverable is to prepare a detailed plan for solution validation workshops including the proper sequencing and dependencies. | MS Excel | Vertex | Pinellas | Y |
| Prepare | 2.0 5 | Prepare Development Plan for Explore phase | This deliverable is to package the next set of specific FRICE-W and configuration items to be developed and unit tested into a development plan for the next phase. | MS Project | Vertex | -- | N |
| Prepare | 2.0 6 | Data Migration Mock 1 | This deliverable is to load the initial data extraction from source system into the VertexOne target system.  This deliverable will also support the solution | VertexOn e | Vertex | -- | N |

| | | | validation workshops planned for next phase of the project. | | | | |
|---|---|---|---|---|---|---|---|
| Prepare | 2.07 | QG2 – Prepare-to-Explore Quality Gate | This deliverable is to validate the completion of Deliverables of this phase as exit criteria to move to the next phase of the project.<br><br>The gating for this phase included a mutually agreed upon set of exit criteria outcomes defined as the start of this phase by Vertex and Pinellas, which includes at least: 1) Key activities and Deliverables of this phase are sufficiently addressed to not impede the effective start of the next phase; 2) Overall project status reporting health does not indicate material systemic challenges that need to be addressed prior to kicking off the next phase; and 3) Critical project resources are mobilized for the effective ramp-up of the next phase.<br><br>This quality gate includes to consider the following factors:<br>• Solution validation workshops | MS Excel | Vertex | Pinellas | Y |

| | | | planned and mutually agreed upon by Vertex and Pinellas<br>• Initial VertexOne configuration successfully established and validated<br>• Mock 1 data migration successful executed and initial results shared with Pinellas | | | | |
|---|---|---|---|---|---|---|---|
| | | | | | | | |
| Explore | 3.01 | Conduct Solution Validation Workshops & Identify New FRICE-W Items | This deliverable is to conduct a series of Fit-Gap analysis reviews using the VertexOne reference solution to validate that the reference solution and Pinellas existing specific configuration and FRICE-W either meets the "like for like" capabilities (fit) or if there are any residual deltas (gaps) that needed to be addressed.  Based on these findings, the FRICE-W items are to be updated from the original starting list of items. | MS Excel | Vertex | Pinellas | Y |
| Explore | 3.02 | Execute Explore | This deliverable includes the | VertexOne | Vertex | -- | N |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | Development Plan | development and unit testing the Pinellas specific FRICE-W and configuration items targeted for this phase of the project implementation. | | | | |
| Explore | 3.03 | Prepare Training Plan & Material from VertexOne User Stories | This deliverable is to develop a training plan, including objectives, requirements and approach to rollout basic training by Pinellas as part of this implementation projects. | MS Word | Pinellas | Vertex | N |
| Explore | 3.04 | Data Migration Mock 2 | This deliverable is to extract and load the next round of data extraction from source system into the VertexOne target system.  This includes to develop a set of quality metrics and provide a detailed readout to the client. | VertexOne | Vertex | -- | N |
| Explore | 3.05 | Prepare Development Plan for Realize phase | This deliverable is to package the next set of specific FRICE-W and configuration items to be developed and unit tested into a development plan for the next phase. This also included to incorporate the FRICE-W backlog inventory items surfaced as gaps during the solution validation workshops. | MS Project | Vertex | Pinellas | Y |

| Explore | 3.06 | QG3 – Explore-to-Realize Quality Gate | This deliverable is to validate the completion of Deliverables of this phase as exit criteria to move to the next phase of the project.<br><br>The gating for this phase included a mutually agreed upon set of exit criteria outcomes defined as the start of this phase by Vertex and Pinellas, which includes at least: 1) Key activities and Deliverables of this phase are sufficiently addressed to not impede the effective start of the next phase; 2) Overall project status reporting health does not indicate material systemic challenges that need to be addressed prior to kicking off the next phase; and 3) Critical project resources are mobilized for the effective ramp-up of the next phase.<br><br>This quality gate includes to consider the following factors:<br>• Solution validation workshops surfaced complete list | MS Excel | Vertex | Pinellas | Y |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | off FRICE-W items required for the project<br>• Initial round of development successfully completed and validated<br>• Mock 2 successfully executed with marked improvement relative to Mock 1 | | | | |
| | | | | | | | |
| Realize | 4.01 | Execute Realize phase development plan | This deliverable includes the development and unit testing the Pinellas specific FRICE-W and configuration items targeted for this phase of the project implementation. This is to include all the residual gaps that are required to support configuration and FRICE-W development items. | VertexOne | Vertex | Pinellas | N |
| Realize | 4.02 | Prepare Training Material & Course | This deliverable is for the training content to be prepared and packaged up for conducting end-user training by Pinellas. | MS Word | Pinellas | Vertex | N |
| Realize | 4.03 | Data Migration Mock 3 | This deliverable is to extract and load the next round of data extraction from | VertexOne | Vertex | Pinellas | N |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | source system into the VertexOne target system.  This includes to develop a set of quality metrics and provide a detailed readout to the client. | | | | |
| Realize | 4.04 | QG4 – Realize-to-Deploy Quality Gate | This deliverable is to validate the completion of Deliverables of this phase as exit criteria to move to the next phase of the project.

The gating for this phase included a mutually agreed upon set of exit criteria outcomes defined as the start of this phase by Vertex and Pinellas, which includes at least: 1) Key activities and Deliverables of this phase are sufficiently addressed to not impede the effective start of the next phase; 2) Overall project status reporting health does not indicate material systemic challenges that need to be addressed prior to kicking off the next phase; and 3) Critical project resources are mobilized for the effective ramp-up of the next phase. | MS Excel | Vertex | Pinellas | Y |

| | | | This quality gate includes to consider the following factors:<br>• Baseline training material developed<br>• Final round of development successfully completed and validated<br>• Mock 3 successfully executed with marked improvement relative to Mock 2 | | | | |
|---|---|---|---|---|---|---|---|
| | | | | | | | |
| Deploy | 5.01 | Conduct System Integration & Regression Testing | This deliverable is to conduct system integration testing for all modified and new configuration and FRICE-W development items and a full set of regression testing for the entire VertexOne solution. | VertexOne | Vertex | Pinellas | Y |
| Deploy | 5.02 | Conduct Parallel Testing | This deliverable is to conduct parallel testing. This includes to develop a set of quality metrics and provide a detailed readout to the client. | VertexOne | Vertex | Pinellas | Y |
| Deploy | 5.03 | Data Migration Mock 4 | This deliverable is to extract and load the final round of data extraction from source system into | VertexOne | Vertex | Pinellas | Y |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | the VertexOne target system.   This includes to develop a set of quality metrics and provide a detailed readout to the client.  Vertex reserves the right to conduct additional Mock dress rehearsal iteration as warranted. | | | | |
| Deploy | 5.04 | Conduct End-User Training | This deliverable is to conduct a series of end-user training based on the training plan, including to manage the scheduling of end-users. | MS Word | Pinellas | Vertex | N |
| Deploy | 5.05 | Client Readiness Review & Sign-off | This deliverable includes for the client to conduct a detailed review of the solution training, documentation and overall organization readiness assessment to validate the business readiness for the new capabilities of the VertexOne solution roll-out. | MS Excel | Pinellas | Vertex | Y |
| Deploy | 5.06 | Cutover Plan & Dress Rehearsal | This deliverable is to complete a detailed step-by-step cutover plan and orchestrate the required dress rehearsal to validate the robustness and effectiveness of the cutover plan and supporting logistics with all the stakeholders.  This deliverable includes | MS Project | Vertex | Pinellas | Y |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | the official master production cutover plan and back-out plan. | | | | |
| Deploy | 5.07 | Cutover Proceed Go/No-Go Decision | This deliverable is to conduct a formal process to obtain approval by Project Sponsor with consultation with Executive Steering Committee to proceed with Go-Live event. | MS Word | Pinellas | Vertex | Y |
| Deploy | 5.08 | Production Go-Live Event | This deliverable is to exercise the official approved production cutover plan, including production system final setup, QAS to PROD code transports and data migration/conversion execution. Technical validation conducted. Functional validations conducted.  Business user validations conducted.  Critical issues are resolved, non-critical issues are documented as outstanding defects and Go/No-Go decision is made to either Go-Live or exercise back-out plan. | VertexOne | Vertex | Pinellas | Y |
| Deploy | 5.09 | QG5 – Deploy-to-Run Quality Gate | This deliverable is to validate the completion of Deliverables of this phase as exit criteria to move to the next phase of the project. | MS Excel | Vertex | Pinellas | Y |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | The gating for this phase included a mutually agreed upon set of exit criteria outcomes defined as the start of this phase by Vertex and Pinellas, which includes at least: 1) Key activities and Deliverables of this phase are sufficiently addressed to not impede the effective start of the next phase; 2) Overall project status reporting health does not indicate material systemic challenges that need to be addressed prior to kicking off the next phase; and 3) Critical project resources are mobilized for the effective ramp-up of the next phase.<br><br>This quality gate includes to consider the following factors:<br>• End-user training successfully completed and assessment of workforce readiness is validated<br>• System integration testing and | | | | |

| | | | regression testing approved with high severity defects resolved or adequate work-arounds approved<br><br>• Final Mock 4 successfully executed with marked improvement relative to Mock 3 and meets industry standards | | | | |
|---|---|---|---|---|---|---|---|
| | | | | | | | |
| Run | 6.01 | Post Go-Live Support Plan Execution & Hyper Care | This deliverable is the post Go-Live support plan is mobilized, with key resources and agreed upon framework to address issues and operate VertexOne systems.  This also includes to provide hyper care, with a swat team approach, to ensure system performance tuning & health checks, minimize business disruptions and quickly address customer facing challenges. | MS Excel | Vertex | Pinellas | N |
| Run | 6.02 | Post Go-Live Stabilization | This deliverable is to provide focused project team support | MS Excel | Vertex | Pinellas | N |

| | | | to post Go-Live operations while system performance and core business functionality returns to acceptable levels that allows the business to function while servicing its customers based on approved implementation designs and Go-Live standards. | | | | |
|---|---|---|---|---|---|---|---|
| Run | 6.0 3 | QG6 – Transition to Support Organizations Quality Gate | This deliverable is to validate the readiness to transition the implementation project to the support organizations and to close the implementation project out.  This also includes that operational procedures and practices have been documented around such areas as batch process, disaster recovery, etc. | MS Excel | Vertex | Pinellas | Y |
| | | | | | | | |

**5.0     Key Assumptions**
- Vertex can execute the Discover and Prepare phases independently from Pinellas.  There is no Pinellas dependency related to starting or executing these phases.
- System integration testing includes regression testing of FRICE-W items for which no change was required.
- Unit and functional testing will only be performed for net new or changed configuration/FRICE-W
- Pinellas will adjust existing business processes to adopt standard VertexOne processes. Enhancements to the system will only be performed to accommodate a regulatory requirement that standard SAP functionality cannot achieve.
- Parallel test will consist of one bill to bill comparison cycle.

- Pinellas will provide work space and internet access for Vertex project team members working at the Pinellas site.
- Pinellas and Vertex team leads will provide weekly status reports to Vertex Project Manager.
- Vertex Project Manager will submit a consolidated status report to Pinellas management and Project Executive Sponsors.
- Implementation Services will commence in December 2018.
- [ADDITIONAL ASSUMPTIONS TO BE ADDED BASED ON FURTHER DISCUSSIONS BETWEEN PINELLAS AND VERTEX]

**6.0 Implementation Services Deliverables Acceptance Procedure**

The Pinellas's Project Manager(s) will be the point(s) of contact regarding the review and acceptance of the Deliverables as defined in the Vertex Deliverables list. If the individual assigned determines that additional people need to review and (or) approve a Deliverable, it will be the responsibility of that individual to solicit the review/approval. The Vertex's Project Manager will be responsible for the submittal of Deliverables that require Pinellas acceptance. The authorized Pinellas representative will approve the acceptance via an email that will be retained by Vertex and provided to Pinellas upon its request.

## Implementation Services Acceptance Procedure

The acceptance procedure for all deliverables outlined in this project will be as follows:

- Where required, Vertex will work with Pinellas personnel to create and review draft deliverables.

- For deliverables that require Pinellas approval, when deemed complete, Vertex will produce final deliverables for Pinellas review and approval via an email request from Vertex to the authorized representative of Pinellas.

- The Pinellas representative will reply to the email indicating approval or disapproval by Pinellas within five (5) business days provided that the aforementioned process for Pinellas review is followed.

- If a deliverable is neither approved nor rejected within five (5) business days, Vertex will assume approval and move forward with subsequent deliverables.

- If a deliverable is disapproved, a description of why it was rejected should be included in the email. If required, a meeting can be held to discuss the deliverable in detail.

- Vertex will inform the Pinellas's Project Manager if delays are to be incurred due to the deliverable documents or emails not being returned in a timely manner. Vertex will indicate any potential impact to the project timeline for delayed acceptance.

- A project phase shall not be considered complete until all deliverables required for this phase are complete and accepted or there is mutual agreement to defer a deliverable to a subsequent phase.

## 7.0 Appendices

### Appendix A – Pinellas Migration Objects and Assumptions

Migration%20Object
s%20and%20Assumpt

### Appendix B– FRICE-W List

The list of FRICE-W inventory objects associated with Pinellas current implementation are included below.

Custom Object List
for PCU SAP System.

**EXHIBIT G**
**OPERATIONAL GOVERNANCE GUIDELINES**

**1.      Purpose**

The goal of Operational Governance is to provide meaningful guidance for all stakeholders impacted by the MSA between Pinellas and Vertex. The purpose of this Exhibit G (Operational Governance Guidelines) is to clearly articulate the governance structure as it applies to the MSA. It is intended as a framework that describes the Operational Governance-related principles, processes and procedures that shall be consistently applied under this MSA, including:

- decision rights

- assignment of roles and responsibilities

- communication guidelines and protocol

- support Pinellas's business objectives, strategies and requirements

- continuous improvement.

**2.      Objectives of Operational Governance**

The objectives of the governance procedures set forth in this Exhibit G (Operational Governance Guidelines) are:

- to provide a set of principles, guidelines and processes in support of the relationship between the parties;

- to maximize the benefits of changes in Services while minimizing the costs;

- to provide service level and compliance reporting;

- to facilitate change management with the stakeholders;

- to clearly define of decision rights, obligations, accountabilities, roles and responsibilities between the parties during the operational term;

- to ensure that all issues or exceptions impacting the Services are effectively and efficiently resolved; and

- to provide a centralized governance model for the parties.

### 3. Governance Roles and Responsibility

The following shall play key roles in the management of the relationship that exists between Pinellas and Vertex.

| Role | Responsibility |
|---|---|
| **Vertex Service Delivery Executive** | The Vertex Service Delivery Executive's role is to lead Vertex's operations and support staff in developing a mutually beneficial partnership with Pinellas. The individual that fills this role shall have significant senior leadership experience in delivering outsourced solutions to major utility clients. This individual shall serve as a single point of accountability and is directly accountable for the successful delivery of all applications, interfaces and Services that include, but which are not limited to, system administration, database management, application management, application and infrastructure hosting, and bill print and mail activities.<br><br>The Vertex Service Delivery Executive shall manage and direct the efforts of the Vertex's personnel responsible for the delivery of Services to Pinellas. The Vertex's Service Delivery Executive (along with Pinellas Outsourcing Relationship Executive) will serve as the first point of escalation in the dispute resolution process. |
| **Vertex Sponsor** | The Vertex Sponsor shall service as a formal escalation of issues that cannot be resolved by the Vertex Service Delivery Executive. |
| **Pinellas Outsourcing Relationship Executive** | The Pinellas Outsourcing Relationship Executive shall meet or confer with the Vertex's Pinellas Executive as required to ensure that Vertex is receiving adequate guidance in providing the Services. The Pinellas Outsourcing Relationship Executive (along with Vertex's Pinellas Executive) will serve as the second point of escalation in the dispute resolution process. The Pinellas Outsourcing Relationship Executive shall have the right to inspect any and all Services provided by or on behalf of Vertex. |
| **Pinellas Outsourcing Contract Manager** | The Pinellas Outsourcing Contract Manager will have oversight of the quality management approach and methodology as it relates to the Services covered by the MSA and delivered by the Vertex. The individual assigned to this role shall be responsible for Pinellas's performance of its tasks under the Statements of Work. The Pinellas Outsourcing Contract Manager will identify Service-related issues and trends; identify and recommend strategies to the Vertex for improving the customer experience. The Pinellas Outsourcing Contract Manager, in co-ordination with the Vertex Pinellas Manager will participate in projects to design standard operating processes and procedural improvement initiatives. The Pinellas Outsourcing Contract Manager will work closely with other Pinellas teams including Utilities, Finance, Legal, Regulatory and IT to provide feedback and issues to the Vertex Pinellas Executive. The Pinellas Outsourcing Contract Manager (along with Vertex's Pinellas Executive) will serve as the first point of escalation in the dispute resolution process. |

The Vertex Sponsor, Vertex Delivery Manager Executive and the Pinellas Outsourcing Relationship Executive, and other designated personnel will meet at a mutually agreed cadence. The agenda for these meetings will be distributed before the meeting.

### 4. Operational Governance -- Operating Principles

The following activities highlight the key functions that Vertex will provide.

Vertex will:

(1) Provide a technically qualified account service delivery team.

(2) Provide application and database maintenance and support.

(3) Participate in cooperative strategy and planning.

(4) Provide status reporting.

(5) Attend and conduct regularly scheduled status and review meetings.

(6) Provide contract change management.

(7) Provide problem management.

(8) Provide operational change management.

(9) Ensure proper billing and invoicing.

(10)　　Manage patches or technical upgrades.

(11)Provide Pinellas reports for their audits.

**Desired Results**

(1) Effective and efficient communication between Pinellas and Vertex

(2) A common, efficient, equitable and consistent Change Control Procedures.

(3) Management of issues that are appropriately tracked and escalated in a timely and efficient manner.

(4) Continuous improvement that can:

- reduce costs;
- improve quality of services; and/or
- reduce complexities in existing processes.

(5) Timely and accurate status meetings, status reports, and performance reporting.

(6) Timely and orderly problem resolution.

**Process Assumptions**

(1) Availability and commitment of competent Vertex resources.

(2) Consistent and comprehensive Change Control Procedures.

(3) Appropriate escalation for issue resolution.

**5.　　Operational Governance Practices**

Operational Governance practices consist of activities, events and procedures that, when consistently applied, can be expected to strengthen the relationship between Pinellas and Vertex. These include the following:

**A.　　Regularly Scheduled Meetings**

Regularly scheduled meetings between stakeholders will be scheduled. Additional meetings will be scheduled as required.

**B.** **Stakeholder Communications**

Appropriate stakeholder communications (Pinellas and Vertex) that may consist of written permissions and approvals, change-related communications (Change Requests, Change Proposals, Statement of Work), Vertex-provided reports and other communications, either as specified by the MSA or as deemed necessary by the parties to ensure proper Operational Governance.

**C.** **Performance Management**

Performance Management will be achieved through a variety of mechanisms. Exhibit D (Services and Service Levels) defines the key performance requirements of the Services.

**D.** **Change Management**

Applicable changes will be managed in accordance with the provisions of Exhibit B (Change Control Procedures) and will be mutually agreed by the parties.

**E.** **Dispute Resolution**

Exhibit H (Dispute Resolution) sets forth the approach to resolve issues efficiently and effectively.

**F.** **Contract Management**

Vertex's Pinellas Executive and Pinellas's Outsourcing Contract Manager will be primarily responsible for managing the MSA and the relationship between the parties to properly deliver Services pursuant to this MSA.

**Exhibit H**
**Dispute Resolution**

1.      Certain Definitions

Capitalized terms used but not defined herein have the meanings ascribed to them in the MSA.

2.      General Procedure.

The parties shall resolve all disputes in accordance with this procedure:

2.1      If a party believes that a dispute exists prior to Go Live, that party will notify the other party. Immediately following such notice, the Vertex's Program Managers and Pinellas's and Vertex's Project Managers shall act in good faith to attempt to resolve the dispute.  If the Program Manager and Project Managers are not able to resolve the dispute within seven (7) days of notice of dispute, then immediately following the expiration of such seven (7) day period, the persons to whom the Program Manager and Project Managers respectively report will meet within fifteen (15) days, and act in good faith, to attempt to resolve the dispute.   The specific format for such discussions will be left to the discretion of the designated executives but may include the preparation of agreed upon statements of fact or written statements of position furnished to the other party.  No formal proceedings for the resolution of the dispute under Section 2.3 may be commenced until the earlier to occur of (a) a mutual good faith conclusion by the designated executives that amicable resolution through continued negotiation of the matter in issue does not appear likely or (b) the 22$^{nd}$ day after the initial request to negotiate the dispute.

2.2      If a party believes that a dispute exists after Go Live, that party will notify the other party. Immediately following such notice, the Vertex's Pinellas Executive and the Pinellas's Outsourcing Contract Manager shall act in good faith to attempt to resolve the dispute.  If the Vertex's Pinellas Executive and the Pinellas's Outsourcing Contract Manager are not able to resolve the dispute within seven (7) days of notice of dispute, then immediately following the expiration of such seven (7) day period, the persons to whom the Vertex's Pinellas Executive and the Pinellas's Outsourcing Contract Manager respectively report will meet within fifteen (15) days, and act in good faith, to attempt to resolve the dispute.   The specific format for such discussions will be left to the discretion of the designated executives but may include the preparation of agreed upon statements of fact or written statements of position furnished to the other party.  No formal proceedings for the resolution of the dispute under Section 2.3 may be commenced until the earlier to occur of (a) a mutual good faith conclusion by the designated executives that amicable resolution through continued negotiation of the matter in issue does not appear likely or (b) the 22$^{nd}$ day after the initial request to negotiate the dispute.

2.3      Litigation.

WITH RESPECT TO ANY AND ALL LITIGATION THAT MAY ARISE BETWEEN THE PARTIES RELATING TO THE TERMS OF, AND THE TRANSACTION AND RELATIONSHIPS CONTEMPLATED BY, THE MASTER AGREEMENT, THE PARTIES HEREBY CONSENT TO EXCLUSIVE VENUE IN PINELLAS COUNTY, FLORIDA, AND TO THE EXCLUSIVE JURISDICTION OF THE STATE COURTS OR FEDERAL COURTS IN OR FOR PINELLAS COUNTY, FLORIDA, SUBJECT TO THE MEDIATION REQUIREMENTS SET FORTH HEREIN.

2.4      Continued Performance.

Each party will continue to perform its obligations under the MSA during any dispute resolution (including the payment of fees for Services by Pinellas unless and then only to the extent that such fees are the basis of the dispute in question) unless and until those obligations are terminated by the termination or expiration of the MSA.

Exhibit I – SAP Software

**Exhibit I – SAP Software**

The SAP Software shall be the software as set forth on the attached bill of materials.

<u>**Bill of Materials**</u>

| Material Number | Product | License Metric | Blocks / units | Amount |
|---|---|---|---|---|
| **7017299** | SAP Single Sign-On | Users | 50 | 3 |
| **7019212** | SAP Enable Now, author option | Users | 1 | 2 |
| **7019213** | SAP Enable Now, consumption option | Users | 1 | 150 |
| **7018961** | SAP S/4HANA for water utilities meter data management and operations | Points of Delivery | 1000 | 217 |
| **7018962** | SAP S/4HANA for water utilities bill-to-cash management | Contracts | 1000 | 371 |
| 7019725 | S/4HANA utilities for customer management, enterprise edition | Contracts | 1000 | 371 |
| **7018538** | SAP S/4HANA Enterprise Management for ERP customers | Flat Fee | 1 | 1 |
| **7020046** | SAP HANA, Runtime edition for Applications & SAP BW - Install Base | HSAV | N.A. | N.A. |
| **7020045** | SAP HANA, Runtime edition for Applications & SAP BW - New/Subsequent | HSAV | N.A | N.A |

**SOFTWARE LICENSE AGREEMENT**
("Agreement")

This Agreement is made effective as of the _6_ day of December, 2006, by and between SAP Public Services, Inc., a Delaware corporation, with offices at The Ronald Regan Building – International Trade Center, 1300 Pennsylvania Avenue, NW, Suite 600, Washington, DC 20004 ("SAP"), and Pinellas County Florida, a public governmental entity, with offices at 14 South Fort Harrison Avenue, Clearwater, Florida 33756 ("Licensee").

1. DEFINITIONS.
1.1 "Application Source Code" means Proprietary uncompiled code, written in ABAP, which is used to develop the specific functions within the applications (e.g. Financials, Controlling, etc.) of the SAP Software.

1.2 "Basis Source Code" means Proprietary (partly) binary code, written in C, C++, and JAVA programming language, which serves as the underlying foundation of the SAP Software Applications.

1.3 "Business Partner" means an entity that requires access to the Software in connection with the operation of Licensee's business, such as customers, distributors and suppliers.

1.4 "Documentation" means SAP's documentation which is delivered to Licensee under this Agreement.

1.5 "Modification" means a change to the Software that changes the delivered source code or an enhancement to the Software that is made using SAP tools or utilizing or incorporating SAP Proprietary Information.

1.6 "Named Users" means any combination of users licensed under this Agreement.

1.7 "Proprietary Information" means: (i) with respect to SAP and SAP AG (the licensor of the SAP Proprietary Information to SAP), the Software and Documentation, any other third-party software licensed with or as part of the Software, benchmark results, manuals, program listings, data structures, flow charts, logic diagrams, functional specifications; (ii) the concepts, techniques, ideas, and know-how embodied and expressed in the Software and (iii) information reasonably identifiable as the confidential and proprietary information of SAP or Licensee or their licensors excluding any part of the SAP or Licensee Proprietary Information which: (a) is or becomes publicly available through no act or failure of the other party; or (b) was or is rightfully acquired by the other party from a source other than the disclosing party prior to receipt from the disclosing party; or (c) becomes independently available to the other party as a matter of right. SAP understands that Licensee is a governmental entity and must adhere to Florida Statutes - Chapter 119 The Public Records Law. The Proprietary Information defined herein will be treated as public according to Florida Statute Chapter 119 unless a determination is made that the information is exempt according to Florida Law. In the event the County receives a public record request for Proprietary Information the County will notify SAP and SAP will have 5 business days to assert any exemptions to the Public Records law in an appropriate forum.

1.8 "Software" means (i) all software specified in agreed upon Appendices hereto, developed by or for SAP and/or SAP AG and delivered to Licensee hereunder; (ii) any new releases thereof made generally available pursuant to Premium Support; and (iii) any complete or partial copies of any of the foregoing.

1.9 "Subsidiary" means a corporation in the Territory of which Licensee owns more than fifty percent of the voting securities. This entity will be considered a Subsidiary for only such time as such equity interest is maintained.

1.10 "Territory" means the United States of America.

1.11 "Use" means to activate the processing capabilities of the Software, load, execute, access, employ the Software, or display information resulting from such capabilities.

2. LICENSE GRANT.
2.1 License.
(a) SAP grants, a non-exclusive, perpetual (unless terminated in accordance with Section 5 herein) license to Use the Software, Documentation, other SAP Proprietary Information, at specified site(s) within the Territory to run Licensee's internal business operations and to provide internal training and testing for such internal business operations and as further set forth in Appendices hereto. This license does not permit Licensee to use the SAP Proprietary Information to provide services to third parties (e.g., business process outsourcing, service bureau applications or third party training). Business Partners may have screen access to the Software solely in conjunction with Licensee's Use and may not Use the Software to run any of their business operations. Individuals will not be deemed Named Users once their Use of the Software ceases. Licensee will revoke such User(s) access to the Software. Licensee may transfer or reutilize licenses associated with such individuals to other individuals.

(b) Licensee agrees to install the Software only on hardware identified by Licensee pursuant to this Agreement that has been previously approved by SAP in writing or otherwise officially made known to the public as appropriate for Use or interoperation with the Software (the "Designated Unit"). Any individuals that Use the Software including employees or agents of Subsidiaries and Business Partners, must be licensed as Named Users. Use may occur by way of an interface delivered with or as a part of the Software, a Licensee or third-party interface, or another intermediary system.

(c) Licensee may permit services providers, to access the Software solely for the purpose of providing facility; systems, or disaster recovery services to Licensee in connection with the business of Licensee for which the Software is herein licensed provided: (i) SAP, Licensee, and such services provider execute a Confidentiality Agreement in the form attached as Exhibit B prior to such access; (ii) all employees of such services provider authorized to access the Software shall be licensed as Named Users; (iii) such services provider shall be permitted to Use the Software solely to operate the business of Licensee as set forth herein, (or in the case of a disaster recovery vendor, to provide disaster recovery services only); (iv) under no circumstances may such services provider Use the Software to operate or provide processing services to any other party, or in connection

with such services provider's own business operations; (v) Licensee shall be responsible for any additional Software, migration tools, or third party software needed to effect the transition necessary for the provider contemplated herein to provide their service.

2.2    Subsidiary Use. Subsidiaries may Use the Software provided that: (i) the Subsidiary agrees to be bound by the terms herein in the form of Exhibit A attached hereto; and (ii) a breach of such Exhibit by Subsidiary shall be considered a breach by Licensee hereunder.

2.3    Delivery. The licensed Software in machine-readable format, the Application Source Code, and the Documentation, shall be delivered as specified in Appendices hereto ("Delivery"). Licensee shall be responsible for installation of the Software.

3.    VERIFICATION. SAP shall be permitted to audit (at least once annually and in accordance with SAP standard procedures) the usage of the SAP Proprietary Information. In the event an audit reveals that Licensee underpaid License and/or Premium Support Fees to SAP, Licensee shall pay such underpaid fees based on SAP's list of prices and conditions in effect at the time of the audit.

4.    PRICE AND PAYMENT.
4.1    License Fees. Licensee or Licensee's authorized third party representative shall pay to SAP license fees for the Software and Premium Support fees on the terms in Appendices hereto. Fees for Services will be paid as set forth in the Professional Services Schedule attached hereto. Any fees not paid when due which are not based on a good faith dispute regarding such payment shall accrue interest at the rate of 12% per annum, in accord with Florida Statute Section 218.70 et. seq.

4.2    Taxes. Fees and other charges described in this Agreement, or in SAP's most recent list of prices and conditions, do not include sales, or similar taxes ("Tax(es)") now or hereafter levied, all of which may be for Licensee's account. With respect to state/local sales tax, direct pay permits or valid tax-exempt certificates must be provided to SAP prior to the execution of this Agreement. If SAP is required to pay Taxes, Licensee shall reimburse SAP for such amounts.

5.    TERM.
5.1.    Term. This Agreement and the license granted hereunder shall become effective as of the date first set forth above and shall continue in effect thereafter unless terminated upon the earliest to occur of the following: (i) thirty days after Licensee gives SAP written notice of Licensee's desire to terminate this Agreement, for any reason, but only after payment of all License and Premium Support Fees then due and owing; (ii) thirty days after SAP gives Licensee notice of Licensee's material breach of any provision of the Agreement (other than Licensee's breach of its obligations under Sections 6 or 10, which breach shall result in immediate termination), including more than thirty days delinquency in Licensee's payment of any money due hereunder, unless Licensee has cured such breach during such thirty day period. Non-payment of maintenance fees will not terminate Licensee's License Grant; (iii) thirty days after Licensee files for bankruptcy, becomes insolvent, or makes an assignment for the benefit of creditors unless within the specified thirty (30) day period Licensee, its receiver, or its trustee in bankruptcy provides to SAP adequate written assurances, reasonably acceptable to SAP, of Licensee's continuing ability and willingness to fulfill all of its obligations under this Agreement.

5.2    End of Term Duties. Upon any termination hereunder, Licensee and its Subsidiaries shall immediately cease Use of all SAP Proprietary Information. Within thirty (30) days after any termination, Licensee shall deliver to SAP or destroy all copies of the SAP Proprietary Information in every form unless Licensee is obligated to retain such Proprietary Information in accord with Florida Statutes Chapter 119, The Public Records Law. Licensee agrees to certify in writing to SAP that it and each of its Subsidiaries has performed the foregoing. Sections 3, 4, 6, 7.2, 8, 9, 11.4, 11.5 and 11.6 shall survive such termination. In the event of any termination hereunder, Licensee shall not be entitled to any refund of any payments made by Licensee.

6.    PROPRIETARY RIGHTS.
6.1    Protection of Proprietary Information Licensee shall not copy, translate, disassemble, or decompile, nor create or attempt to create, by reverse engineering or otherwise, the source code from the object code of the Software. Except for the rights set forth below, Licensee is not permitted to make derivative works of the Software and ownership of any unauthorized derivative works shall vest in SAP. SAP and Licensee agree to take all reasonable steps and the same protective precautions to protect the Proprietary Information from disclosure to third parties as with its own proprietary and confidential information. Neither party shall, without the other party's prior written consent, disclose any of the Proprietary Information of the other party to any person, except to its bona fide individuals whose access is necessary to enable such party to exercise its rights hereunder. Each party agrees that prior to disclosing any Proprietary Information of the other party to any third party, it will obtain from that third party a written acknowledgment that such third party will be bound by the same terms as specified in this Section 6 with respect to the Proprietary Information. SAP understands that Client is a governmental entity and must adhere to Florida Statutes - Chapter 119 The Public Records Law.

6.2    Modifications.
Licensee may make Modifications to the Software, and shall be permitted to use Modifications with the Software in accordance with this Agreement. Licensee shall comply with SAP's registration procedure prior to making changes to the source code. All Modifications and all rights associated therewith shall be the exclusive property of SAP and SAP AG. Licensee agrees to execute those documents reasonably necessary to secure SAP's rights in the foregoing. SAP retains the right to independently develop enhancements to the Software and Licensee agrees not to take any action that would limit SAP's sale, assignment, licensing or use of its own Software or Modifications or enhancements thereto.

7.    PERFORMANCE WARRANTY.
7.1    Warranty. SAP warrants that the Software will materially conform to the functional specifications contained in the Documentation, and with the "A" responses in the Functional and Technical Requirements dated July 24, 2006, _(the "Requirements Matrices") set out in Attachment 1 hereto, for twelve months following delivery. The warranty shall not apply: (i) if the Software is not used in accordance with the Documentation; or (ii) if the defect is caused by a Modification, Licensee (except for Licensee's authorized Use of the Software as defined in this Agreement), third-party software, or third party database. SAP does not warrant that the Software will operate uninterrupted or that it will be free from minor defects or errors that do not materially affect such performance, or that the applications contained in the Software are designed to meet all of Licensee's business requirements.

Attachment 1 is incorporated into this Agreement with the representation that SAP formulated its responses in those sections based upon: a) SAP's best information, knowledge, and belief as of the date they were written; b) SAP's software as it existed as of that date; and c) the information provided in Licensee's RFP, onsite demonstrations and Fact Finding Weeks as per the Licensee's RFP process.

7.2    Express Disclaimer.  SAP AND ITS LICENSORS (SAP AG) DISCLAIM ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE EXCEPT TO THE EXTENT THAT ANY WARRANTIES IMPLIED BY LAW CANNOT BE VALIDLY WAIVED.

8.    INDEMNIFICATION.
8.1    Indemnification of Licensee.  SAP shall indemnify Licensee against all claims, liabilities, and costs, including reasonable attorneys' fees, reasonably incurred in the defense of any claim brought against Licensee.in the Territory by third parties alleging that Licensee's Use of the Software and Documentation infringes or misappropriates any United States patent of which SAP is aware; a copyright; or trade secret rights, provided that such indemnity shall not apply if the alleged infringement results from Use of the Software in conjunction with any other software, an apparatus other than a Designated Unit, or unlicensed activities and so long as Licensee promptly notifies SAP in writing of any such claim and SAP is permitted to control the defense and any settlement of such claim as long as such settlement shall not include a financial obligation on Licensee. Licensee shall cooperate fully in the defense of such claim and may appear, at its own expense, through counsel reasonably acceptable to SAP.  SAP may settle any claim on a basis requiring SAP to substitute for the Software and Documentation alternative substantially equivalent non-infringing programs and supporting documentation.  Licensee shall not undertake any action in response to any infringement or alleged infringement of the Software and Documentation.

8.2    THE PROVISIONS OF THIS SECTION 8 STATE THE SOLE, EXCLUSIVE, AND ENTIRE LIABILITY OF SAP AND ITS LICENSORS (SAP AG) TO LICENSEE, AND IS LICENSEE'S SOLE REMEDY, WITH RESPECT TO THE INFRINGEMENT OF THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS.

9.    LIMITATIONS OF LIABILITY.
9.1    Licensee's Remedies. Licensee's sole and exclusive remedies for any damages or loss in any way connected with the Software or Services furnished by SAP and its licensors, whether due to SAP's negligence or breach of any other duty, shall be, at SAP's option:  (i) to bring the performance of the Software into substantial compliance with the Documentation and the Requirements Matrices;  (ii) re-performance of Services; or (iii) return of an appropriate portion of any payment made by Licensee with respect to the applicable portion of the Software or Services.

9.2    Not Responsible.  SAP will not be responsible under this Agreement (i) if the Software is not used in accordance with the Documentation; or (ii) if the defect is caused by Licensee (except for Licensee's authorized Use as defined in this Agreement), a Modification, third-party software, or third party database.   SAP AND ITS LICENSORS SHALL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES ARISING FROM INHERENTLY DANGEROUS USE OF THE SOFTWARE AND/OR THIRD-PARTY SOFTWARE LICENSED HEREUNDER.

9.3    Limitation of Liability.  ANYTHING TO THE CONTRARY HEREIN NOTWITHSTANDING, EXCEPT FOR DAMAGES RESULTING FROM UNAUTHORIZED USE OR DISCLOSURE OF PROPRIETARY INFORMATION, UNDER NO CIRCUMSTANCES SHALL SAP, ITS LICENSORS (SAP AG) OR LICENSEE BE LIABLE TO EACH OTHER OR ANY OTHER PERSON OR ENTITY FOR AN AMOUNT OF DAMAGES IN EXCESS OF THE PAID LICENSE FEES OR BE LIABLE IN ANY AMOUNT FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES, LOSS OF GOOD WILL OR BUSINESS PROFITS, WORK STOPPAGE, DATA LOSS, COMPUTER FAILURE OR MALFUNCTION, OR EXEMPLARY OR PUNITIVE DAMAGES.

9.4    Severability of Actions.  IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT EACH AND EVERY PROVISION OF THIS AGREEMENT WHICH PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS INTENDED BY THE PARTIES TO BE SEVERABLE AND INDEPENDENT OF ANY OTHER PROVISION AND TO BE ENFORCED AS SUCH.

10.    ASSIGNMENT.  Licensee may not, without SAP's prior written consent, assign, delegate, pledge, or otherwise transfer this Agreement, or any of its rights or obligations under this Agreement, or the SAP Proprietary Information, to any party, whether voluntarily or by operation of law, including by way of sale of assets, merger or consolidation.    SAP may assign this Agreement to its affiliates with the prior consent of Licensee which will not be unreasonably withheld.

11.    GENERAL PROVISIONS.
11.1    Severability.  It is the intent of the parties that in case any one or more of the provisions contained in this Agreement shall be held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect the other provisions of this Agreement, and this Agreement shall be construed as if such invalid or unenforceable provision had never been contained herein.

11.2    No Waiver.  If either party should waive any breach of any provision of this Agreement, it shall not thereby be deemed to have waived any preceding or succeeding breach of the same or any other provision hereof.

11.3    Counterparts.  This Agreement may be signed in two counterparts, each of which shall be deemed an original and which shall together constitute one Agreement.

11.4    Export Control Notice.  The Software, Documentation and Proprietary Information are being released or transferred to Licensee in the United States and are therefore subject to the U.S. export control laws. Licensee acknowledges its obligation to ensure that its exports from the United States are in compliance with the U.S. export control laws.  Licensee shall also be responsible for complying with all applicable governmental regulations of any foreign countries with respect to the use of the Proprietary Information by its Subsidiaries outside of the United States.  Licensee agrees that it will not submit the Software to any government agency for licensing consideration or other regulatory approval without the prior written consent of SAP.

11.5    Publicity.  Neither party shall use the name of the other party in publicity, advertising, or similar activity, without the prior written consent of the other.

11.6    Governing Law.  This Agreement shall be governed by and construed under the laws of the State of Florida without reference to its conflicts of law principles.  In the event of any conflicts between foreign law, rules, and regulations, and United States of America law, rules, and regulations, United States of America law, rules, and regulations shall prevail and govern. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this agreement. The Uniform Computer Information Transactions Act as enacted shall not apply.

11.7    Notices.  All notices or reports which are required or may be given pursuant to this Agreement shall be in writing and shall be deemed duly given when delivered to the respective executive offices of SAP and Licensee at the addresses first set forth above.

11.8   Force Majeure.  Any delay or nonperformance of any provision of this Agreement (other than for the payment of amounts due hereunder) caused by conditions beyond the reasonable control of the performing party shall not constitute a breach of this Agreement, and the time for performance of such provision, if any, shall be deemed to be extended for a period equal to the duration of the conditions preventing performance.

11.9   Entire Agreement.  This Agreement and each Schedule and Appendix hereto constitute the complete and exclusive statement of the agreement between SAP and Licensee, and all previous representations, discussions, and writings are merged in, and superseded by, this Agreement. This Agreement may be modified only by a writing signed by both parties. With the exception of mutually executed change orders, this Agreement and each Appendix hereto shall prevail over any additional, conflicting, or inconsistent terms and conditions which may appear on any purchase order or other document furnished by Licensee to SAP.

IN WITNESS WHEREOF, the undersigned, intending to be legally bound, have duly executed this Agreement to become effective as of the date first above written.

SAP Public Services, Inc.                                      Pinellas County
(SAP)                                                          (Licensee)

By:  _____                                  By:  _____
          Mary Beth Hanss                                            Title:  Cheirmen
Title:  VP & Assistant General Counsel
Date:  _____                                Date:  12.04.06


Reviewed by Contracts                                         ATTEST: KEN BURKE, CLERK
                                                              By _____
Terry Dougherty  T. D.                                                   Deputy Clerk



                    APPROVED AS TO FORM
               OFFICE OF COUNTY ATTORNEY

               By  _____
                              Attorney


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## SUBSIDIARY USE AGREEMENT

This Subsidiary Use Agreement is made effective as of the _____ day of _____, 200_ between SAP Public Services, Inc., a Delaware Corporation, with offices at The Ronald Regan Building – International Trade Center, 1300 Pennsylvania Avenue, NW, Suite 600, Washington, DC 20004 ("SAP") and _____ a _____ corporation,                                              with                                         offices _____ ("Subsidiary").

1.   Subsidiary is entitled to have Named Users Use the Software on the Designated Unit(s) identified in the SAP _____·____, Inc. /_____·_____ Software End-User License Agreement ("Agreement").

2.   Subsidiary agrees to abide by and be bound by all of the terms and conditions of the Agreement applicable to Subsidiary and applicable to Licensee. SAP may directly enforce all such terms and conditions against it directly.

3.   Subsidiary agrees that its right to Use SAP Software and receive Premium Support services shall be governed solely by the Agreement. In the event that the Agreement is terminated, this Subsidiary Use Agreement is terminated or if Subsidiary ceases to meet the definition of "Subsidiary" therein, Subsidiary agrees that all of its rights to the Software will cease effective as of the termination date.

IN WITNESS WHEREOF, the undersigned, intending to be legally bound, have duly executed this Subsidiary Use Agreement.

SAP Public Services, Inc.                                   _____
(SAP)                                                       (Subsidiary)

By: _____                        By: _____

Title: _____                       Title: _____

Date: _____                        Date: _____

This Confidentiality Agreement (" Agreement") made this ____th day of ____, 200__ between SAP Public Services, Inc. having its principal place of business at 3999 West Chester Pike, Newtown Square, Pennsylvania 19073 (hereinafter referred to as "SAP"), _____, having its principal place of business at _____ (hereinafter referred to as "Vendor") and _____, having its principal place of business at _____, hereinafter referred to as ("Client").

All terms as set forth in the SAP Public Services, Inc. Software License Agreement ("License Agreement") and referred to herein, shall have the same meaning as set forth in the License Agreement unless otherwise modified herein.

WHEREAS, SAP is in the business of providing proprietary software, documentation, and related services to its Customers;

WHEREAS, Pursuant to the License Agreement dated December __, 2006, between SAP and Client, SAP has licensed its Software, Documentation and other Proprietary Information to Client for Use in its business operations;

WHEREAS, Client has engaged Vendor to perform certain facilities and/or information systems management services as set forth in the _____ Agreement between Vendor and Client dated _____ ("Services") that will require Vendor to have access to the Software; and

WHEREAS, SAP and/or Client will disclose to Vendor the Software, whether in source or object code, including unique concepts or techniques embodied therein, Documentation, any Third-Party Database or Third-Party Software sublicensed from SAP, and any other Proprietary Information for the sole purpose of allowing Vendor to provide the Services to Client;

NOW THEREFORE, In consideration of disclosure to Vendor of such Proprietary Information, and intending to be legally bound, the parties agree as follows:

1. Permissible Users.

Vendor agrees that it will use the Proprietary Information solely for providing the Services to Client. Vendor will not use the Proprietary Information to process its own business information or to provide processing or facilities management or other services to any party other than Client.

2. SAP Proprietary Information.

(a) Vendor acknowledges SAP's assertion that ownership of and title in and to all intellectual property rights, including patent, trademark, service mark, copyright, and trade secret rights, in the Proprietary Information are and shall remain in SAP and SAP AG and their respective licensors. Vendor acquires only the right to use the Proprietary Information under the terms and conditions of this Agreement and does not acquire any ownership rights or title in or to the Proprietary Information and that of their respective licensors.

(b) SAP agrees that no restrictions are made upon Vendor with respect to any Proprietary Information that: (a) is already rightfully possessed by Vendor without obligation of confidentiality; or (b) is developed independently by Vendor without breach of this Agreement; or (c) is rightfully received by Vendor from a third party without obligation of Confidentiality; or (d) is, or becomes, publicly available without breach of this Agreement.

(c) Vendor shall not remove any proprietary, copyright, trademark, or service mark legend from the Software, Documentation or other provided Proprietary Information.

(d) Vendor shall maintain a log of the number and location of all originals and copies of the Software. The inclusion of a copyright notice on any portion of the Software or Documentation shall not cause or be construed to cause it to be a published work.

3. Protection of Proprietary Information.

(a) To the extent permissible by law, Vendor agrees that it will not disclose, provide, or make available any of the Proprietary Information in any form to any person, except to bona fide employees, officers, or directors whose access is necessary to enable Vendor to exercise its rights hereunder, without the SAP's prior written consent.

(b) Vendor shall not copy, translate, disassemble, or decompile, nor create or attempt to create the source code from the object code of the Software licensed hereunder or use it to create a derivative work, unless authorized in writing by SAP.

(c) To the extent permissible by law, Vendor acknowledges that any disclosure to third parties of Proprietary Information may cause immediate and irreparable harm to SAP, therefore, Vendor agrees to take the same protective precautions to protect the Proprietary Information from disclosure to third parties as it takes with its own proprietary and Proprietary Information of a similar nature.

4. Duties Upon Termination.

Upon any termination of the License Agreement of the Services hereunder, Vendor shall immediately cease Use of the Proprietary Information and shall irretrievably delete the Software, Third-Party Database and Documentation from all Vendor computer hardware, including CPU, application servers, terminals, workstations, and data files. Within thirty days after any termination, Vendor shall deliver to SAP at Vendor's expense (adequately packaged and insured for safe delivery) or, at SAP's request, destroy all copies of the Proprietary Information in every form. Vendor further agrees to erase the Software and Documentation from any storage media. Vendor shall certify in writing to SAP that it has performed the foregoing.

5.  No Rights Transferred.

The furnishing of the Proprietary Information for the limited purposes set forth herein does not constitute the grant, option, license, sublicense, assignment, or other form of transfer to Vendor of any rights, title or interest in or to such Proprietary Information.

6.  Modifications.

Vendor, under the terms of this Agreement, expressly warrants and represents on its behalf, and on behalf of its agents and employees, that no Modifications for the licensed Software will be performed without providing prior written notice to SAP. All Modifications to the Software owned by SAP shall be considered part of the Software for purposes of this Agreement.

7.  Indemnification.

(a)  Vendor agrees to indemnify and defend SAP, its parent, affiliates, its and their officers, directors and employees, from and against any and all loss, claim or damage, including attorney's fees and costs, which SAP may suffer, that arise from or are in any way connected with Vendor's provision of the Services to Client or breach of Vendor's obligations hereunder.

(b)  ANYTHING TO THE CONTRARY HEREIN NOTWITHSTANDING, UNDER NO CIRCUMSTANCES SHALL SAP BE LIABLE TO VENDOR, CLIENT OR ANY OTHER PERSON OR ENTITY FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES, LOSS OF GOOD WILL OR BUSINESS PROFITS, WORK STOPPAGE, DATA LOSS, COMPUTER FAILURE OR MALFUNCTION, ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSS, OR EXEMPLARY OR PUNITIVE DAMAGES. THE FOREGOING LIMITATIONS OF LIABILITY DOES NOT APPLY TO PERSONAL INJURY OR DEATH CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF SAP.

8.  Assignment.

Vendor may not, without SAP's prior written consent, assign, delegate, sublicense, pledge, or otherwise transfer this Agreement, or any of its rights or obligations under this Agreement. Any permitted assignment of this Agreement shall provide that the provisions of this Agreement shall continue in full force and effect and that Vendor shall guaranty the performance of its assignee and shall remain liable for all obligations hereunder.

9.  Miscellaneous.

(a)  This Agreement shall be binding upon and inure to the benefit of the parties hereto and their permitted successors assigns.

(b)  The provisions of this Agreement, together with any agreements incorporated or referred to herein, shall (i) with regard to the subject matter hereof, supersede all prior agreements and negotiations, and (ii) be modified only by a written agreement.

(c)  In the event that any provision of this Agreement shall, for any reason, be determined to be invalid, illegal, or unenforceable in any respect, the parties hereto shall negotiate in good faith and agree to such amendments, modifications, or supplements of or to this Agreement or such other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the parties as reflected herein, and the other provisions of this Agreement shall, as so amended, modified, or supplemented, or otherwise affected by such action, remain in full force and effect.

(d)  This Agreement shall be governed by and construed under the State of Florida law without reference to its conflicts of law principles.

This Agreement shall be in effect beginning on the date first above written and shall continue in effect until otherwise agreed upon by the parties in writing.

IN WITNESS HEREOF, and intending to be legally bound, the parties have executed this Agreement on the date and year first written above.

SAP PUBLIC SERVICES INC.                                _____(Vendor)

By: _____                             By: _____

Title: _____                          Title: _____

Date: _____                           Date: _____


_____(Client)

By: _____

Title: _____

Date: _____

This Schedule is hereby annexed to and made a part of the Agreement specified above.  In each instance in which provisions of this Schedule contradict or are inconsistent with the provisions of the Agreement, the provisions of this Schedule shall prevail and govern.

1.    Licensee or its authorized agent (hereafter simply referred to as "Licensee") may request and SAP shall provide, to such degree as SAP makes such services generally available in the Territory, maintenance service ("Maintenance").  Maintenance currently includes the delivery of new releases of the Software and Software correction packages, support via telephone, remote support/update, Early Watch Alert, and SAP's support portal.  In order to receive Maintenance, Licensee must make all required remote support and update connections to each Designated Unit as requested by SAP.

2.    mySAP Services:  Maintenance currently includes a choice of one of the following services per live installation per year:
A.  One GoingLive Check for any new Software or other SAP application implementation;
B.  One GoingLive Upgrade Check for an upgrade to a higher functional release (e.g. from R/3 4.0 to 4.6); or
C.  One GoingLive OS/DB Migration Check.  This OS/DB Migration Check assists the Licensee in preparing for a migration of an operating system or database.  Migration is the responsibility of the Licensee.

In addition to these options, Maintenance currently includes up to two EarlyWatch Sessions per live SAP installation for the continual optimization of Licensee's already live system.

To schedule GoingLive Check, GoingLive OS/DB Migration Check, or EarlyWatch Sessions, Licensee must contact Americas Customer Support Services at 800-677-7271 or internationally at 610-355-6821 and choose option 6.  To assist Licensee in this, SAP has established the following scheduling pre-requisites:
A.  The Licensee must provide remote access to its productive system.
B.  To receive the GoingLive Check or GoingLive Upgrade Check Licensee must inform SAP at least three months prior to your go live or upgrade date.
C.  To receive the EarlyWatch Sessions, SAP requests a minimum of three months advanced notification.  In addition, Licensee must send the EarlyWatch Alert data to SAP on at least a monthly basis and cooperate with SAP in reviewing the data and determining the proper deployment of the EarlyWatch Sessions based on the EarlyWatch Alert data.
D.  To receive the GoingLive OS/DB Migration Check, Licensee must comply with all of the then current pre-Check requirements.  These requirements currently include hiring a certified OS/DB migration consultant, proper testing, installation of tools, and advance scheduling.  Contact your local SAP Customer Support Representative for more information.

Further information and detail about individual SAP services can be found on SAPNet site (http://www.service.sap.com/support).
FAILURE TO UTILIZE THE MAINTENANCE SERVICES PROVIDED BY SAP MAY PREVENT SAP FROM BEING ABLE TO IDENTIFY AND ASSIST IN THE CORRECTION OF POTENTIAL PROBLEMS WHICH, IN TURN, COULD RESULT IN UNSATISFACTORY SOFTWARE PERFORMANCE.

3.    Licensee agrees to promptly disclose to SAP and maintain adequate and current records of all Modifications and, if needed to provide Maintenance Services, provide such records to SAP.

4.    Maintenance from SAP for the Software licensed hereunder is limited to the following United States' site(s):

Alliance Data
Utility Services Division
17201 Waterview Parkway
Dallas, Texas 75252

Alliance Data
Attn:  Utility Services Division
4590 E Broad St
Columbus, OH  43213

14 South Fort Harrison Avenue,
Clearwater, Florida 33756

5.    Licensee agrees to establish and maintain Customer Competency Center(s) ("CCC") at the site(s) specified above within twelve months of the Effective Date of this Schedule. Each CCC must maintain an internal Help Desk to provide first level support to Licensee's Named Users. Such internal Help Desk(s) must be staffed with a sufficient number of support consultants trained in the support and administration of the SAP Software during Licensee's normal working hours, but no less than eight hours a day, five days a week.  All Named Users may have access to SAP's support portal however, only Licensee CCC representatives are authorized to contact SAP after attempting to resolve the matter. Each CCC shall coordinate Licensee's Modification notification and disclosure requirements and shall coordinate Licensee's development requests. Licensee's CCC is responsible for the administration and management of the requirements specified in the Agreement including, but not limited to, performing periodic self audits to ensure Licensee's compliance with the license grant, maintaining master and installation data and managing the release order process.  In the event Licensee does not establish and maintain CCC(s) in accordance with the above, SAP reserves the right to increase Licensee's then current maintenance percentage factor then in effect.

6.    Maintenance Fees shall be paid annually in advance as specified in Appendices to the Agreement. In addition, Licensee shall be invoiced an annual fee USD 1,500 total for up to three designated SAP compliant remote connections. Maintenance Services offered by SAP may be changed annually by SAP at any time upon three months prior written notice.  After Year 1, the Maintenance Fees and any limitations on increases are subject to Licensee's compliance with the CCC requirements specified above.  Maintenance may be terminated by either party in writing at any time upon three months' prior written notice and Licensee shall be entitled to a pro-rata refund of prepaid Maintenance Fees. Notwithstanding the forgoing, SAP may terminate Maintenance after thirty days written notice of Licensee's failure to pay Maintenance Fees.

7.    In the event Licensee elects not to commence Maintenance upon the first day of the month following initial delivery of the Software, or Maintenance is otherwise declined for some period of time, and is subsequently requested or reinstated, SAP will invoice Licensee the accrued Maintenance Fees associated with such time period plus a reinstatement fee.

This Schedule is hereby annexed to and made a part of the Agreement specified above.  In each instance in which provisions of this Schedule contradict or are inconsistent with the provisions of the Agreement, the provisions of this Schedule shall prevail and govern.

Licensee may request and SAP shall provide, to such degree as SAP makes such services generally available in the Territory, premium support services for the Software ("Premium Support").  Premium Support currently includes the delivery of new releases of the Software and Software correction packages, support via telephone, remote support/update, Service Level Agreement, SAP Premium Support Advisor, Assessment Services, Proactive Remote Services, Early Watch Alert and SAP's support portal. In order to receive Premium Support, Licensee must make all required remote support and update connections to each Designated Unit as requested by SAP.  In the event SAP licenses third party software to Licensee under the Agreement, SAP shall provide Premium Support on such third party products to the degree the applicable third party makes such Premium Support services available to SAP.

1.   **SAP Premium Support Services.** SAP Premium Support Services include the following:

**1.1 Service Level Agreement.** The following Service Level Agreement ("SLA") commitments shall be offered commencing in the first full Calendar Quarter following the completion of Licensee's implementation of the recommendations resulting from the Initial Assessment specified in Section 1.3 below.  As used herein, "Calendar Quarter" is the three month period ending on March 31, June 30, September 30 and December 31 respectively of any given calendar year.

1.1.1  SLA for Initial Response Times:

a.  Priority 1 Support Messages ("Very High").  SAP shall respond to Priority 1 support messages (currently defined as production system shut-down or severe restrictions in the SAP productive system that prevent productive work) within one (1) hour of SAP's receipt (twenty-four hours a day, seven days a week) of such Priority 1 support messages.

b.  Priority 2 Support Messages ("High").  SAP shall respond to Priority 2 support messages (currently defined as severe loss of functionality, significant restrictions in the SAP productive system) within four (4) hours of SAP's receipt (during SAP's normal business hours (in the region Licensee is located) Monday-Friday, excluding United States and German legal and public holidays) of such Priority 2 support messages.

c.  For further information on assigning priority levels see SAP Note 67739 available in the SAP Notes Database on the SAP Service Marketplace via www.service.sap.com/support.  For informational purposes only SAP Note 67739 is attached hereto. Licensee understands that attached note is subject to change.

1.1.2  SLA for Corrective Action Response Time for Priority 1 Support Messages: SAP shall provide a solution, work around or action plan for resolution ("Corrective Action") of Licensee's Priority 1 support message within four (4) hours of SAP's receipt (twenty-four hours a day, seven days a week) of such Priority 1 support messages.  In the event an action plan is submitted to Licensee as a Corrective Action, such action plan shall include: (i) status of the error resolution process; (ii) planned next steps, including identifying responsible SAP resources; (iii) required Licensee actions to support error resolution process; (iv) to the extent possible, due dates for SAP's actions; and (v) date and time for next status update from SAP.  Subsequent status updates shall include a summary of the actions undertaken so far; planned next steps; and date and time for next status update. The time for Corrective Action refers only to that part of the processing time when the support message is in the status "in-process" at SAP.

1.1.3  Service Level Credit.  SAP shall have met the stated SLAs provided SAP reacts within the stated time frames in ninety-five percent (95%) or greater of the aggregate cases for all SLAs within a Calendar Quarter.  In the event Licensee submits less than twenty (20) messages (in the aggregate for all SLAs) subject to the above stated SLAs in any Calendar Quarter during the Premium Support Services term, Licensee agrees that SAP shall be deemed to have met the stated SLA provided it does not exceed the stated SLA time-frame in more than one support message during the applicable Calendar Quarter.  In the event Licensee claims in writing to SAP that SAP failed to meet the stated SLAs as measured in accordance with this Section 1.1.3, SAP shall investigate such claim and provide a written report of SLA performance during the applicable Calendar Quarter.  Should the report show that SAP failed to meet the stated SLAs as measured in accordance with this Section 1.1.3, SAP shall apply a Service Level Credit ("SLC") to Licensee's next Premium Support Service Fee invoice equal to forty-five one-hundredths percent (.45%) of Licensee's Premium Support Service Fee for the applicable Calendar Quarter for each failure reported and demonstrated in accordance with this Section 1.1.3, , subject to a maximum SLC cap per Calendar Quarter of eleven percent (11%) of Licensee's Premium Support Service Fee for such Calendar Quarter.  In order to be considered for SLC hereunder, Licensee must notify SAP in writing of the alleged failure to meet the SLAs within thirty (30) days of the close of the applicable Calendar Quarter.  The SLC stated in this Section 1.1.3 is Licensee's sole and exclusive remedy with respect to any alleged or actual failure of SAP to achieve any applicable SLA.   Licensee shall provide reasonable assistance to SAP in its effort to correct any problems or processes inhibiting SAP's ability to achieve the SLA.

1.1.4  In the event Licensee's productive use of the Software or the Priority 1 message is not closed or the Priority 1 message status is not lowered within two (2) business days (Monday-Friday, excluding United States and German legal or public holidays), SAP reserves the right, in SAP's sole judgment, to provide additional support at Licensee's site where the Designated Unit is located for the purpose of restoring productive use of the Software.  The parties shall agree in writing as to the scope and duration of the on-site support on a case-by-case basis.  The additional on-site support shall in no case extend past the time when Licensee resumes productive use of the Software and shall not depend on closure of the Priority 1 message or the lowering of its status to a lower priority level.

1.1.5  Licensee shall submit such support messages via the SAP Solution Manager Software in accordance with SAP's then current support message processing log-in procedure which contain the relevant details necessary (as specified in SAP Note 16018 or any future SAP Note which replaces SAP Note 16018) for SAP to take action on the reported error related to an identified Licensee productive installation of SAP Software. For informational purposes only SAP Note 16018 is attached hereto. Licensee understands that attached note is subject to change. Licensee must provide reproducible errors in order for SAP to provide the SLAs specified herein.  The SLAs specified herein shall not apply to: (i) support messages related to SAP Software products that are in shipment status "restricted shipment" as identified in SAP's Release Strategy published on the SAP Service Marketplace; (ii) support messages related to SAP Software products that are in a support status of "Customer Specific Maintenance"; (iii) support message for a release, version and/or functionality of SAP Software developed specifically for Licensee, e.g. by SAP Custom Development and/or by an SAP AG subsidiary; (iv) support messages regarding country versions that are not part of the SAP standard

software and instead are realized as partner add-ons, enhancements, or modifications (even if these country versions were created by SAP or an associated organization); (v) the root-cause of the reported error is functionality not covered in the Documentation and not an error in the SAP Software; and (vi) submitted error messages that have been assigned to remote consulting.

**1.2 SAP Premium Support Advisor.** SAP shall designate one (1) resource in the SAP Active Global Support ("AGS") Organization at one of SAP's support centers to be Licensee's support contact person. Upon request from Licensee, this Support Advisor shall be responsible for: (i) planning, coordinating and delivering (in cooperation with Licensee) the Assessments described in Section 1.3 below; (ii) advising Licensee on the implementation of recommended actions resulting from delivery of SAP support services; (iii) periodic follow-up with the Licensee with respect to mutually agreed actions resulting from the Assessments; (iv) acting as an additional escalation contact for exception handling in the support process; (v) providing information regarding SAP products, strategy, news and best practices as related to support and operational issues; and (vi) facilitating Licensee's certification of the Customer Competence Center. The designated SAP Support Advisor shall be available via telephone and email during normal business hours in a time zone mutually agreed to by the parties. Normal business hours are 8:30 am to 5:30 pm local time, Monday through Friday unless otherwise agreed to in writing by the parties. SAP shall make available a substitute Support Advisor during any periods where the primary Support Advisor is unavailable. All Services of the designated SAP Support Advisor shall be coordinated with Licensee's designated Premium Support Program Manager, as described in Section 2 below.

**1.3 Assessment Services.** Licensee and SAP agree to jointly conduct an initial assessment ("SAP Premium Support Setup Service") and thereafter one (1) assessment per calendar year during the Premium Support Services term ("Annual Assessment"). The focus of the SAP Premium Support Setup Service may include: (i) securing remote connectivity between Licensee and SAP; (ii) explaining best practices for collaboration with SAP Active Global Support Organization; (iii) reviewing Licensee solution landscape for SLA readiness; (iv) review of Licensee project roadmap; and (v) initiating Licensee's use of SAP Solution Manager. Thereafter, the Annual Assessments shall be a review of Licensee's solution landscape and priorities as may be mutually agreed by the parties. Such Annual Assessments may address the following areas: (i) technical risk analysis of a planned SAP solution (system landscape and core business processes) and plan for SAP related implementation projects; (ii) software operational readiness or software operational optimization assessment and plan for supporting a new SAP solution; and (iii) SAP Solution Optimization Assessment for a productive SAP solution (including potential landscape optimization possibilities). The output of such Assessments shall be a summary service report which may include findings, risks or issues identified, and corresponding recommendations. Such Assessments shall be scheduled for delivery at dates and times mutually agreed to by the parties. Licensee is responsible for making the necessary internal arrangements for the delivery out of the Assessment Services hereunder on a non-interference basis. Licensee agrees to provide appropriate resources, including but not limited to equipment, data, information, workspace and appropriate and cooperative personnel, to facilitate the performance of the Assessment Services hereunder.

**1.4 Proactive Remote Services:** Premium Support currently includes a choice of one of the following services per live installation per year:
A. One GoingLive Check for any new Software or other SAP application implementation;
B. One GoingLive Upgrade Check for an upgrade to a higher functional release (e.g. from R/3 4.0 to 4.6); or
C. One GoingLive OS/DB Migration Check. This OS/DB Migration Check assists the Licensee in preparing for a migration of an operating system or database. Migration is the responsibility of the Licensee.

In addition to these options, Premium Support currently includes up to two EarlyWatch Sessions per live SAP installation for the continual optimization of Licensee's already live system.

To schedule GoingLive Check, GoingLive OS/DB Migration Check, or EarlyWatch Sessions, Licensee must contact Americas Customer Premium Supports at 800-677-7271 or internationally at 610-355-6821 and choose option 6. To assist Licensee in this, SAP has established the following scheduling pre-requisites:
A. The Licensee must provide remote access to its productive system.
B. To receive the GoingLive Check or GoingLive Upgrade Check Licensee must inform SAP at least three months prior to your go live or upgrade date.
C. To receive the EarlyWatch Sessions, SAP requests a minimum of three months advanced notification. In addition, Licensee must send the EarlyWatch Alert data to SAP on at least a monthly basis and cooperate with SAP in reviewing the data and determining the proper deployment of the EarlyWatch Sessions based on the EarlyWatch Alert data.
D. To receive the GoingLive OS/DB Migration Check, Licensee must comply with all of the then current pre-Check requirements. These requirements currently include hiring a certified OS/DB migration consultant, proper testing, installation of tools, and advance scheduling. Contact your local SAP Customer Support Representative for more information.

Further information and detail about individual SAP services can be found on SAPNet site (http://www.service.sap.com/support).

**FAILURE TO UTILIZE THE PREMIUM SUPPORT SERVICES PROVIDED BY SAP MAY PREVENT SAP FROM BEING ABLE TO IDENTIFY AND ASSIST IN THE CORRECTION OF POTENTIAL PROBLEMS WHICH, IN TURN, COULD RESULT IN UNSATISFACTORY SOFTWARE PERFORMANCE.**

**2. Licensee Requirements for SAP Premium Support Services.**

**2.1 SAP Premium Support Services Program Management.** Licensee shall designate an English speaking Premium Support Program Manager. Such Premium Support Program Manager shall cooperate with the designated SAP Support Advisor to administer the terms of this Schedule. Licensee's designated Premium Support Program Manager shall be Licensee's authorized representative empowered to make necessary decisions for Licensee or bring about such decision without undue delay.

**2.2 Other Requirements.**

**2.2.1** In order to receive Premium Support Services hereunder, Licensee must: (i) continue to pay all Premium Support Service Fees for the Software licensed under and in accordance with the Agreement; (ii) otherwise fulfill its obligations under the Agreement and this Schedule; (iii) have installed, configured and be using the then current release of SAP Solution Manager Software system or (available in accord with SAP Premium Support Services), with the latest patch levels for Basis, ABAP, and the latest SAP Solution Manager Software support packages, as the Service delivery platform for documenting top issues, core business processes and critical system information for the SAP Software products for which Licensee is receiving standard support services; (iv) document all core business processes and system landscapes in the SAP Solution Manager Software system; (iv) activate SAP EarlyWatch Alert for all SAP Software for which Licensee receives support services; and (v) inform SAP of planned changes to Licensee's system landscape.

2.2.2 Licensee agrees to promptly disclose to SAP and maintain adequate and current records of all Modifications and, if needed to provide Premium Support Services, provide such records to SAP.

2.2.3 Premium Support from SAP for the Software licensed hereunder is limited to the following United States' site(s):

Alliance Data
Utility Services Division
17201 Waterview Parkway
Dallas, Texas 75252

Alliance Data
Attn: Utility Services Division
4590 E Broad St
Columbus, OH 43213

14 South Fort Harrison Avenue,
Clearwater, Florida 33756

2.2.4. Licensee agrees to establish and maintain Customer Competency Center(s) ("CCC") at the site(s) specified above within twelve months of the Effective Date of this Schedule. Each CCC must maintain an internal Help Desk to provide first-level support to Licensee's Named Users. Such internal Help Desk(s) must be staffed with a sufficient number of support consultants trained in the support and administration of the SAP Software during Licensee's normal working hours, but no less than eight hours a day, five days a week. All Named Users may have access to SAP's support portal however, only Licensee CCC employees are authorized to contact SAP after attempting to resolve the matter. Each CCC shall coordinate Licensee's Modification notification and disclosure requirements and shall coordinate Licensee's development requests. Licensee's CCC is responsible for the administration and management of the requirements specified in the Agreement including, but not limited to, performing periodic self audits to ensure Licensee's compliance with the license grant, maintaining master and installation data and managing the release order process. In the event Licensee does not establish and maintain CCC(s) in accordance with the above, SAP reserves the right to increase Licensee's then current Premium Support percentage factor then in effect.

2.2.5 Premium Support Fees shall be paid annually in advance as specified in Appendices to the Agreement. In addition, Licensee shall be invoiced an annual fee of USD 1,500 for up to three designated SAP compliant remote connections. Premium Support Services offered by SAP may be changed annually by SAP at any time upon three months prior written notice. After Year 2, the Premium Support Fees and any limitations on increases are subject to Licensee's compliance with the CCC requirements specified above.

3. **Term and Termination**. The term of the Premium Support Services specified herein shall be two (2) years from the effective date of this Schedule ("Initial Term"). Following the expiration of the Initial Term Licensee may request to renew for an additional one year term. Premium Support Services offered by SAP may be changed annually after the Initial Term by SAP at any time upon three (3) months prior written notice. Notwithstanding the forgoing, SAP may terminate Premium Support Services after thirty (30) days written notice of: (i) Licensee's failure to pay Premium Support Services Fees hereunder or Maintenance Fees under the Agreement; or (ii) other Licensee breach unless cured within such thirty (30) day period. In the event of termination hereunder, Licensee shall be entitled to a prorata refund of any prepaid Premium Support Service Fees for the period in which such termination occurred.

In the event Licensee elects not to commence Premium Support upon the first day of the month following initial delivery of the Software, or Premium Support is otherwise declined for some period of time, and is subsequently requested or reinstated, SAP will invoice Licensee the accrued Premium Support Fees associated with such time period plus a reinstatement fee.

SAP Note 67739:
Summary

Symptom
The definition of priorities in SAP problem messages is not clear.

Solution
SAP has defined the following priorities for problem messages:

1. Very high:
A message should be categorized with the priority "very high" if the problem has very serious consequences for normal business transactions and urgent work cannot be performed. This is generally caused by the following circumstances:

Absolute loss of a system

Malfunctions of central SAP System functions in the production system

Delays to the planned production startup or upgrade within the next 3 workdays

The message requires immediate processing because the malfunction can cause serious losses.

1. High:
A message should be categorized with the priority "high" if normal business transactions are seriously affected and necessary tasks cannot be performed. This is caused by incorrect or inoperable functions in the SAP system that are required immediately.

The message requires immediate processing because the malfunction can seriously disrupt the entire productive business flow.

1. Medium:
A message should be categorized with the priority "medium" if normal business transactions are affected. The problem is caused by incorrect or inoperable functions in the SAP system.

1. Low:
A message should be categorized with the priority "low" if the problem has few or no effects on normal business transactions. The problem is caused by incorrect or inoperable functions in the SAP system that are not required daily, or are rarely used.


Classifying test systems
The same problem situations in test systems are usually classified with a priority rating that is one lower than in the production systems.

What the customer must do to ensure prompt processing of messages with priority "very high":
The affected system should be open
A contact person must be nominated for opening the system who must be available
to provide the necessary logon data
A contact person must be available to provide information on the problem
The problem should be described in as much detail as possible: The message should contain instructions on how to simulate the problem
If possible, the problem should be written in English.

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SAP Note 16018

Summary

Symptom
SAP Active Global Support requires detailed information.

Reason and Prerequisites
*


Solution

This note provides you with a checklist that you can use to describe exception conditions
in your system in an effective way.


To be able to process your request competently and quickly and, if necessary, forward it
to another specialist, we require all relevant detailed information on the situation you
are describing.


If you do not have access toSAPNetR/3 Frontend, send us the required data by fax.
For fax numbers, refer to Note 560499 (international) or 16481 (Germany)


Give us a complete and detailed description of your actions in the system so that we can
retrace all the steps you have taken without having to ask further questions. To avoid
confusion concerning technical terms that are used inconsistently in the SAP environment,
try to concentrate on unique (technical) terms in your description.


A complete description of the situation should always contain the following information:
Your present location
Specify the system ID (for example 'P30'), the client and the complete menu path.
The actions you have performed
Specify the complete sequence of your actions.
State the values of all input fields.
The response of the system
Specify the error number or the values of result fields.
What you expected to happen
List what you expected the system to do in this situation.
Whether you can reproduce the problem
·If so, include a complete example in your message.
Whether the problem has been occurring since you performed a specific action
If so, state in your message what this action was (for example: an upgrade, a patch
import, changing the hardware configuration, copying a client, legacy data transfer).
Whether the problem affects all users
The numbers of the notes you have already referred to regarding the issue·
Whether you require us· to solve the problem urgently
Set the priority of your message correspondingly. When you do this, refer to the priority
definitions (see F1 help for the field 'Priority' or Note 67739).
The area involved
For SAPNet R/3 Frontend messages, specify the component as precisely as possible. F4 help
provides you with a list of components (for example: "BC-DB-ORA").
Thename, department, telephone and fax numbers of a contact person who is responsible for
the contents of the message
Thename, department, telephone and fax numbers of a contact person who is responsible for
opening the remote connection
The name, company, telephone and fax numbers of any consultants you have contacted
System Information
System status (whether it is a production, development, test or demo system)
SAP Release and maintenance level
-You can findthis in the menu under "System -> Status" (for example:
Release 3.1I including Hot Package 6). If you use an IBU or add-on product, state its name
and maintenance level.
Whetherthere is a remote connection to the affected R/3 System
-If none exists, you can find information on how to set up a remote· connection in Note
35010.

Required information for application problems:
Menu path
Error number (5 digits)
You can view this by double-clicking on the status line
Program information (you can view this by going to "System -> Status")
System ID
Client
Transaction (4 characters)
Program (screen)
-Wastheprogram modified or were user exits used?
-Was the program executed online or in the background processing system?
Screen number
Whether the program terminated
If this is the case, do the following:
-Supply the first 12 pages of the short dump (for example, by fax). You can find an
overview of all terminations in Transaction ST22. -Supplythe entries in the syslog that
relate to the time the program terminated. Use Transaction SM21 to display the syslog.
Details of any update terminations
You can find an overview of all terminations in Transaction SM13.
Details of any lock entries that are not released
You can find an overview of all locks in Transaction SM12.
Whether you tried to repeat the transaction

Required information for problems involving batch input sessions:
How you created the session
Chooseone of the following possibilities:
-Withthe help of a separate report
-Using a standard report (specify the report name)
-Using a different system

Required information for basis component problems:
Job log (use Transaction SM37)
Trace files
In the work directory, use Transaction ST11 to search for unique error messages. The trace
files dev_disp and dev_w* are particularly important (see Note 112 for more information).
If the problem requires you to restart the system or individual application servers, first
save the trace files and core files that the system may have created in the work
directory.
If you are experiencing database problems, provide details of entries in the database log
file/alert file
Ifyou are experiencing transport problems, provide details of error messages in the
transport log /usr/sap/trans/log
If you are experiencing upgrade problems, provide details of error messages in the upgrade
log /usr/sap/put/log

This is a standard text. We regret that it cannot completely cover the reported problem.


Repairs in the Code
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**PROFESSIONAL SERVICES SCHEDULE effective December , 2006 ("Schedule")**
to
**SAP PUBLIC SERVICES, INC. ("SAP")**
**SOFTWARE LICENSE AGREEMENT effective December , 2006 ("Agreement")**
with
**PINELLAS COUNTY ("Licensee")**

The parties agree that this Schedule is hereby attached to and made a part of the Agreement specified above. In each instance in which provisions of this Schedule contradict or are inconsistent with the provisions of the Agreement, the provisions of this Schedule shall prevail and govern.

1.  Services. Upon request by Licensee, SAP will provide a Consultant(s) to perform, at Licensee's direction, consulting and professional services including support of installation and implementation of the applicable SAP Software ("Services"). Any Statement(s) of Work ("SOW") more fully describing the project assumptions, scope, duration and fees for the Services shall reference this Schedule. All Services of the SAP Consultant(s) will be coordinated with the designated Licensee representative. Licensee is responsible for making the necessary internal arrangements for the carrying out of the Services on a non-interference basis.

2.  Satisfaction with Performance. If at any time Licensee or SAP is dissatisfied with the material performance of an assigned Consultant or a Licensee project team member, the dissatisfied party shall immediately report such dissatisfaction to the other party in writing and may request a replacement. The other party shall use its reasonable discretion in accomplishing any such change.

3.  Compensation of SAP. All Services will be provided by SAP on a time and expense basis at SAP's then current rates, unless otherwise agreed by the parties in a SOW. For informational purposes SAP's rates in effect at the execution of this Agreement are attached below.

4.  Taxes. The tax provisions of Section 4.2 of the Agreement apply to any Services provided hereunder. Licensee also agrees to pay SAP for additional tax amounts if any, created by the taxability of Consultants reimbursed travel and living expenses resulting from long term assignments at Licensee's locations. Notwithstanding the above, Licensee may request removal of the Consultant from the applicable project in order to avoid additional taxability and SAP will use commercially reasonable means to replace such individual with a Consultant having substantially the same qualifications.

5.  Work Product. Unless otherwise agreed to in writing by the parties in a SOW, SAP shall have the sole and exclusive right, title and ownership to any and all ideas, concepts, or other intellectual property rights related in any way to the techniques, knowledge or processes of the SAP Services and deliverables, whether or not developed for Licensee.

6.  Warranty. SAP warrants that its Services shall be performed consistent with generally accepted industry standards. SAP MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, NOR ANY OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, IN CONNECTION WITH THIS SCHEDULE AND THE SERVICES PROVIDED HEREUNDER.

7.  Limitation of Liability. WITH RESPECT TO SERVICES, ANYTHING TO THE CONTRARY NOTWITHSTANDING, EXCEPT FOR DAMAGES RESULTING FROM UNAUTHORIZED USE OR DISCLOSURE OF THE PROPRIETARY INFORMATION AND SAP'S RIGHT TO COLLECT UNPAID FEES, UNDER NO CIRCUMSTANCES SHALL SAP, ITS CONSULTANTS OR LICENSEE BE LIABLE TO EACH OTHER OR ANY OTHER PERSON OR ENTITY FOR AN AMOUNT OF DAMAGES IN EXCESS OF THE FEES PAID FOR THE APLICABLE SERVICES HEREUNDER OR BE LIABLE IN ANY AMOUNT FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES, LOSS OF GOOD WILL OR BUSINESS PROFITS, WORK STOPPAGE, DATA LOSS, COMPUTER FAILURE OR MALFUNCTION, OR EXEMPLARY OR PUNITIVE DAMAGES. The provisions of the Schedule allocate the risks between SAP and Licensee. The License Fees reflect this allocation of risk and the limitations of liability herein.

8.  Termination. The terms of this Schedule shall be effective as of the Effective Date of the Agreement and shall remain in effect until terminated by either party upon thirty (30) days prior written notice or otherwise in accordance with a particular SOW. Licensee shall be liable for payment to SAP for all Services provided prior to the effective date of any such termination, including any expenses incurred pursuant to the provision of such Services, in accord with the applicable SOW.

9.  General Provisions.

    9.1 SAP may subcontract all or part of the Services to be performed to a qualified third party.

    9.2 With respect to the Services provided by SAP under this Schedule and any SOW hereto, the relationship of SAP and Licensee is that of an independent contractor.

    9.3 This Schedule, including any applicable SOWs, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements between the parties, whether written or oral, relating to the same subject matter. In the event of any inconsistencies between this Schedule and a SOW, the SOW shall take precedence over the Schedule. Any purchase order or other document issued by Licensee is for administrative convenience only.

10. Survival. Sections 5 and 7 above shall survive any termination of the Schedule.

11. Services Approval: Services pursuant to this schedule shall not be provided unless requested by the Licensee and the scope of work and costs have been approved by the Licensee and the appropriate purchasing authority of the Licensee.

## Rates

The following categories have been defined for SAP consultants:

|  |  |  |
|---|---|---|
| K1 | = | Junior Consultant |
| K2 | = | Consultant I |
| K3 | = | Consultant II |
| K4 | = | Consultant III |
| K5 | = | Senior Consultant/Management Consultant . |
| K6 | . = | Lead Consultant/Project Implementation Manage/Implementation Specialist |
| K7 | = | Developer / Consulting Manager / Platinum or Senior Consultant / Global Support Manager / Senior Project Implementation Manager / Industry Specialist |
| K8 | = | Senior Developer / Consulting Director / Consulting Vice President |

The rates applicable to each category in US dollars are as follows:

|  | K1 | K2 | K3 | K4 | K5 | K6 | K7 | K8 |
|---|---|---|---|---|---|---|---|---|
| Hourly Rate (1) | 160 | 190 | 225 | 255 | 300 | 350 | 400 | 480 |
| Off-Hours Hourly Rate (2) | 240 | 290 | 335 | 380 | 450 | 525 | 600 | 715 |
| On-Call Hourly Rates (3) | 160 | 160 | 160 | 160 | 160 | 160 | 160 | 160 |

Expenses:        as incurred per visit  Mileage:        then current IRS mileage rate

(1)  Hourly rates are applied to consulting services provided Monday through Friday, 6:00 a.m. - 8:00 p.m., excluding holidays as observed by SAP. For work at Licensee's premises, a minimum charge amounting to four (4) hours for the given Consultant is billable.

(2)  The following constitutes Off-Hours:
   * SAP observed Holidays
   * Weekends:  8:00 p.m. Friday until 6:00 a.m. Monday
   * Weekdays:  8:00 p.m. until 6:00 a.m.

(3)  On-Call service is a pre-arranged service by which Licensee places a request to have a Consultant accessible for a specified time period. During the period for which a Consultant is accessible, On-Call Rates will be charged. If a Consultant must actually perform services during the On-Call period, the services will be billed at the appropriate Hourly Rate or Off-Hours Hourly Rate, instead of the On-Call rate. This service will be provided remotely via a telecommunications link.

(4)  Remote services can be requested via SAP's toll-free number and are provided via a telecommunications link during business hours (Monday through Friday, 6:00 a.m. – 8:00 p.m.). Remote services will be provided at the rates set forth above.

The following notes apply to all categories:

(5)  Accommodations, meals and use of public transportation will be charged according to actual expenditure. Travel costs are calculated from the Consultant's principal work location.

(6)  If services are pre-arranged and Licensee cancels with less than two (2) business days notice, Licensee will be billed for eight (8) hours at the applicable K-Rate.

(7)  SAP reserves the right to change the above K-Rates upon 30 days notice. Changed rates shall not apply retroactively.

**Appendix 1**
effective December    , 2006 ("Appendix")
to
**SAP PUBLIC SERVICES, INC. ("SAP")**
**SOFTWARE LICENSE AGREEMENT effective December    , 2006 ("Agreement")**
with
**Pinellas County ("Licensee")**

This Appendix is hereby annexed to and made a part of the Agreement specified above. In each instance in which provisions of this Appendix contradict or are inconsistent with the provisions of the Agreement, the provisions of this Appendix shall prevail and govern.

**1.**    **NAMED USER DEFINITIONS:**

1.1    "Professional User" is a Named User who performs operational related roles supported by the Software and includes the rights granted under the Employee User.

1.2    "Limited Professional User" is a Named User who is an employee of Licensee or an employee of a Business Partner fulfilling Customer Care and Service roles supported by the Software and are authorized to access and Use the mySAP Utilities IS-U functionality licensed pursuant to the Appendix, and such other dependent functionality licensed pursuant to the Appendix as necessary to execute IS-U transactions only. If any such Limited Professional User requires the Use of additional Software functionality, Licensee will be required to license such additional usage and pay all applicable additional license fees.

1.3    "Employee User" is a Named User who performs only employee self-service related roles supported by the Software. Each Employee User may access the Software solely for such individual's own purposes.

1.4    "Developer User" is a Named User who uses development and administration tools provided with the Software for the purpose of modifying, deploying and managing SAP Software. The Developer User (1) does include the rights granted under the Employee User and (2) does not include the rights granted under the (a) Professional User and/or (b) Limited Professional User.

**2.**    **LICENSED SOFTWARE:** The Software licensed to Licensee pursuant to this Appendix consists of the components identified below and specified as being licensed ("Software"). Only individuals licensed as Named Users hereunder are permitted to Use the SAP Software and third party Software licensed herein (including optional Software). Such Use shall be in accordance with their respective Named User type and in accordance with identified licensed Level. At SAP's request, Licensee shall deliver to SAP a report, as defined by SAP, evidencing Licensee's usage of the Software. SAP agrees that the initial request for such report will occur twenty-four (24) months following the effective date of the Agreement or twelve (12) months following the effective date of this Appendix, whichever occurs first, and will continue annually thereafter.

Licensed SAP Software may utilize limited functionality of other SAP Software products. Unless Licensee has expressly licensed (under this or a separate Appendix) the other SAP software utilized by the licensed SAP Software, Licensee's Use of such other SAP Software is limited to access by and through the other SAP Software for the sole purpose of enabling performance of the licensed SAP Software.

There are no optional country/language specific versions licensed by Licensee from SAP hereunder. In the event Licensee Uses the SAP Software to build and/or operate a custom developed or third party application, additional license fees may be required.

2.1    **Use of Software to Provide Services to Third Parties:** In addition to Licensee's Use as stated elsewhere in this Appendix, the Software and Users licensed in this Appendix 1 may be used to provide the following software based services ("Authorized Services") to the permissible third party ("Client") in accordance with the terms on this Appendix 1. So long as Licensee complies with the provisions of the Agreement and this Appendix 1, Licensee shall be permitted to use the Software and Users licensed under this Appendix 1 to generate invoices which consolidate utilities related services onto one Pinellas County invoice (defined as "Authorized Services") to the following list of Pinellas County municipalities or their privately owned providers (Clients):

   Belleair Beach, Florida

   Belleair Shores, Florida

   City of Dunedin, Florida

   Indian Rocks Beach, Florida

   Indian Shores, Florida

   City of Largo, Florida

   Madeira Beach, Florida

   North Redington Beach, Florida

Pinellas Park, Florida

Redington Beach, Florida

Redington Shores, Florida

St. Pete Beach, Florida

St. Petersburg, Florida

Treasure Island, Florida

Safety Harbor, Florida

Oldsmar, Florida

Tarpon Springs, Florida

Utilities, Inc. (for Authorized Services within City of Dunedin, Florida and Tierra Verda, Florida only)

No other Client is approved by SAP to receive Authorized Services from Licensee, except those listed above. The Client is not authorized to access any SAP Proprietary Information. The parties acknowledge and agree that the Software licensed hereunder has not been specifically designed to provide the Authorized Services and Licensee is undertaking this business initiative upon and for its own account. Licensee further acknowledges and agrees that SAP's standard warranty and/or Maintenance obligations as set forth in the Agreement apply only to Licensee, and that SAP does not and shall not have any liability whatsoever to the Client or for the Software's ability to support the Authorized Services. Licensee is not authorized to flow down any warranty or any other rights it may have from SAP to the Client. Licensee agrees to enter into written agreements with all Clients which: (i) includes a waiver of any claims, demands or causes of action against SAP arising from the Authorized Services or the software licensed hereunder, (ii) expressly names SAP as a third party beneficiary with respect to such waiver, and (iii) includes obligations of confidentiality no less restrictive than the obligations set forth in Section 6.1 of the Agreement.

## 2.2 mySAP INDIVIDUAL SOLUTIONS:

| "X" if Licensed | mySAP Individual Solution | Number of Named Users Licensed: | | | |
| --- | --- | --- | --- | --- | --- |
| | | Professional | Limited Professional | Employee | Developer[1] |
| X | mySAP Enterprise Resource Planning (mySAP ERP) | 15 | 120 | 30 | 5 |

(1) Licensee agrees to maintain at least one Developer User per installation

## 2.3 OPTIONAL CROSS INDUSTRY SOFTWARE LICENSED:

**None licensed.**

## 2.4 OPTIONAL INDUSTRY SPECIFIC SOFTWARE LICENSED:

**Service Industries:**

| "X" if Licensed | | Industry Specific Software | License Metric | Licensed Level |
| --- | --- | --- | --- | --- |
| X | SAP for Utilities | Billing (Consumption Based Contracts) | Number of Consumption Based Accounts | 130,000 |
| X | | Billing (Flat Fee Contracts) | Number of Flat Fee Contracts | 20,000 |
| X | | e-Invoicing and Contract Accounting (e-ICA) | Number of Contract Accounts | 130,000 |
| X | | Energy Data Management - Device Management | Number of Devices | 130,000 |
| X | | Energy Data Management - Meter Reading Mgmt | Number of Devices | 130,000 |

## 2.5 OPTIONAL SUPPLEMENTARY SOFTWARE LICENSED:

| "X" if | Supplementary Products | License Metric | Licensed |
| --- | --- | --- | --- |

| Licensed | | | | Level |
|---|---|---|---|---|
| X    SAP NetWeaver | Exchange Infrastructure (XI) Base Engine [(1)] | Number of Gigabyte's per Month | | Up to 50 GB |

(1) Exchange Infrastructure Base Engine includes use of the following Standard Technical Protocol Adapters: SAP NetWeaver Adapter for IDOCs, RFCs, File/FTP, Http(s), SOAP, JMS, JDBC, Mail Protocols (pop,imap,smtp), SAP BC Protocol to connect Software, and to non-SAP applications. Additional types of adapters are available for additional license fees.

**2.6    DATABASE INTERFACE:** Included

**2.7    BUSINESS CONNECTOR:** The mySAP Software licensed under item 2.1 above includes the right to Use the SAP Business Connector that is downloadable by Licensee from SAP's applicable website. Use of the Business Connector is only permitted for connecting to SAP Software components and is not permitted for communications between one or more systems not operating the Software.

**3.    LICENSE FEE AND PAYMENT:** The total List Price License Fee to Licensee for the Software specified above for the total number of Named Users and Software Engines is USD 1,438,800. The discountable portion of such List Price License Fee shall be discounted by USD 762,564 for a total Net License Fee to Licensee of USD 676,236 which shall be invoiced on or before December 15, 2006 and is payable 50% net fifteen (15) days from date of Delivery and 50% net ninety (90) Days from date of Delivery and in accord with Florida Statute 218.70 et. seq.

**4.    INSTALLATION:** For Software to be installed on a specific Licensee or Affiliate Designated Unit within the Territory, Licensee shall provide SAP with written notice of the type/model and serial number and location of each Designated Unit and the number of Users allocated to each such Designated Unit prior to such installation. Such notice shall be in a form materially similar to Schedule 1 attached hereto and is to be sent to: SAP Contracts Department, Attention: Director of Contracts, 3999 West Chester Pike, Newtown Square, PA 19073.

**5.    DELIVERY:** Delivery of the above-specified Software and Documentation is estimated to take place in December, 2006. Physical delivery will be free on board shipping point to the Licensee at the following location: 14 South Fort Harrison Avenue, Clearwater, Florida 33756.

**6.    MAINTENANCE FEE AND PAYMENT:** Maintenance service offered by SAP is set forth in the Maintenance Schedule to the Agreement. Maintenance at the site(s) specified in the Maintenance Schedule to the Agreement shall commence as of the first day of the month following initial delivery of the Software.

Maintenance Fees for the Software licensed under this Appendix, for the total number of Users specified above, are as follows:

Year 1   USD   114,960 (17% of Net License Fee of USD 676,236)

Year 2   USD   114,960 (17% of Net License Fee of USD 676,236)

Year 3   USD   114,960 (17% of Net License Fee of USD 676,236)

Year 4   USD   114,960 (17% of Net License Fee of USD 676,236)

Year 5   USD   114,960 (17% of Net License Fee of USD 676,236)

After Year 5, the Maintenance Fee for the Software licensed under this Appendix will be priced at the then current factor in effect (currently 17%) multiplied by the then current Net License Fee (USD 676,236 above plus any additional SAP Software licenses for Users and/or Software Engines) for the licensed Software. After Year 5, Maintenance Fees are subject to change once during a calendar year upon ninety (90) days notice to Licensee and shall be effective for the subsequent calendar year. Maintenance fees set forth above do not include federal, state or local taxes. Maintenance Fees are invoiced on an annual basis effective January 1 of a calendar year and payable Net 45 days from date of invoice and in accord with Florida Statute 218.70 et. seq. Any Maintenance Fees due prior to January 1 are invoiced on a pro-rata basis for the given calendar year in effect.

**PREMIUM SUPPORT SERVICE AND PAYMENT:** Premium Support Service offered by SAP is set forth in the Maintenance Schedule Addendum for Premium Support Services to the Agreement and subject to the Maintenance Schedule. In addition to the Maintenance Fees described above, the annual Premium Support Service Fee is USD 33,811 (5% of USD 676,236). Premium Support Service Fees are subject to change once during a calendar year upon ninety (90) days notice to Licensee and become effective for the subsequent calendar year. Premium Support Service Fees set forth above do not include federal, state or local taxes. Premium Support Service Fees are invoiced on an annual basis effective January 1 of a calendar year and payable Net 45 days from date of invoice and in accord with Florida Statute 218.70 et. seq. Any Premium Support Service Fees due prior to January 1 are invoiced on a pro-rata basis for the given calendar year in effect.

SAP agrees however, increases in Premium Support Service fees per calendar year (if any) for the Software licensed in Item 2 of this Appendix, shall not be greater than the Consumer Price Index, plus five percent (5%), per year.

7. **THIRD-PARTY DATABASE:**

The Software licensed hereunder requires a third party database product which has either been integrated or pre-installed as part of the Software, or which must be installed to Use the Software. Third party database product functionality as integrated in the Software may differ from a non-integrated third party database product. Each third party database product is subject to its respective third party vendor License Agreement. This Agreement <u>does not contain a license to use the integrated third party database product.</u> Licensee has no right to use and are not licensed to use the copy of the third party database until Licensee has executed the Agreement, this Appendix and execute a third party database license agreement for the third party database. Upon request, Licensee shall provide to SAP the invoice number and/or license number and corresponding date for the third party database.

SAP makes no representations or warranties as to the terms of any license or the operation of any third-party database obtained directly from a third party supplier by Licensee. Licensee is responsible for support and maintenance of the third-party database licensed from a third party supplier, and SAP has no responsibility in this regard.

8. **LICENSE KEY:** Each copy of the Software licensed hereunder requires a license keycode. The license keycodes will be issued by SAP AG The required form to receive the license keycodes from SAP AG must be completed by Licensee and faxed to SAP AG within the four (4) week period following installation of the Software. The applicable SAP form and fax number will be included in each installation kit provided to Licensee upon delivery of the Software. Licensees that subsequently change Designated Units for Use of the licensed Software must be re-issued license keycodes for each respective copy of the licensed Software. Failure of Licensee to obtain necessary license keycodes for the licensed Software within four (4) weeks of installation of such Software, will cause the Software to have limited User access until such time as the license keycodes are issued.

9. **PUBLICITY:** If the Licensee is favorably satisfied with the SAP Software and Services provided under the Agreement and in consideration of the additional Software discount, Licensee agrees to participate in reference activities for the Software including but not limited to reference calls and stories, press testimonials, site visits, SAPPHIRE participation, etc., at times mutually agreeable to the parties. SAP will make reasonable efforts to avoid having the reference services unreasonably interfere with Licensee's business.

10. **SOFTWARE OPTION:**

From December 1, 2006 through November 30, 2007, Licensee may license additional SAP Software as already licensed in Section 2 of this Appendix 1 at a discount of fifty percent (50%) off the then current SAP Price List, exclusive of associated fees for any non-discountable products, third party database and third party software, if applicable. Maintenance Fees will be assessed at the then current factor in effect multiplied by the pertinent net license fee. Upon written notice from Licensee regarding its exercising of such option, SAP will issue an Appendix to the Agreement.

From December 1, 2007 through November 30, 2009, Licensee may license additional SAP Software as already licensed in Section 2 of this Appendix 1 at a discount of thirty-five percent (35%) off the then current SAP Price List, exclusive of associated fees for any non-discountable products, third party database and third party software, if applicable. Maintenance Fees will be assessed at the then current factor in effect multiplied by the pertinent net license fee. Upon written notice from Licensee regarding its exercising of such option, SAP will issue an Appendix to the Agreement.

From December 1, 2009 through November 30, 2011, Licensee may license additional SAP Software as already licensed in Section 2 of this Appendix 1 at a discount of twenty-five percent (25%) off the then current SAP Price List, exclusive of associated fees for any non-discountable products, third party database and third party software, if applicable. Maintenance Fees will be assessed at the then current factor in effect multiplied by the pertinent net license fee. Upon written notice from Licensee regarding its exercising of such option, SAP will issue an Appendix to the Agreement.

11. **VALIDITY OF OFFER:** The validity of this Appendix will expire December 31, 2006, unless sooner executed by Licensee, or extended in writing by SAP.

Accepted by:                                              Accepted by:

SAP Public Services, Inc.                                 Pinellas County
(SAP)                                                     (Licensee)

By: _____                          By: _Kenneth T. Welch_____

Title: _VP & Assistant General Counsel_                  Title: _Chairman_____

Date: _11-16-06_                                          Date: _12-06-06_  APPROVED AS TO FORM

Reviewed by Contracts                                    OFFICE OF COUNTY ATTORNEY       (Appendix 1 mySAP 04-06)

Terry Dougherty _T.D._                          4        By _____

**Schedule 1 to Appendix 1 effective December    , 2006**

**Designated Unit Information**

1. Name of Licensee or Subsidiary where Designated Unit is located: _____

2. Designated Unit(s) to be identified by Licensee to SAP in writing:

      Type/Model No.: _____

      Serial No.: _____

      Location of Designated Unit: _____

      _____

      Telephone Number: _____

      Software Delivery Contact Person: _____

3.

| Hardware Information | | Operating System | | Database* | |
|---|---|---|---|---|---|
| Manufacturer | Model | Manufacturer | Release | Manufacturer | Release |
|  |  |  |  |  |  |

* Note: When Database is licensed from the vendor directly, insert P.O. Number_____, Invoice Number_____and Date_____

_____    _____
Name                         Date

_____
Title

_____
(Licensee)

Appendix 2
Effective December        , 2006 ("Appendix")
to
SAP PUBLIC SERVICES, INC. ("SAP")
SOFTWARE LICENSE AGREEMENT effective December        , 2006 ("Agreement")
with
Pinellas County ("Licensee")

This Appendix is hereby attached to and made a part of the Agreement specified above. The following Articles and Provisions of the Agreement are specifically incorporated herein by reference: 1 (Definitions), 2 (License Grant), 4 (Price and Payment), 5 (Term and Termination), 6.1 (Protection of Proprietary Information), 7.2 (Express Disclaimer), 9 (Limitation of Liability), 10 (Assignment) and 11 (General Provisions). Unless stated otherwise herein, all other provisions of the Agreement are specifically excluded with respect to this Appendix. In each instance in which provisions of this Appendix contradict or are inconsistent with the incorporated provisions of the Agreement, the provisions of this Appendix shall prevail and govern.

1.　　**LICENSE GRANT:**

　　1.1　Software licensed by Licensee from SAP hereunder is as follows:

**RWD Info Pak™ Suite with Simulator**

|  | LICENSED: NUMBER of LICENSED SAP USERS | |
| --- | --- | --- |
|  | Professional and Limited Professional Users | Employee Users |
| RWD Info Pak™ Bundled Package with Simulator (including Publisher, Glossary ,Web Architect and Simulator) | 135 | 30 |
| RWD Info Pak™ Help Launchpad | 135 | 0 |

2.　　**LICENSE FEE AND PAYMENT:** The Net License Fee to Licensee for the RWD software licensed in Item 1 above is USD 13,500, which shall be invoiced on or before December 15, 2006 and is payable net forty-five (45) days of the date of invoice and in accord with Florida Statute 218.70 et. seq.

In the event Licensee exceeds the License Grant specified herein, and/or Licensee desires to expand the License Grant specified herein to include additional Affiliates, divisions or business units not identified herein Licensee agrees to provide written notice to SAP. SAP reserves the right to modify the Agreement to reflect such increase in the License Grant, recalculate the Net License Fee and Maintenance Fee accordingly and invoice Licensee for such increased license and maintenance fees based on SAP's then current pricing in effect.

Upon SAP's reasonable request, Licensee shall deliver to SAP a report, as defined by SAP, evidencing Licensee's usage of the RWD software licensed under this Agreement.

3.　　**INSTALLATION:** For the RWD Software to be installed at a specific Licensee and/or Affiliate site within the Territory, Licensee shall provide SAP with written notice of the location of each computer and the number of Users, licensed in Item 1, allocated to each such device within sixty (60) days of the use of such device. Such notice shall be in a form materially similar to Schedule 1 attached hereto and is to be sent to: SAP Contract Department, Attention: 3999 West Chester Pike, Newtown Square, PA 19073. Licensee shall be responsible for installation of the RWD Software.

4.　　**DELIVERY:** Initial delivery of the above-specified RWD software is estimated to take place in December, 2006. Physical delivery will be freight on board shipping point to the following location: 14 South Fort Harrison Avenue, Clearwater, Florida 33756.

5.　　**MAINTENANCE FEE AND PAYMENT:**

　　5.1　To the degree RWD makes such maintenance services generally available to SAP, Licensee may request and SAP shall provide maintenance service ("Maintenance") with respect to the RWD software, so long as Licensee is subscribing for and paying for Maintenance. Maintenance currently includes the delivery of releases and versions of the RWD software made available to SAP, support via telephone, coordination of defect correction with RWD, and SAP's Online Software Services. Maintenance, from SAP, for the RWD software licensed hereunder is limited to the United States sites previously identified in the Agreement and related Appendices. Notwithstanding anything to the contrary in the Agreement, Licensee acknowledges RWD's standard hours of maintenance service are Monday through Friday, 8:30 a.m. to 5:30 p.m., eastern standard time, except for

holidays as observed by RWD; further, Licensee acknowledges that for each release, RWD will offer maintenance services through SAP only for the most recent version and the version immediately prior thereto. After a new release becomes commercially available, RWD will provide maintenance services through SAP only for such new release and, until a new version of the new release becomes available, for the latest version of the prior release. In order to receive Maintenance hereunder, Licensee must make all required remote support connections to each Designated Unit, at its expense, as requested by SAP.

Licensee shall appoint no more than 5 individuals who are knowledgeable in the operation of the RWD Software to serve as primary contacts in the event that Licensee needs to contact RWD for support. The identification and number of Key Users will be specified in Schedule 1 to this Appendix. All of Licensee's support inquiries shall be initiated solely through these Key Users. Licensee shall have the right to appoint substitute individuals to serve as Key Users provided the names of the new individuals and the individuals being substituted are communicated to SAP in writing. Licensee shall have the right to appoint additional individuals to serve as Key Users upon mutual agreement of the Licensee and SAP.

5.2  Maintenance at such United States site(s) shall commence on January 1, 2007. Maintenance Fees for the Software licensed under this Appendix, for the total number of Users specified above, is USD 2,295 (17% of USD 13,500) per year. Maintenance fees are subject to change upon ninety (90) days notice to Licensee. Maintenance fees set forth above do not include federal, state or local taxes.

5.3  In the event Licensee elects not to commence Maintenance upon the first day of the month following initial delivery of the RWD software, or Maintenance is otherwise declined for some period of time, and is subsequently requested or reinstated, SAP will invoice Licensee the accrued maintenance service fees associated with such time period plus a reinstatement fee.

6.  **LIMITATION OF LIABILITY:** In no event shall SAP's total liability for damages of any kind or nature in any way arising from or related to the RWD software licensed hereunder exceed an amount equal to the Net License Fee identified in Item 2 hereof.

7.  **THIRD-PARTY DATABASE:**

7.1  The software licensed hereunder requires a third party database product which has either been integrated or pre-installed as part of the Software, or which must be installed to Use the software. Third party database product functionality as integrated in the software may differ from a non-integrated third party database product. Each third party database product is subject to its respective third party vendor License Agreement. This Agreement does not contain a license to use the integrated third party database product. Licensee has no right to use and are not licensed to use the copy of the third party database until Licensee has executed the Agreement, this Appendix and execute a third party database license agreement for the third party database. Upon request, Licensee shall provide to SAP the invoice number and/or license number and corresponding date for the third party database.

SAP makes no representations or warranties as to the terms of any license or the operation of any third-party database obtained directly from a third party supplier by Licensee. Licensee is responsible for support and maintenance of the third-party database licensed from a third party supplier, and SAP has no responsibility in this regard.

8.  **VALIDITY OF OFFER:** The validity of this Appendix will expire December 31, 2006, unless sooner executed by Licensee, or extended in writing by SAP.

Accepted by:

SAP Public Services, Inc.
SAP

By: _Mary Beth Hanss_

Title: _VP & Assistant General Counsel_

Date: _11-16-06_

Accepted by:

Pinellas County
Licensee

By: _Kenneth T. Welch_

Title: _Chairman_

Date: _12-06-06_

Reviewed by Contracts

Terry Dougherty _T.D._

APPROVED AS TO FORM
OFFICE OF COUNTY ATTORNEY

By _____
                    Attorney

ATTEST: KEN BURKE, CLERK
By_____
            Deputy Clerk

2

## Software and User Allocation

*Licensee -- please assist with inserting this information*

### Contact Data

| | |
|---|---|
| **Customer Name:** Pinellas County, Florida | |
| **\*Shipping Address:** 14 South Fort Harrison | |
| **City/State/Zip:** Clearwater, Florida 33756 | |
| **Contact Name:** Tim Wiley, Director Customer services | |
| **Contact Phone Number:** 727-464-4732 | **Contact Fax Number: 727-464-5061** |
| **Contact E-Mail Address:** twiley@co.pinellas.fl.us | |

\* Shipping address must be a street address, PO Box is not sufficient.

### Products Licensed:

| | NUMBER of LICENSED SAP Professional and Limited Professional USERS | NUMBER of LICENSED SAP Employee USERS |
|---|---|---|
| RWD Info Pak Bundled Package with Simulator | 135 | 30 |
| RWD Info Pak Bundled Package without Simulator | 0 | 0 |
| RWD Info Pak Launchpad | 135 | 0 |
| RWD Info Pak Publisher / Glossary Only | 0 | 0 |
| RWD Omni Help Only | 0 | 0 |
| RWD Info Pak Simulator Only | 0 | 0 |

| | |
|---|---|
| **Current SAP Release:** mySAP ERP 2005 | **Microsoft Windows Version:** TBD |
| **Microsoft Office Version:** | **SAP GUI Version:** latest |
| | |

| | |
|---|---|
| **Account Executive Name:** Skip Gossman | **Phone No.:** 404-641-0835  **Fax No.:** |
| **Date Form Completed:** | **Contract Start Date:** | **Maint. Start Date:** est. 2006 |
| | | **Maint Fee: $2,295** |

**Appendix 3**
**Effective December        , 2006 ("Appendix")**
**SAP PUBLIC SERVICES, INC. ("SAP")**
**SOFTWARE LICENSE AGREEMENT effective December        , 2006 ("Agreement")**
**with**
**Pinellas County ("Licensee")**

This Appendix is hereby annexed to and made a part of the Agreement specified above. The following Articles and Provisions of the Agreement are specifically incorporated herein by reference: 1 (Definitions), 2 (License Grant), 4 (Price and Payment), 5 (Term and Termination), 6.1 (Protection of Proprietary Information), 7.2 (Express Disclaimer), 9 (Limitation of Liability), 10 (Assignment) and 11 (General Provisions). Unless stated otherwise herein, all other provisions of the Agreement are specifically excluded with respect to this Appendix. In each instance in which provisions of this Appendix contradict or are inconsistent with the incorporated provisions of the Agreement, the provisions of this Appendix shall prevail and govern.

**1.    LICENSE GRANT:**

1.1        Interactive Forms Based on Adobe ("Adobe Software") licensed by Licensee from SAP hereunder is as follows:

| "X" if Licensed | Industry Specific Software | License Metric | Licensed Level |
|---|---|---|---|
| X | Interactive Forms based on Adobe | Number of Users | **Up to 500** |
| | | Number of Interactive Form Templates | **Up to 30** |

**1.2    DATABASE:**

Database Interface: Included

2.    **LICENSE FEE AND PAYMENT:** The Net License Fee to Licensee for the Adobe Software licensed in Item 1 above is USD 22,500, which shall be invoiced on or before December 15, 2006 and is payable net forty-five (45) days of the date of invoice and in accord with Florida Statute Section 218.70 et seq.

In the event Licensee exceeds the License Grant specified herein, and/or Licensee desires to expand the License Grant specified herein to include additional Affiliates, divisions or business units not identified herein Licensee agrees to provide written notice to SAP. SAP reserves the right to modify the Agreement to reflect such increase in the License Grant, recalculate the Net License Fee accordingly and invoice Licensee for such increased license based on SAP's then current pricing in effect.

Upon SAP's reasonable request, Licensee shall deliver to SAP a report, as defined in format by SAP, evidencing Licensee's usage of the Adobe Software licensed under this Agreement.

3.    **INSTALLATION:** For the Adobe Software to be installed at a specific Licensee and/or Affiliate site within the Territory, Licensee shall provide SAP with written notice of the location of each server and the number of Named Users allocated to each such device within sixty (60) days of the use of such device. Such notice shall be sent to: SAP Contract Department, Attention: Director of Contracts, 3999 West Chester Pike, Newtown Square, PA 19073. Licensee shall be responsible for installation of the Adobe Software.

4.    **DELIVERY:** Delivery of the above-specified Software and Documentation is estimated to take place in December, 2006. Physical delivery will be free on board shipping point to the Licensee at the following location: 14 South Fort Harrison Avenue, Clearwater, Florida 33756.

5.    **MAINTENANCE FEE AND PAYMENT:**

5.1    To the degree Adobe Systems, Inc. makes such services generally available to SAP, Licensee may request and SAP shall provide maintenance service ("Maintenance") with respect to the Adobe Software. Maintenance currently includes the delivery of releases and versions of the Adobe Software made available to SAP, support via telephone, coordination of defect correction with Adobe, and SAP's Online Software Services. Maintenance, from SAP, for the Adobe Software licensed hereunder is limited to the sites previously identified in the Agreement and related Appendices. In order to receive Maintenance hereunder, Licensee must make all required remote support connections to each Designated Unit, at its expense, as requested by SAP.

5.3    The Maintenance Fee for the Adobe Software licensed under this Appendix is priced at the then current factor in effect (currently 17%) multiplied by the then current Net License Fee for the licensed Adobe Software.   The current annual Maintenance Fee for the Adobe Software licensed under this Appendix is USD 3,825 (17% of USD 22,500).  Maintenance Fees are subject to change once during a calendar year upon ninety (90) days notice to Licensee.  Maintenance fees set forth above do not include federal, state or local taxes.  Maintenance Fees are invoiced on an annual basis effective January 1 of a calendar year and payable Net 45 days and in accord with Florida Statute Section 218.70 et. seq.  Any Maintenance Fees due prior to January 1 are invoiced on a pro-rata basis for the given calendar year in effect.

5.4    In the event Licensee elects not to commence Maintenance upon the first day of the month following initial delivery of the Adobe Software, or Maintenance is otherwise declined for some period of time, and is subsequently requested or reinstated, SAP will invoice Licensee the accrued Maintenance Fees associated with such time period plus a reinstatement fee.

**PREMIUM SUPPORT SERVICE AND PAYMENT:** Premium Support Service offered by SAP is set forth in the Maintenance Schedule Addendum for Premium Support Services to the Agreement and subject to the Maintenance Schedule. In addition to the Maintenance Fees described above, the annual Premium Support Service Fee is USD 1,125 (5% of USD 22,500). Premium Support Service Fees are subject to change once during a calendar year upon ninety (90) days notice to Licensee.  Premium Support Service Fees set forth above do not include federal, state or local taxes. Premium Support Service Fees are invoiced on an annual basis effective January 1 of a calendar year and payable Net 45 days from date of invoice and in accord with Florida Statute Section 218.70 et seq.  Any Premium Support Service Fees due prior to January 1 are invoiced on a pro-rata basis for the given calendar year in effect.

6.    **THIRD-PARTY DATABASE:**

The Software licensed hereunder requires a third party database product which has either been integrated or pre-installed as part of the Software, or which must be installed to Use the Software.  Third party database product functionality as integrated in the Software may differ from a non-integrated third party database product.  Each third party database product is subject to its respective third party vendor License Agreement.  This Agreement does not contain a license to use the integrated third party database product.  Licensee has no right to use and are not licensed to use the copy of the third party database until Licensee has executed the Agreement, this Appendix and execute a third party database license agreement for the third party database. Upon request, Licensee shall provide to SAP the invoice number and/or license number and corresponding date for the third party database.

SAP makes no representations or warranties as to the terms of any license or the operation of any third-party database obtained directly from a third party supplier by Licensee.  Licensee is responsible for support and maintenance of the third-party database licensed from a third party supplier, and SAP has no responsibility in this regard.

7.    **LIMITATION OF LIABILITY:** In no event shall SAP's total liability for damages of any kind or nature in any way arising from or related to the Adobe Software licensed hereunder exceed an amount equal to the Net License Fee identified in Item 2 hereof.

8.    **VALIDITY OF OFFER:** The validity of this Appendix 4 will expire December 31, 2006 unless sooner executed by Licensee, or extended in writing by SAP.

ATTEST: KEN BURKE, CLERK

By: _____
Deputy Clerk

Accepted by:

SAP Public Services, Inc.
(SAP)

By: _____

Name: _____
Mary Beth Hanss

Title: _____
VP & Assistant General Counsel

Date: _____

Accepted by:

Pinellas County
(Licensee)

By: _____

Name: Kenneth T. Welch

Title: Chairman

Date: 12.06.06

Reviewed by Contracts

Terry Dougherty T.D.

APPROVED AS TO FORM
OFFICE OF COUNTY ATTORNEY

By _____
Attorney

2

**EXHIBIT K: INSURANCE REQUIREMENTS**

Vertex shall obtain and maintain at all times during its performance of the Agreement, insurance of the types and in the amounts set forth.  All insurance policies shall be from responsible companies duly authorized to do business in the State of Florida and have an AM Best rating of A VIII or better. Vertex agrees that all insurance coverages required under shall be provided through policies obtained from unaffiliated third parties, and not through any form of self-insurance; provided, however, that in the case of Worker's Compensation coverage, Vertex may only self-insure if Vertex meets all state requirements for such self-insurance.  Vertex shall maintain deductibles that are consistent with industry standards and practices.

a)        Vertex must provide a certificate of insurance and endorsement in accordance with the insurance requirements listed below prior to commencement of work. Vertex shall email certificate that is compliant with the insurance requirements to [InsuranceCerts@Pinellascounty.org.](mailto:InsuranceCerts@Pinellascounty.org) The Certificate(s) of Insurance shall be signed by authorized representatives of the insurance companies shown on the Certificate(s).  **A copy of the endorsement(s) referenced in paragraph c) for Additional Insured shall be attached to the certificate(s) referenced in this paragraph. Blanket Additional Insured endorsements may be attached.**

b)        No work shall commence at any project site unless and until the required Certificate(s) of Insurance are received and approved by the County.  Approval by the County of any Certificate(s) of Insurance does not constitute verification by the County that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate(s) of Insurance is in compliance with the requirements of the Agreement.  County reserves the right to require a certified copy of the entire insurance policy, including endorsement(s), at any time during the contract period.

c)        All policies providing liability coverage(s), other than workers compensation policies, obtained by Vertex and any subcontractors to meet the requirements of the Agreement shall be endorsed to include Pinellas County a Political Subdivision of the State of Florida as an Additional Insured.

d)        If any insurance provided pursuant to the Agreement expires prior to the completion of the Work, renewal Certificate(s) of Insurance and endorsement(s) shall be furnished by Vertex to the County at least ten (10) days prior to the expiration date.

(1) Vertex shall also notify County within twenty-four (24) hours after receipt, of any notices of expiration, cancellation, nonrenewal or adverse material change in coverage received by Vertex from its insurer.  Notice shall be given by certified mail to: **Pinellas County Risk Management 400 South Fort Harrison Ave Clearwater FL  33756**; be sure to include your organization's unique identifier.  Nothing contained herein shall absolve Vertex of this requirement to provide notice.

(2) Should Vertex, at any time, not maintain the insurance coverages required herein, the County may terminate the Agreement, or at its sole discretion may purchase such coverages necessary for the protection of the County and charge Vertex for such purchase or offset the cost against amounts due to Vertex for services completed.  The County shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverages purchased or the insurance company or companies used.  The decision of the County to purchase such insurance shall in no way be construed to be a waiver of any of its rights under the Agreement.

e)        The County reserves the right, but not the duty, to review and request a copy of the Contractor's most recent annual report or audited financial statement when a self-insured retention (SIR) or deductible exceeds $200,000.

If subcontracting is allowed under this Agreement, Vertex shall obtain and maintain, at all times during its performance of the Agreement, insurance of the types and in the amounts set forth; and require any subcontractors to obtain and maintain, at all times during its performance of the Agreement, insurance limits as it may apply to the portion of the Work performed by the subcontractor; *but in no event will the insurance limits be less than $500,000 for Workers' Compensation/Employers' Liability, and $1,000,000 for General Liability and Auto Liability if required below.*

(1) All subcontracts between Vertex and its subcontractors shall  (1) require each subcontractor to be bound to Vertex to the same extent Vertex is bound to the County by the terms of the Contract Documents, as those terms may apply to the portion of the Work to be performed by the subcontractor;

f)        Each insurance policy and/or certificate shall include the following terms and/or conditions:

**EXHIBIT K: INSURANCE REQUIREMENTS**

(1)  The Named Insured on the Certificate of Insurance and insurance policy must match the entity's name that is signing the agreement with the County. If Vertex is a Joint Venture, Certificate of Insurance and Named Insured must show Joint Venture Legal Entity name and the Joint Venture must comply with the requirements of Exhibit K with regard to limits, terms and conditions, including completed operations coverage.

(2)  Companies issuing the insurance policy, or policies, shall have no recourse against County for payment of premiums or assessments for any deductibles which all are at the sole responsibility and risk of Vertex.

(3)  The term "County" or "Pinellas County" shall include all Authorities, Boards, Bureaus, Commissions, Divisions, Departments and Constitutional offices of County and individual members, employees thereof in their official capacities, and/or while acting on behalf of Pinellas County.

(4)  The policy clause "Other Insurance" shall not apply to any insurance coverage currently held by County or any such future coverage, or to County's Self-Insured Retentions of whatever nature.

(5)  All policies shall be written on a primary, non-contributory basis.

(6)  Any Certificate(s) of Insurance evidencing coverage provided by a leasing company for either workers compensation or commercial general liability shall have a list of covered employees certified by the leasing company attached to the Certificate(s) of Insurance. The County shall have the right, but not the obligation to determine that Vertex is only using employees named on such list to perform work for the County. Should employees not named be utilized by Vertex, the County, at its option may stop work without penalty to the County until proof of coverage or removal of the employee by the contractor occurs, or alternatively find Vertex to be in default and take such other protective measures as necessary.

(7)  Insurance policies shall include waivers of subrogation in favor of Pinellas County from both Vertex and subcontractor(s).

g)      The minimum insurance requirements and limits for this Agreement, which shall remain in effect throughout its duration and for two (2) years beyond final acceptance for projects with a Completed Operations exposure, are as follows:

(1)  <u>Workers Compensation Insurance</u>

      Limit                                         Statutory

      Employers Liability Limits

| | |
|---|---|
| Per Employee | $ 500,000 |
| Per Employee Disease | $ 500,000 |
| Disease | $ 500,000 |

(2)  <u>Commercial General Liability Insurance</u> including, but not limited to, Independent Contractor, Contractual Liability Premises/Operations, Products/Completed Operations, and Personal Injury.

      Limits

| | |
|---|---|
| Combined Single Limit Per Occurrence | $ 1,000,000 |
| Products/Completed Operations Aggregate | $ 2,000,000 |
| Personal Injury and Advertising Injury | $ 1,000,000 |
| General Aggregate | $ 2,000,000 |

**EXHIBIT K: INSURANCE REQUIREMENTS**

(3) <u>Professional Liability (Technology Errors and Omissions) Insurance</u> with at least minimum limits as follows.  If "claims made" coverage is provided, "tail coverage" extending three (3) years beyond completion and acceptance of the project with proof of "tail coverage" to be submitted with the invoice for final payment. In lieu of "tail coverage", Vertex may submit annually to the County, for a three (3) year period, a current certificate of insurance providing "claims made" insurance with prior acts coverage in force with a retroactive date no later than commencement date of this contract.

> Limits

| | |
|---|---|
| Each Occurrence or Claim | $ 5,000,000 |
| General Aggregate | $ 5,000,000 |

> For acceptance of Professional Liability coverage included within another policy required herein, a statement notifying the certificate holder must be included on the certificate of insurance and the total amount of said coverage per occurrence must be greater than or equal to the amount of Professional Liability and other coverage combined.

(4) <u>Cyber Risk Liability (Network Security/Privacy Liability) Insurance</u> including cloud computing and mobile devices, for protection of private or confidential information whether electronic or non-electronic, network security and privacy; privacy against liability for system attacks, digital asset loss, denial or loss of service, introduction, implantation or spread of malicious software code, security breach, unauthorized access and use; including regulatory action expenses; and notification and credit monitoring expenses with at least minimum limits as follows:

> Limits

| | |
|---|---|
| Each Occurrence | $ 5,000,000 |
| General Aggregate | $ 5,000,000 |

> For acceptance of Cyber Risk Liability coverage included within another policy required herein, a statement notifying the certificate holder must be included on the certificate of insurance and the total amount of said coverage per occurrence must be greater than or equal to the amount of Cyber Risk Liability and other coverage combined.  The coverage under this paragraph shall be a separate policy for Pinellas from other Vertex policies relating to this coverage.  Pinellas shall pay Vertex for the coverage set forth in this paragraph as a pass-through cost in accordance with Exhibit C (Fees & Costs).

(5) <u>Property Insurance</u> Vertex will be responsible for all damage to its own property, equipment and/or materials.