

GOODS AND SERVICES AGREEMENT

THIS GOODS AND SERVICES AGREEMENT (“Agreement”) is made as of this ____ day of _____, 2022 (“Effective Date”), by and between Pinellas County, a political subdivision of the State of Florida (“County”), and CDW Government LLC (“Contractor”) (individually, “Party,” collectively, “Parties”).

WITNESSETH:

WHEREAS, the County requested proposals pursuant to 21-0686-B (ITB) for NetApp Storage Systems, maintenance, and support services; and

WHEREAS, based upon the County's assessment of Contractor's proposal, the County selected the Contractor to provide the Services as defined herein; and

WHEREAS, Contractor represents that it has the experience and expertise to resell the Goods and Services as set forth in this Agreement.

NOW, THEREFORE, in consideration of the above recitals, the mutual covenants, agreements, terms and conditions herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties agree as follows:

1. Definitions.

A. “Agreement” means this Agreement, including all Exhibits, which are expressly incorporated herein by reference, and any amendments thereto.

B. “County Confidential Information” means any County information deemed confidential and/or exempt from Section 119.07, Florida Statutes, and Section 24(a), Article 1 of the Florida Constitution, or other applicable law, including, but not limited to, data or information and any other information designated in writing by the County as County Confidential Information.

C. “Contractor Confidential Information” means any Contractor information that is designated as confidential and/or exempt by Florida’s public records law, including information that constitutes a trade secret pursuant to Chapter 688, Florida Statutes, and is designated in this Agreement or in writing as a trade secret by Contractor (unless otherwise determined to be a public record by applicable Florida law). Notwithstanding the foregoing, Contractor Confidential Information does not include information that: (i) becomes public other than as a result of a disclosure by the County in breach of the Agreement; (ii) becomes available to the County on a non-confidential basis from a source other than Contractor, which is not prohibited from disclosing such information by obligation to Contractor; (iii) is known by the County prior to its receipt from Contractor without any obligation or confidentiality with respect thereto; or (iv) is developed by the County independently of any disclosures made by Contractor.

D. “Contractor Personnel” means all employees of Contractor, and all employees of subcontractors of Contractor, including, but not limited to temporary and/or leased employees, who are providing the Services at any time during the project term.

E. “Goods” means the NetApp Storage system hardware and software listed in Exhibit C.

F. “Services” means the work, duties and obligations to be carried out and performed safely by Contractor under this Agreement, as specifically described in a statement of work to be drafted by Contractor for professional services. As used in this Agreement, Services shall include any component task, subtask, service, or function inherent, necessary, or a customary part of the Services, but not specifically described in this Agreement, and shall include the provision of all standard day-to-day administrative, overhead, and internal expenses, including costs of bonds and insurance as required herein, labor, materials, equipment, safety equipment, products, office supplies, consumables, tools, postage, computer hardware/software, telephone

charges, copier usage, fax charges, travel, lodging, and per diem and all other costs required to perform Services except as otherwise specifically provided in this Agreement. For clarity, "Services" do not include the "Goods".

G. "Third Party Services" means certain services other than Services provided by Contractor, as described in Exhibit A ("Statement of Work") attached hereto and incorporated herein by reference. Which includes, but is not limited to, extended warranty service by manufacturers, that are sold by Contractor as a distributor or sales agent.

2. The execution of this Agreement is subject to and expressly limited by the Terms and Conditions hereon. County and the Contractor are not bound by additional provisions or provisions at variance herewith that may appear in the Contractor's quotation, acknowledgement in force, or any other communication from Contractor to or from County unless such provision is expressly set forth herein.

3. **Services.**

A. Services. The County retains Contractor, and Contractor agrees to provide the Goods, Third Party Services and applicable Services. All Services shall be performed to the satisfaction of the County, and shall be subject to the provisions and terms contained herein and the Exhibits attached hereto.

The professional Services offered by Contractor are optional, and there is no guarantee that any or all of the Unspecified Funds allotted will be utilized during the performance of this contract. Unspecified Funds include, but are not limited to, professional services offered by Contractor. Services are authorized by the County on an as needed basis to be completed and accepted as provided in Section 13 if applicable, in accordance with the set discounts in Exhibit C, and payable upon submittal of an invoice as required herein. Any Services using unspecified funds must be approved by the County prior to work commencing.

B. Services Requiring Prior Approval. Contractor shall not commence work on any Services requiring prior written authorization in the Statement of Work without approval from the Contract Manager.

C. De-scoping of Services. The County reserves the right, in its sole discretion, to de-scope Services upon written notification to the Contractor by the County. Upon issuance and receipt of the notification, the Contractor and the County shall enter into a written amendment reducing the appropriate Services Fee for the impacted Services by a sum equal to the amount associated with the de-scoped Services as defined in the payment schedule in this Agreement, if applicable, or as determined by mutual written consent of both Parties based upon the scope of work performed prior to issuance of notification.

D. Independent Contractor Status and Compliance with the Immigration Reform and Control Act. Contractor is and shall remain an independent contractor and is neither agent, employee, partner, nor joint venturer of County. Contractor acknowledges that it is responsible for complying with the provisions of the Immigration Reform and Control Act of 1986 located at 8 U.S.C. 1324, et seq, and regulations relating thereto, as either may be amended from time to time. Failure to comply with the above provisions shall be considered a material breach of the Agreement.

E. Non-Exclusive Services. This is a non-exclusive Agreement. During the term of this Agreement, and any extensions thereof, the County reserves the right to contract for another provider for similar services as it determines necessary in its sole discretion.

F. Project Monitoring. During the term of the Agreement, Contractor shall cooperate with the County, either directly or through its representatives, in monitoring Contractor's progress and performance of this Agreement.

4. **Term of Agreement.**

A. Initial Term. The term of this Agreement shall commence on:

- the Effective Date and shall remain in full force and for thirty-six (36) months, or until termination of the Agreement, whichever occurs first.

B. Term Extension.

The Parties may extend the term of this Agreement for two (2) additional twelve (12) month period(s) pursuant to the same terms, conditions, and pricing set forth in the Agreement by mutually executing an amendment to this Agreement, as provided herein.

5. Orders. Within the term of this Agreement, County may place one or more orders for Goods, Third Party Services and Services at the prices listed on the Price Schedule which is attached hereto as Exhibit C and which is incorporated by reference hereto.

6. Delivery / Claims. Prices on the Schedule of Prices are F.O.B. Destination, FREIGHT INCLUDED and unloaded to location(s) within Pinellas County. Actual delivery address(es) will be identified at time of order. Contractor will be responsible for making any and all claims against carriers for missing or damaged items.

7. Inspection. In County's sole discretion, Goods rejected due to inferior quality or workmanship will be returned to Contractor in accordance with Contractor's Return Policy, incorporated herein as Exhibit F, at Contractor's expense and are not to be replaced except upon receipt of written instructions from County.

8. Material Quality. - All goods and materials purchased and delivered pursuant to this Agreement will be of first quality and not damaged and/or factory seconds. Any materials damaged or not in first quality condition upon receipt must be exchanged within twenty-four (24) hours of notice to the Contractor at no charge to County.

9. Purchase Order Number. Each order will contain the Purchase Order Number applicable to this Agreement, and Contractor will make commercially reasonable efforts to include such Purchase Order Number on all packing slips, invoices and all correspondence relating to the Order. County will not be responsible for Goods delivered without a Purchase Order Number.

10. Variation in Quantity. County assumes no liability for Goods produced, processed or shipped in excess of the amounts ordered pursuant to the terms of this Agreement.

11. Warranty. All manufacturer warranties offered to an end user are expressly available and applicable to County. Contractor warrants that the Services will be performed in a good and workmanlike manner. County's sole and exclusive remedy with respect to this warranty will be, at the sole option of Contractor, to either (a) use its reasonable commercial efforts to reperform any Services not in substantial compliance with this warranty, or (b) refund amounts paid by County related to the portion of the Services not in substantial compliance; provided, in each case, County notifies Contractor in writing within thirty (30) days after performance of the applicable Services. In the case of Third Party Services, the third party will be responsible for providing the Third Party Services to County, and County will look solely to the third party for any loss, claims or damages arising from or related to the provision of such Third Party Services. With respect to Third Party Services, Contractor acts solely as an independent sales agent when collecting any due amounts, including, but not limited to, taxes. EXCEPT AS SET FORTH HEREIN, AND SUBJECT TO APPLICABLE LAW, CONTRACTOR MAKES NO OTHER, AND EXPRESSLY DISCLAIMS ALL OTHER, REPRESENTATIONS, WARRANTIES, CONDITIONS AND COVENANTS, EITHER EXPRESS OR IMPLIED (INCLUDING WITHOUT LIMITATION, ANY EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, DURABILITY, ACCURACY OR NON-INFRINGEMENT) ARISING OUT OF, OR RELATED TO, THE GOODS, THIRD PARTY SERVICES, AND SERVICES OR THEIR PERFORMANCE OR NON-PERFORMANCE, INCLUDING BUT NOT LIMITED TO ANY WARRANTY RELATING TO MAINTENANCE AND SUPPORT SERVICES PROVIDED BY OEMs.

12. Compensation and Method of Payment.

A. Goods and Third Party Services Fee. As total compensation for the Goods and Third Party Services, the County shall pay the Contractor the sums as provided in this Section 12 (“Goods and Third Party Services Fee”), pursuant to the terms and conditions as provided in this Agreement. It is acknowledged and agreed by Contractor that this compensation constitutes a limitation upon County's obligation to compensate Contractor for such Goods and Third Party Services required by this Agreement, but does not constitute a limitation upon Contractor's obligation to perform all of the services required by this Agreement. In no event will the Goods and Third Party Services Fee paid exceed the not-to-exceed sums set out in subsections 12 B. and C., unless the Parties agree to increase this sum by written amendment as authorized in Section 34 of the Agreement.

B. The County agrees to pay the Contractor the not-to-exceed sum of four million, six hundred and thirty-five thousand dollars and zero cents (\$4,635,000.00) for Goods, and Third Party Services delivered and accepted as provided in Section 15 herein if applicable. During the term, County shall be entitled to the set discount off the current MSRP for the deliverables as set out in Exhibit C, payable upon submittal of an invoice as required herein.

C. Travel Expenses.

The Fee includes all travel, lodging and per diem expenses incurred by Contractor in performing the services.

D. Taxes. Contractor acknowledges that the County is not subject to any state or federal sales, use, transportation and certain excise taxes.

E. Payments and Invoicing. Contractor shall submit invoices for payments due as provided herein and authorized reimbursable expenses incurred with such documentation as required by County. Invoices shall be submitted:

as provided in Exhibit D attached hereto.

For time and materials Services, all Contractor Personnel shall maintain logs of time worked, and each invoice shall state the date and number of hours worked for Services authorized to be billed on a time and materials basis. All payments shall be made in accordance with the requirements of Section 218.70 et seq., Florida Statutes, “The Local Government Prompt Payment Act.” The County may dispute any payments invoiced by Contractor 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.

13. Acceptance of Goods Services and Third Party Services. For all deliverables that require County acceptance as provided in the Statement of Work, the County, through the Chief Information Office (CIO), Jeff Rohrs or designee, will have ten (10) calendar days to review the deliverable(s) after receipt or completion of same by Contractor, and either accept or reject the deliverable(s) by written notice to Contractor. If a deliverable is rejected, the written notice from the County will specify any required changes, deficiencies, and/or additions necessary. Contractor shall then have fourteen (14) calendar days (or such longer period of time agreed by the Parties) to revise the deliverable(s) to resubmit and/or complete the deliverable(s) for review and approval by the County, who will then have seven (7) calendar days to review and approve, or reject the deliverable(s); provided however, that Contractor shall not be responsible for any delays in the overall project schedule that result from the County’s failure to timely approve or reject deliverable(s) as provided herein. Upon final acceptance of the deliverable(s), the County will accept the deliverable(s) in writing.

14. Discounts. Delay in receiving an invoice, invoicing for materials shipped ahead of specified schedule, or invoices rendered with errors or omissions will be considered just cause for County to withhold payment.

15. Subcontracting/Assignment.

A. Subcontracting. Contractor is fully responsible for completion of the Services required by this Agreement and for completion of all subcontractor work, if authorized as provided herein. Contractor shall not subcontract any work under this Agreement to any subcontractor other than the subcontractors specified in the proposal and previously approved by the County, without the prior written consent of the County, which shall be determined by the County in its sole discretion.

B. Assignment.

This Agreement, and any rights or obligations hereunder, shall not be assigned, transferred or delegated to any other person or entity. Any purported assignment in violation of this section shall be null and void.

16. Personnel.

A. E-Verify. The Contractor and Subcontractor must register with and use the E-verify system in accordance with Florida Statute 448.095. A Contractor and Subcontractor may not enter into a contract with the County unless each party registers with and uses the E-verify system.

If a Contractor enters a contract with a Subcontractor, the Subcontractor must provide the Contractor with an affidavit stating that the Subcontractor does not employ, contract with, or subcontract with unauthorized aliens. The Contractor must maintain a copy of the affidavit for the duration of the contract.

If the County, Contractor, or Subcontractor has a good faith belief that a person or entity with which it is contracting has knowingly violated Florida Statute 448.09(1) shall immediately terminate the contract with the person or entity.

If the County has a good faith belief that a Subcontractor knowingly violated this provision, but the Contractor otherwise complied with this provision, the County will notify the Contractor and order that the Contractor immediately terminate the contract with the Subcontractor.

A contract terminated under the provisions of this section is not a breach of contract and may not be considered as such. Any contract termination under the provisions of this section may be challenged to Section 448.095(2)(d), Florida Statute. Contractor acknowledges upon termination of this agreement by the County for violation of this section by Contractor, Contractor may not be awarded a public contract for at least one (1) year. Contractor acknowledges that Contractor is liable for any additional costs incurred by the County as a result of termination of any contract for a violation of this section.

Contractor or Subcontractor shall insert in any subcontracts the clauses set forth in this section, requiring the subcontracts to include these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any Subcontractor or Lower Tier Subcontractor with the clause set for in this section.

B. Qualified Personnel. Contractor agrees that each person performing Services in connection with this Agreement shall have the qualifications and shall fulfill the requirements set forth in this Agreement.

17. Name Changes. The Contractor is responsible for immediately notifying the County of any company name change, which would cause invoicing to change from the name used at the time of the original Agreement.

18. Compliance with Laws. Contractor shall comply with all applicable federal, state, county and local laws, ordinances, rules and regulations in the performance of its obligations under this Agreement, including the procurement of permits and certificates where required, and including but not limited to laws related to Workers Compensation, Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, Minority Business Enterprise (MBE), occupational safety and health and the environment, equal employment opportunity, privacy of medical records and information, as applicable. Failure to comply with any of the above provisions shall be considered a material breach of the Agreement.

19. Applicable Law and Venue. This Agreement and any and all purchases made hereunder shall be governed by and construed in accordance with the laws of the State of Florida (without regard to principles of conflicts of laws). The Parties agree that all actions or proceedings arising in connection with this Agreement 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 Agreement 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.

20. Public Entities Crimes

Contractor is directed to the Florida Public Entities Crime Act, Section 287.133, Florida Statutes, as well as Florida Statute 287.135 regarding Scrutinized Companies, and represents to County that Contractor is qualified to transact business with public entities in Florida, and to enter into and fully perform this Agreement subject to the provisions state therein. Failure to comply with any of the above provisions shall be considered a material breach of the Agreement.

21. Waiver. No waiver by either Party of any breach or violation of any covenant, term, condition, or provision of this Agreement or of the provisions of any ordinance or law, shall be construed to waive any other term, covenant, condition, provisions, ordinance or law, or of any subsequent breach or violation of the same.

22. Due Authority. Each Party to this Agreement represents and warrants that: (i) it has the full right and authority and has obtained all necessary approvals to enter into this Agreement; (ii) each person executing this Agreement on behalf of the Party is authorized to do so; (iii) this Agreement constitutes a valid and legally binding obligation of the Party, enforceable in accordance with its terms.

23. Remedies. County and Contractor will have all remedies afforded by applicable law.

24. Termination. County reserves the right to terminate this agreement, without cause by giving thirty (30) days prior written notice to the Contractor of the intention to terminate or with cause if at any time the Contractor fails to fulfill or abide by any of the terms or conditions specified.

Failure of the Contractor to comply with any of the provisions of this Agreement is considered a material breach of Agreement and is cause for immediate termination of the Agreement at the sole discretion of County.

In addition to all other legal remedies available to the County, the County reserves the right to terminate and obtain from another source any services which have not been provided within the period of time stated in the proposal, or if no such time is stated, within a reasonable period of time from the date of request, as determined by the County.

25. Confidential Information and Public Records.

A. County Confidential Information. Contractor shall not disclose to any third party County Confidential Information that Contractor, through its Contractor Personnel, has access to or has received from the County pursuant to its performance and delivery of Goods, Services and Third Party Services pursuant to the Agreement, unless approved in writing by the County Contract Manager. All such County Confidential Information will be held in trust and confidence from the date of disclosure by the County, and discussions involving such County Confidential Information shall be limited to Contractor Personnel as is necessary to complete the services.

B. Contractor Confidential Information. All Contractor Confidential Information received by the County from Contractor will be held in trust and confidence from the date of disclosure by Contractor and discussions involving such Contractor Confidential Information shall be limited to the members of the County's staff and the County's subcontractors who require such information in the performance of this Agreement. The County acknowledges and agrees to respect the copyrights, registrations, trade secrets and other proprietary rights of Contractor in the Contractor Confidential Information during and after the term of the Agreement and shall at all times maintain the confidentiality of the Contractor Confidential Information provided to the County, subject to federal law and the laws of the State of Florida related to public records disclosure. Contractor shall be solely responsible for taking any and all action it deems necessary to protect its Contractor Confidential Information except as provided herein. Contractor acknowledges that the County is subject to public records legislation, including but not limited to Chapter 119, Florida Statutes, and the Florida Rules of Judicial Administration, and

that any of the County's obligations under this Section may be superseded by its obligations under any requirements of said laws.

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

26. Audit. Contractor shall retain all records relating to this Agreement for a period of at least five (5) years after final payment is made. All records shall be kept in such a way as will permit their inspection pursuant to Chapter 119, Florida Statutes. In addition, County reserves the right to examine and/or audit such records one (1) time per twelve (12) month period during the Term of this Agreement for the sole purpose of verifying amounts paid, assessing performance, and compliance with the terms of the Agreement.

27. Digital Accessibility

Contractor acknowledges and warrants that all digital content and Services performed by Contractor under this contract conforms and shall continue to conform during the Term of this Agreement to the W3C Web Content Accessibility Guidelines, version 2.0 ("WCAG 2.0") at conformance Level A and AA. If all digital content and services does not fully conform to WCAG 2.0 A and AA, Contractor shall advise County in writing of the nonconformance prior to execution of this Agreement and shall provide County a plan to achieve conformance to WCAG 2.0 A and AA, including but not limited to, an intended timeline for conformance. Failure to achieve conformance, as determined in County's sole discretion, on its intended timeline shall be considered a material breach of this Agreement and grounds for termination by County.

If during the Term of this Agreement, Contractor fails to maintain compliance with WCAG 2.0 A and AA or County otherwise identifies an issue related to accessibility of the product (the "Accessibility Issue") that renders the Services inaccessible, then County shall notify Contractor of non-compliance. Within thirty (30) days of Contractor's receipt of a non-compliance notice ("Notice"), Contractor and County shall meet and mutually agree upon an appropriate timeline for resolution of the Accessibility Issue(s) ("Initial Meeting").

Should Contractor:

- i. fail to acknowledge receipt of the notice within thirty (30) days of receipt of the Notice;
- ii. unreasonably and solely withhold agreement regarding a timeline for resolution for more than thirty (30) days following the Initial Meeting; or
- iii. fail to materially resolve the Accessibility Issue(s) within the agreed-upon timeline,

Failure to comply with the requirements of this section shall constitute a material breach of this Agreement and shall be grounds for termination of this Agreement by County.

28. Liability and Insurance.

A. Insurance. Contractor shall comply with the insurance requirements set out in Exhibit B, attached hereto and incorporated herein by reference.

- B. **Indemnification.** Contractor agrees to indemnify, pay the cost of defense, including reasonable attorney's fees, and hold harmless the County, its officers, employees and agents from all damages, suits, actions or claims, brought on account of any physical injuries or damage to tangible personal property received or sustained by any unaffiliated third person relating to or arising from: (i) the Contractor's gross negligence or willful misconduct during performance of the Agreement; or (ii) by, or on account of, any claim or amounts recovered under the Workers' Compensation Law; or (iii) Contractor's breach of any applicable laws, regulations, ordinance, order or decree; or (iv) for any Contractor violation of requirements of the Americans with Disabilities Act of 1990, as may be amended, and all rules and regulations issued pursuant thereto (collectively the "ADA") except when such injury, damage, or violation was caused by the sole negligence of the County.
- C. **Liability.** Neither the County nor Contractor shall make any express or implied agreements, guaranties or representations, or incur any debt, in the name of or on behalf of the other Party. Neither the County nor Contractor shall be obligated by or have any liability under any agreements or representations made by the other that are not expressly authorized hereunder. Neither Party shall have liability or obligation for any indirect, consequential, punitive, or special damages arising out any claims arising from this Agreement. In the event of any liability incurred by a Party, such Party's aggregate liability will not exceed the Goods and Third Party Services Fee stated in Section 12.B.
- D. **Contractor's Taxes.** The County will have no liability for any sales, service, value added, use, excise, gross receipts, property, workers' compensation, unemployment compensation, withholding or other taxes, whether levied upon Contractor or Contractor's assets, or upon the County in connection with the Goods delivered and services performed or business conducted by Contractor. Payment of all such taxes and liabilities shall be the responsibility of Contractor.

29. County's Funding. 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.

30. Survival. Any provisions in which by their nature would survive the expiration or termination of the Term of this Agreement.

31. Notices. All notices, authorizations, and requests in connection with this Agreement shall be deemed given on the day they are: (1) deposited in the U.S. mail, postage prepaid, certified or registered, return receipt requested; or (2) sent by air express courier (e.g., Federal Express, Airborne, etc.), charges prepaid, return receipt requested; or (iii) sent via email and addressed as set forth below, which designated person(s) may be amended by either Party by giving written notice to the other Party:

For County:

Attn: Mary Buccigrossi
Contract Manager or designee
Business Technology Services
400 South Fort Harrison Avenue
Clearwater, FL 33756

with a copy to:
Purchasing Director
Pinellas County Purchasing Department
400 South Fort Harrison Avenue
Clearwater, FL 33756

For Contractor:

Attn: General Counsel

230 N. Milwaukee Avenue
Vernon Hills, IL 60061

With email copy to: psp@cdwg.com

with a copy to:
Director, Program Sales
230 N. Milwaukee Ave.
Vernon Hills, IL 60061

32. Conflict of Interest.

- A. The Contractor represents that to the best of its knowledge it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of the services required hereunder, and that no person having any such interest shall be employed by Contractor during the agreement term and any extensions.
- B. The Contractor shall promptly notify the County in writing of any business association, interest, or other circumstance which constitutes a conflict of interest as provided herein. If the Contractor is in doubt as to whether a prospective business association, interest, or other circumstance constitutes a conflict of interest, the Contract may identify the prospective business association, interest or circumstance, the nature of work that the Contractor may undertake and request an opinion as to whether the business association, interest or circumstance constitutes a conflict of interest if entered into by the Contractor. The County agrees to notify the Contractor of its opinion within (10) calendar days of receipt of notification by the Contractor, which shall be binding on the Contractor.

33. Right to Ownership. County’s rights to Work Product (meaning materials and other deliverables to be provided or created individually or jointly in connection with the Services, including but not limited to, all inventions, discoveries, methods, processes, formulae, ideas, concepts, techniques, know-how, data, designs, models, prototypes, works of authorship, computer programs, proprietary tools, methods of analysis and other information, whether or not capable of protection by patent, copyright, trade secret, confidentiality, or other proprietary rights, or discovered in the course of performance of this Agreement that are embodied in such work or materials) will be, upon payment in full, a non-transferable, non-exclusive, royalty-free license to use such Work Product solely for County’s internal use. County obtains no ownership or other property rights thereto. County agrees that Contractor may incorporate intellectual property created by third parties into the Work Product and that County’s right to use such Work Product may be subject to the rights of, and limited by agreements with, such third parties.

34. Amendment. This Agreement may be amended by mutual written agreement of the Parties hereto.

35. Severability. The terms and conditions of this Agreement shall be deemed to be severable. Consequently, if any clause, term, or condition hereof shall be held to be illegal or void, such determination shall not affect the validity or legality of the remaining terms and conditions, and notwithstanding any such determination, this Agreement shall continue in full force and effect unless the particular clause, term, or condition held to be illegal or void renders the balance of the Agreement impossible to perform.

36. No Third Party Beneficiary. The Parties hereto acknowledge and agree that there are no third party beneficiaries to this Agreement. Persons or entities not a party to this Agreement may not claim any benefit from this Agreement or as third party beneficiaries hereto.

37. Entirety. This Agreement constitutes the entire Agreement between the Parties and supersedes all prior negotiations, representations or agreements either oral or written.

38. Force Majeure. “Force Majeure Event” means any act or event that (i) prevents a Party (the “Nonperforming Party”) from performing its obligations or satisfying a condition to the other Party’s (the “Performing Party”) obligations under this Agreement, (ii) is beyond the reasonable control of and not the fault of the Nonperforming Party, and (iii) the Nonperforming Party has not, through commercially reasonable efforts, been able to avoid or overcome. Force Majeure Event(s) do not include economic hardship, changes in market conditions or insufficiency of funds. If a Force Majeure Event occurs, the Nonperforming Party is excused from the performance thereby prevented and from satisfying any conditions precedent to the Performing Party’s performance that cannot be satisfied, in each case to the extent limited or prevented by the Force Majeure Event. The Nonperforming Party must promptly notify the Performing Party upon the occurrence of a Force Majeure Event. When the Nonperforming Party is able to resume its performance or satisfy the conditions precedent to the Performing Party’s obligations, the Nonperforming Party will resume performance under this Agreement without undue delay. Each Party will use commercially reasonable efforts to mitigate the effect of a Force Majeure Event

(Signature Page Follows)

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first written.

PINELLAS COUNTY, FLORIDA
By and through its
Board of County Commissioners

CDWG
Name of Firm

By _____

By: *Dario Bertocchi*
Signature
Dario Bertocchi
Print Name
Director, Program Sales
Title

ATTEST:
Ken Burke,
Clerk of the Circuit Court

Mar 30, 2022

By: _____
Deputy Clerk

Approved as to Form **APPROVED AS TO FORM**
By: *Keiah Townsend*
Office of the County Attorney
By: _____
Office of the County Attorney

EXHIBIT A

STATEMENT OF WORK

OBJECTIVE

This contract provides the Business Technology Services (BTS) Department a mechanism for annual requirements of support and maintenance including hardware and software purchases related to growth for the Storage Area Network (SAN) solution. This contract will provide for ongoing and future storage capacity needs for on premise and cloud solutions in support of County applications such as the Oracle Project Unified Solution (OPUS), Justice Consolidated Case Management System (CCMS) and the Geographic Information System (GIS).

REQUIREMENTS

1. Contractor must be an authorized Original Equipment Manufacturer (OEM) NetApp technology partner, reseller partner and service delivery partner.
2. Contractor must maintain the status of certified NetApp "Gold" service delivery partner.
3. Upon request of BTS, Contractor will provide a quote for additional support, Third Party Services, professional Services or consulting for installations, upgrades, strategic planning, replacement options as required under this agreement throughout the term of the contract.
4. Upon request, Contractor shall be able to provide a request for information within four (4) hours.
5. On a quarterly basis, Contractor shall coordinate and conduct onsite or virtual roadmap meetings with BTS and OEM.
6. Upon request from the customer, Contractor will be available for in person or virtual meeting to discuss issues within 2 business days.
7. Contractor will provide specialists available for consultation on technical issues as needed and related to a project, which may include, but are not limited to the following:
 - A. Solutions Architect
 - B. Subject Matter Expert
 - C. Consultant
 - D. Program Manager
8. Ordering:
 - A. Although BTS is open to alternative ordering methods, the primary method for BTS placing orders with Contractor is through the following:
 - i. Online
 - ii. Telephone
 - iii. Email
 - B. Upon request, Contractor shall be able to fulfill a Purchase Order within one business day and provide an agreeable timeline for services and or products requested.

EXHIBIT A

STATEMENT OF WORK

9. Support Services:

Manufacturer information relating to the Third Party Services to be resold pursuant to this Agreement can be found at <https://www.netapp.com/services/support/descriptions/>.

SCOPE

Contractor to facilitate the acquisition of specific NetApp infrastructure software, hardware, support, and services. Contractor must meet or exceed the discount off the manufacturers' list price. Contractor must provide technical advice, employ installation technicians, and provide repair and warranty performance.

1. Update and keep current BTS' NetApp equipment inventory listings on a designated website including, but not limited to, the following data: Serial numbers, part numbers, effective and expiration dates of maintenance, purchase dates and other pertinent information necessary for ownership and maintenance information.
2. Notify NetApp of equipment purchased by Pinellas County BTS within five (5) business days of the receipt of purchase order.
3. New hardware purchases shall include prorated maintenance cost to end of maintenance period for new purchases. Maintenance period is from the beginning of the calendar year to the end of the calendar year. Basic support services include access to support and troubleshooting by web or telephone. For software, basic support services include but not limited to work around solutions or patches to reported software problems, and major, minor and maintenance releases.
4. Software subscription services will be prorated to the current contract term dates.
5. Accurately maintain all NetApp activation, expiration and renewal dates. On a quarterly basis, the contractor will coordinate with BTS any NetApp additions, changes and modifications based on procurement and retirement activities.
6. Continuously inform BTS of all new NetApp products, series life spans and NetApp issues.
7. Provide one (1) single point of contact, a Contractor employee, who will be responsible for providing Owner Administration services. Contractor must notify BTS in writing when the single point of contact is changing and identify the successor.
8. Contractor shall resell NetApp subscription license support and maintenance services

EXHIBIT B

INSURANCE REQUIREMENTS

The recommended vendor must provide a certificate of insurance and endorsement in accordance with the insurance requirements listed below, prior to award of contract. Failure to provide the required insurance within the requested timeframe may result in your bid submittal deemed non-responsive.

The Contracted vendor shall obtain and maintain, and require any sub-contractors to obtain and maintain, at all times during its performance of the Agreement, insurance of the types and in the amounts set forth. For projects with a Completed Operationsexposure, Contractor shall maintain coverage and provide evidence of insurance for two (2) years beyond final acceptance. Allinsurance policies shall be from responsible companies duly authorized to do business in the State of Florida and have an AMBest rating of A- VIII or better.

- a) Bid submittals should include, the Bidder's current Certificate(s) of Insurance. If Bidder does not currently meet insurance requirements, bidder shall also include verification from their broker or agent that any required insurance not provided at that time of submittal will be in place prior to the award of contract.
- b) Upon selection of vendor for award, the selected Vendor shall email certificate that is compliant with the insurance requirements to pwalton@pinellascounty.org. If the certificate received is compliant, no further action may be necessary. The Certificate(s) of Insurance shall be signed by authorized representatives of the insurance companies shown on the Certificate(s). **The Certificate holder section shall indicate Pinellas County, a Subdivision of the State of Florida, 400 S Fort Harrison Ave, Clearwater, FL 33756. Pinellas County shall be named as an Additional Insured for General Liability. A Waiver of Subrogation for Workers Compensation shall be providedif Workers Compensation coverage is a requirement.**
- c) 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.
- d) All policies providing liability coverage(s), other than professional liability and workers compensation policies, obtained by the Bidder and any subcontractors to meet the requirements of the Agreement shall include **PinellasCounty a Political subdivision of the State of Florida** as an Additional Insured.
- e) If any insurance provided pursuant to the Agreement expires or cancels prior to the completion of the Work, you will benotified by CTrax, the authorized vendor of Pinellas County. Upon notification, renewal Certificate(s) of Insurance shall be furnished to Pinellas County Risk Management at InsuranceCerts@pinellascounty.org and to CTrax c/o JDi Data at PinellasSupport@ididata.com by the Bidder or their agent prior to the expiration date.
 - (1) Bidder shall also notify County within seventy-two (72) hours after receipt of any notices of expiration, cancellation,nonrenewal or adverse material change in coverage received by said Bidder from its insurer Notice shall be given by email to Pinellas County Risk Management at InsuranceCerts@pinellascounty.org. Nothing contained herein shall absolve Bidder of this requirement to provide notice.
 - (2) Should the Bidder, 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 the Bidder for such purchase or offset the cost against amounts due to bidder for services completed.The

EXHIBIT B

INSURANCE REQUIREMENTS

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.

- f) 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 \$50,000.
- g) If subcontracting is allowed under this Bid, the Prime Bidder 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 Bidder and its subcontractors shall be in writing and are subject to the County's prior written approval. Further, all subcontracts shall (1) require each subcontractor to be bound to Bidder to the same extent Bidder 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; (2) provide for the assignment of the subcontracts from Bidder to the County at the election of Owner upon termination of the Contract; (3) provide that County will be an additional indemnified party of the subcontract; (4) provide that the County will be an additional insured on all insurance policies required to be provided by the subcontractor except workers compensation and professional liability; (5) provide waiver of subrogation in favor of the County and other insurance terms and/or conditions as outlined below; (6) assign all warranties directly to the County; and (7) identify the County as an intended third-party beneficiary of the subcontract. Bidder shall make available to each proposed subcontractor, prior to the execution of the subcontract, copies of the Contract Documents to which the subcontractor will be bound by this Section C and identify to the subcontractor any terms and conditions of the proposed subcontract which may be at variance with the Contract Documents.
- h) Each insurance policy and/or certificate shall include the following terms and/or conditions:
 - (1) The Named Insured on the Certificate of Insurance and insurance policy must match the entity's name that responded to the solicitation and/or is signing the agreement with the County. If Bidder is a Joint Venture per Section A. titled Joint Venture of this Bid, Certificate of Insurance and Named Insured must show Joint Venture Legal Entity name and the Joint Venture must comply with the requirements of Section C 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 Contractor.
 - (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.

EXHIBIT B

INSURANCE REQUIREMENTS

- (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 the Bidder is only using employees named on such list to perform work for the County. Should employees not named be utilized by Bidder, 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 the Bidder to be in default and take such other protective measures as necessary.

Insurance policies, other than Professional Liability, shall include waivers of subrogation in favor of Pinellas County from both the Bidder and subcontractor(s).

- i) 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) Commercial General Liability Insurance including, but not limited to, Independent Vendor, 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

- (1) Property Insurance Bidder will be responsible for all damage to its own property, equipment and/or materials.

EXHIBIT C

PAYMENT SCHEDULE

Item No.	Category	Estimated Annual Expenditure	Discount off MSRP
1	NetApp Hardware purchased through CDW	\$800,000.00	38%
2	NetApp Maintenance and Support purchased through CDW	\$275,000.00	20%
3	NetApp Professional Services purchased through CDW	\$100,000.00	20%
4	NetApp Training Services purchased through CDW	\$20,000.00	20%
5	*Unspecified Funds (There is no guarantee that the Unspecified Funds allotted will be utilized during the performance of this contract. Unspecified Funds include, but are not limited to, professional services offered by Contractor.)	Up to \$350,000.00	Subject to applicable Category

*CDW delivered professional Services are only authorized by the County on an as needed basis and must be approved prior to work commencing. In no event will any Services exceed the not-to-exceed sum of \$350,000.00 on an annual basis.

EXHIBIT D

PAYMENT/INVOICES

PAYMENT/INVOICES:

Contractor shall submit invoices for payment due as provided herein with such documentation as required by County and all payments shall be made in accordance with the requirements of Section 218.70 *et. seq.*, Florida Statutes, "The Local Government Prompt Payment Act." Invoices shall be submitted to the address below unless instructed otherwise on the purchase order, or if no purchase order, by the ordering department:

Finance Division Accounts Payable
Pinellas County Board of County Commissioners
P. O. Box 2438
Clearwater, FL 33757

Each invoice shall include, at a minimum, the Supplier's name, contact information and the standard purchase order number. In order to expedite payment, it is recommended the Contractor also include the information shown in below. The County may dispute any payments invoiced by Contractor in accordance with the County's Dispute Resolution Process for Invoiced Payments, 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.

INVOICE INFORMATION:

Supplier Information Company name, mailing address, phone number, contact name and email address as provided on the PO

- Remit To** Billing address to which you are requesting payment be sent
- Invoice Date** Creation date of the invoice
- Invoice Number** Company tracking number
- Shipping Address** Address where goods and/or services were delivered
- Ordering Department** Name of ordering department, including name and phone number of contact person
- PO Number** Standard purchase order number
- Ship Date** Date the goods/services were sent/provided
- Quantity** Quantity of goods or services billed
- Description** Description of services or goods delivered
- Unit Price** Unit price for the quantity of goods/services delivered
- Line Total** Amount due by line item
- Invoice Total** Sum of all of the line totals for the invoice

Pinellas County offers a credit card payment process (ePayables) through Bank of America. Pinellas County does not charge vendors to participate in the program; however, there may be a charge by the company that processes your credit card transactions. For more information please visit Pinellas County purchasing website at www.pinellascounty.org/purchase.

EXHIBIT E

DISPUTE RESOLUTION FOR PINELLAS COUNTY BOARD OF COUNTY COMMISSIONERS IN MATTERS OF INVOICE PAYMENTS:

Payment of invoices for work performed for Pinellas County Board of County Commissioners (County) is made, by standard, in arrears in accordance with Section 218.70, et. seq., Florida Statutes, the Local Government Prompt Payment Act.

If a dispute should arise as a result of non-payment of a payment request or invoice the following Dispute Resolution process shall apply:

- A. County shall notify Contractor in writing within ten (10) days after receipt of an improper invoice, that the invoice is improper. The notice should indicate what steps the Contractor should undertake to correct the invoice and resubmit a proper invoice to the County. The steps taken by Contractor shall be that of initially contacting the requesting department to validate their invoice and receive a sign off from that entity that would indicate that the invoice in question is in keeping with the terms and conditions of the agreement. Once sign off is obtained, Contractor should then resubmit the invoice as a "Corrected Invoice" to the requesting department which will initiate the payment timeline.
 - 1.) Requesting department for this purpose is defined as the County department for whom the work is performed.
 - 2.) Proper invoice for this purpose is defined as an invoice submitted for work performed that meets prior agreed upon terms or conditions to the satisfaction of Pinellas County.
- B. Should a dispute result between Contractor and the County about payment of a payment request or an invoice then Contractor should submit their dissatisfaction in writing to the Requesting Department. Each Requesting Department shall assign a representative who shall act as a "Dispute Manager" to resolve the issue at departmental level.
- C. The Dispute Manager shall first initiate procedures to investigate the dispute and document the steps taken to resolve the issue in accordance with section 218.76 Florida Statutes. Such procedures shall be commenced no later than forty-five (45) days after the date on which the payment request or invoice was received by Pinellas County, and shall not extend beyond sixty (60) days after the date on which the payment request or invoice was received by County.
- D. The Dispute Manager should investigate and ascertain that the work, for which the payment request or invoice has been submitted, was performed to County's satisfaction and duly accepted by the Proper Authority. Proper Authority for this purpose is defined as the Pinellas County representative who is designated as the approving authority for the work performed in the contractual document. The Dispute Manager shall perform the required investigation and arrive at a solution before or at the sixty (60) days timeframe for resolution of the dispute, per section 218.76, Florida Statutes. The County Administrator or his or her designee shall be the final arbiter in resolving the issue before it becomes a legal matter. The County Administrator or his or her designee will issue their decision in writing.
- E. Pinellas County Dispute Resolution Procedures shall not be subject to Chapter 120 of the Florida Statutes. The procedures shall also, per section 218.76, Florida Statutes, not be intended as an administrative proceeding which would prohibit a court from ruling again on any action resulting from the dispute.

EXHIBIT E

DISPUTE RESOLUTION FOR PINELLAS COUNTY BOARD OF COUNTY COMMISSIONERS IN MATTERS OF INVOICE PAYMENTS:

- F. Should the dispute be resolved in the County's favor interest charges begin to accrue fifteen (15) days after the final decision made by the County. Should the dispute be resolved in the vendor's favor the County shall pay interest as of the original date the payment was due.

- G. For any legal action to recover any fees due because of the application of sections 218.70 et. seq., Florida Statutes, an award shall be made to cover court costs and reasonable attorney fees, including those fees incurred as a result of an appeal, to the prevailing party. If it is found that the non-prevailing party held back any payment that was the reason for the dispute without having any reasonable lawful basis or fact to dispute the prevailing party's claim to those amounts.

CDW PRODUCT RETURN POLICY

Seller offers a 30-day return policy on most products sold. Manufacturer restrictions apply to certain merchandise, as detailed below and as updated from time to time. Customer may obtain additional details and any applicable updates from the dedicated Seller account manager and may obtain manufacturer contact information by contacting CDW Customer Relations, which may be reached by calling 866.SVC.4CDW or by emailing returns@cdw.com.

1. Return Restrictions.

- Defective Product Returns. Customer may return most *defective* Products directly to Seller within thirty (30) days of invoice date and receive, at Seller's option, credit, replacement, exchange, or repair. After thirty (30) days, only the manufacturer warranty applies.
- Non-Defective Product Returns. Customer may return most *non-defective* Products directly to Seller within thirty (30) days of invoice date and receive, at Customer's option, credit or exchange, except that an automatic Seller restocking charge will reduce the value of any such credit or exchange by a minimum of fifteen percent (15%).
- Restricted, Repair-Only Returns. Certain Products can only be returned for repair—not for exchange, replacement or credit—based on current manufacturer requirements. Such Products should be returned to Seller, shipped directly to the manufacturer, or taken to an authorized service center in Customer's vicinity. More information may be provided by the dedicated Seller account manager or by CDW Customer Relations.
- Restricted, Manufacturer-Only Assistance. Certain Products cannot be returned to Seller for any reason—without exception—and Customer must contact the manufacturer directly for any needed assistance. More information may be provided by the dedicated Seller account manager or by CDW Customer Relations.
- Special Orders. Products that are specially ordered may be non-returnable or may have unique return restrictions provided at the time of sale. More information may be provided by the dedicated Seller account manager or by CDW Customer Relations.

- Return of Software or DVDs. Seller offers refunds only for unopened, undamaged software and DVD movies that are returned within 30 days of invoice date. Seller offers *only replacement* for software products and DVD movies that either: (i) are defective but are returned *within* thirty (30) days of invoice date; or (ii) are unopened and undamaged, but are returned *more than* 30 days after invoice date; such replaceable merchandise may be exchanged only for the same software or DVD movie title. Multiple software licenses may be returned for refund or exchange *only* (i) if specifically authorized in advance by the manufacturer; *and* (ii) if returned *within* thirty (30) days of invoice date.

2. **Customer Shipment of Returned Merchandise.**

- Return Merchandise Authorization (RMA) Number. No returns of any type will be accepted by Seller unless accompanied by a unique RMA number, which Customer may obtain by providing the following information to CDW Customer Relations: customer name, applicable invoice number, product serial number, and details of Customer's issue with the product. Customer has five (5) days to return a Product after the applicable RMA is issued. CDW reserves the right to refuse any UNAUTHORIZED returns: those that occur after the five (5) day period or those involving Products that are unaccompanied by valid RMA's.
- Returned Products Must Be Complete. All Products *MUST BE* returned one hundred percent (100%) complete, including all original boxes, packing materials, manuals, blank warranty cards, and other accessories provided by the manufacturer. CDW reserves the right to refuse the return of incomplete Products. In addition, CDW will charge a minimum fifteen percent (15%) restocking fee for returns that are accepted.
- Responsibility for Shipping Costs. Customer is responsible for the cost of shipping returned items; Seller is responsible for the cost of shipping replacements or exchanges of returned items and will match Customer's shipping method.
- Customer Shipping Insurance. Customer is strongly advised to purchase full insurance to cover loss and damage in transit for shipments of returned items and to use a carrier and shipping method that provide proof of delivery. Seller is not responsible for loss during such shipment.

3. Merchandise Damaged in Transit.

- Refusal/Receipt of Damaged Products. If a package containing items purchased from Seller arrives at Customer's address *DAMAGED*, Customer should *REFUSE* to accept delivery from the carrier. If Customer *does* accept delivery of such a package, Customer must: (i) note the damage on the carrier's delivery record so that Seller may file a claim; (ii) save, as is, the merchandise *AND* the original box and packaging it arrived in; and (iii) promptly notify Seller either by calling CDW Customer Relations or by contacting the Seller account manager to arrange for carrier's inspection and pickup of the damaged merchandise. If Customer does not so note the damage and save the received merchandise and does not so notify Seller within fifteen (15) days of delivery acceptance, Customer will be deemed to have accepted the merchandise as if it had arrived undamaged, and Seller's regular return policy, as described in sections 1 and 2 above, and all current manufacturer warranties and restrictions will apply.

4. Credits

Any credit issued by Seller to Customer under this return policy must be used within two (2) years from the date that the credit was issued and may only be used for future purchases of Product and/or Services. Any credit or portion thereof not used within the two (2) year period will automatically expire.