



Department of Administration
Purchasing Division
2019 Washington Street East
Post Office Box 50130
Charleston, WV 25305-0130

State of West Virginia Purchase Order

Order Date: 11-05-2021

CORRECT ORDER NUMBER MUST APPEAR
ON ALL PACKAGES, INVOICES, AND
SHIPPING PAPERS. QUESTIONS
CONCERNING THIS ORDER SHOULD BE
DIRECTED TO THE DEPARTMENT
CONTACT.

Order Number:	CPO 0947 0947 ERP2200000001 1	Procurement Folder:	953452
Document Name:	Network Infrastructure Additions	Reason for Modification:	
Document Description:	Network Infrastructure Additions		
Procurement Type:	Central Purchase Order		
Buyer Name:	Toby L Welch		
Telephone:	(304) 558-8802		
Email:	toby.l.welch@wv.gov		
Shipping Method:	Best Way	Effective Start Date:	
Free on Board:	FOB Dest, Freight Prepaid	Effective End Date:	

VENDOR	DEPARTMENT CONTACT																				
Vendor Customer Code: 000000219154 SOFTWARE INFORMATION SYSTEMS LLC 165 BARR ST LEXINGTON KY 405071321 US Vendor Contact Phone: 999-999-9999 Extension: Discount Details: <table><thead><tr><th></th><th>Discount Allowed</th><th>Discount Percentage</th><th>Discount Days</th></tr></thead><tbody><tr><td>#1</td><td>No</td><td>0.0000</td><td>0</td></tr><tr><td>#2</td><td>Not Entered</td><td></td><td></td></tr><tr><td>#3</td><td>Not Entered</td><td></td><td></td></tr><tr><td>#4</td><td>Not Entered</td><td></td><td></td></tr></tbody></table>		Discount Allowed	Discount Percentage	Discount Days	#1	No	0.0000	0	#2	Not Entered			#3	Not Entered			#4	Not Entered			Requestor Name: Matthew H Ellison Requestor Phone: (304) 741-8565 Requestor Email: matt.ellison@wvoasis.gov 22 FILE LOCATION _____
	Discount Allowed	Discount Percentage	Discount Days																		
#1	No	0.0000	0																		
#2	Not Entered																				
#3	Not Entered																				
#4	Not Entered																				

INVOICE TO	SHIP TO
CONTROLLER ENTERPRISE RESOURCE PLANNING BOARD 1007 BULLITT STREET SUITE 400 CHARLESTON WV 25301 US	CONTROLLER ENTERPRISE RESOURCE PLANNING BOARD 1007 BULLITT STREET SUITE 400 CHARLESTON WV 25301 US

Total Order Amount: \$753,256.51

Purchasing Division's File Copy

ENTERED

PURCHASING DIVISION AUTHORIZATION DATE: <i>11/5/21</i> ELECTRONIC SIGNATURE ON FILE	ATTORNEY GENERAL APPROVAL AS TO FORM DATE: <i>John S. Green</i> ELECTRONIC SIGNATURE ON FILE	ENCUMBRANCE CERTIFICATION DATE: <i>Beverly Tolson 11-10-2021</i> ELECTRONIC SIGNATURE ON FILE
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Extended Description:

One Time Purchase: Network Infrastructure Additions

The Vendor: Software Information Systems LLC agrees to this one-time purchase for Disaster Recovery infrastructure additions for the WV OASIS Platform with the State of West Virginia - Enterprise Resource Planning Board, Per the specifications, terms and conditions, bid requirements, and the vendor's submitted and accepted bid on 10/28/2021, per the attached documentation, all incorporated herein by reference and a part of hereof.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
1	43222600	1.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer		Model No	

Commodity Line Description: UCS M6 RACK, BLADE, CHASSIS MLB, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
10	43222600	6.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: CISCO B200 M6 FRONT DRIVE BLANK SLEDS, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
11	43222600	48.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: UCS DIMM BLANKS, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
12	32131001	3.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: CPU HEAT SINK FOR UCS B-SERIES M6 CPU SOCKET (FRONT), or equ

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
13	32131001	3.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: CPU HEAT SINK FOR UCS B-SERIES M6 CPU SOCKET (REAR), or equa

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
14	43222600	3.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: CISCO FLEXSTORAGE MINI STORAGE (FOR M.2), or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
15	43222600	6.00000	EA	1962.000000	11772.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: INTEL 5317 3.0GHZ/150W 12C/18MB DDR4 2933MHZ, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
16	43222600	3.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: UNKNOWN, Part# UCS-SID-WKL-UNK, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
17	43222600	3.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: UNKNOWN, Part# UCS-SID-INFR-UNK, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
18	43222600	48.00000	EA	2990.120000	143525.76
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: 64GB RDIMM DRX4 3200 (16GB), or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
19	81112309	1.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: INTERSIGHT OPT OUT, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
2	43222600	3.00000	EA	2461.620000	7384.86
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: UCS B200 M6 BLADE W/O CPU, MEM, HDD, MEZZ (UPG), or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
20	81112309	1.00000	EA	20000.000000	20000.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: CISCO IMPLEMENTATION SERVICES, Production, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
21	43222600	1.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: NetApp Shelf, Part# DS224C, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
22	43222600	1.00000	EA	8.000000	8.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: Hardware Kit,Add-On Peripheral,Cabinet,R6, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
23	43222600	1.00000	EA	30.000000	30.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: Rail Kit III, Cabinet, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
24	43222600	1.00000	EA	44610.650000	44610.65
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: SSD Shelf,12G,12x7.6TB,-QS, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
25	43222600	912.00000	EA	102.000000	93024.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: ONTAP,Per-0.1TB,FlashBundle,Add-On,2P,QS, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
26	43222600	2.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: Power Cable,In-Cabinet,C13-C14, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
27	43222600	4.00000	EA	75.000000	300.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: Cable,12Gb,Mini SAS HD,2m, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
28	81112200	1.00000	EA	21709.280000	21709.28
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: SupportEdge Premium 4hr Onsite, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
29	43222600	1.00000	EA	1500.000000	1500.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: PS Deployment,Standard,Shelf, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
3	43222600	3.00000	EA	1300.000000	3900.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: SNTC-24X7X4OS UCS B200 M6 BLADE W/, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
30	43222600	12.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: Sam Services Americas, 1-10 Systems, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
31	81112309	1.00000	EA	2500.000000	2500.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: NetApp Implementation Services, Production, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
32	43222600	1.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: UCS M6 RACK, BLADE, CHASSIS MLB, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
33	43222600	2.00000	EA	2461.620000	4923.24
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: UCS B200 M6 BLADE W/O CPU, MEM, HDD, MEZZ (UPG), or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
34	43222600	2.00000	EA	1300.000000	2600.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: SNTC-24X7X4OS UCS B200 M6 BLADE W/, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
35	43222600	4.00000	EA	349.500000	1398.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: 240GB SATA M.2, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
36	43222600	2.00000	EA	144.000000	288.00
Service From	Service To	Manufacturer		Model No	

Commodity Line Description: CISCO BOOT OPTIMIZED M.2 RAID CONTROLLER, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
37	43222600	2.00000	EA	675.510000	1351.02
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: CISCO UCS VIC 1440 MODULAR LOM FOR BLADE SERVERS, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
38	43222600	2.00000	EA	820.370000	1640.74
Service From	Service To	Manufacturer		Model No	

Commodity Line Description: CISCO UCS VIC 1480 MODULAR LOM FOR BLADE SERVERS, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
39	43222600	2.00000	EA	36.230000	72.46
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: TRUSTED PLATFORM MODULE 2.0, FIPS140-2 COMPLIANT, UCS M6 SVR

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
4	43222600	6.00000	EA	349.500000	2097.00
Service From	Service To	Manufacturer		Model No	

Commodity Line Description: 240GB SATA M.2, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
40	43201602	2.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: UCS 5108 BLADE CHASSIS FW PACKAGE 4.2, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
41	43222600	4.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: CISCO B200 M6 FRONT DRIVE BLANK SLEDS, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
42	43222600	32.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: UCS DIMM BLANKS, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
43	32131001	2.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: CPU HEAT SINK FOR UCS B-SERIES M6 CPU SOCKET (FRONT), or equ

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
44	32131001	2.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: CPU HEAT SINK FOR UCS B-SERIES M6 CPU SOCKET (REAR), or equa

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
45	43222600	2.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: CISCO FLEXSTORAGE MINI STORAGE (FOR M.2), or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
46	43222600	4.00000	EA	1962.000000	7848.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: INTEL 5317 3.0GHZ/150W 12C/18MB DDR4 2933MHZ, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
47	43222600	2.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: UNKNOWN, Part# UCS-SID-WKL-UNK, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
48	43222600	2.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: UNKNOWN, Part# UCS-SID-INFR-UNK, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
49	43222600	32.00000	EA	2990.120000	95683.84
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: 64GB RDIMM DRX4 3200 (16GB), or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
5	43222600	3.00000	EA	144.000000	432.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: CISCO BOOT OPTIMIZED M.2 RAID CONTROLLER, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
50	81112309	1.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: INTERSIGHT OPT OUT, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
51	43201602	1.00000	EA	3184.910000	3184.91
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: UCS 5108 BLADE SERVER AC2 CHASSIS/0 PSU/8 FANS/0 FEX, or equ

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
52	43201602	1.00000	EA	600.000000	600.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: UCS 5108 AC CHASSIS, UPDATED BACKPLANE,ONSITE 24X7X4, or equ

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
53	43201602	1.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: UCS 5108 PACKAGING FOR CHASSIS WITH HALF WIDTH BLADES, or eq

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
54	43222600	1.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: SINGLE PHASE AC POWER MODULE FOR UCS 5108, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
55	43222600	1.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: ACCESS. KIT FOR 5108 BLADE CHASSIS INCL RAILKIT, KVM DONGLE,

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
56	43222600	8.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: BLADE SLOT BLANKING PANEL FOR UCS 5108/SINGLE SLOT, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
57	43222600	8.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: FAN MODULE FOR UCS 5108, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
58	43222600	4.00000	EA	451.500000	1806.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: 2500W PLATINUM AC HOT PLUG POWER SUPPLY - DV, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
59	43222600	4.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: CABINET JUMPER POWER CORD, 250 VAC 16A, C20-C19 CONNECTORS,

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
6	43222600	3.00000	EA	675.510000	2026.53
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: CISCO UCS VIC 1440 MODULAR LOM FOR BLADE SERVERS, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
60	43222600	1.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: UCS 5108 BLADE CHASSIS FW PACKAGE 4.2, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
61	43222600	2.00000	EA	6293.330000	12586.66
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: UCS 2304V2 I/O MODULE (4 EXTERNAL, 8 INTERNAL 40GB PORTS), o

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
62	43222600	4.00000	EA	175.470000	701.88
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: 40GBASE-CR4 PASSIVE COPPER CABLE, 3M, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
63	81112309	1.00000	EA	20000.000000	20000.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: Disaster Recovery CISCO IMPLEMENTATION SERVICES, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
64	43222600	1.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: NetApp Shelf, Part# DS224C, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
65	43222600	1.00000	EA	8.000000	8.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: Hardware Kit,Add-On Peripheral,Cabinet,R6, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
66	43222600	1.00000	EA	30.000000	30.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: Rail Kit III,Cabinet, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
67	43222600	1.00000	EA	44610.650000	44610.65
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: SSD Shelf,12G,12x7.6TB,-QS, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
68	43222600	912.00000	EA	102.000000	93024.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: ONTAP,Per-0.1TB,FlashBundle,Add-On,2P,QS, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
69	43222600	2.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: Power Cable,In-Cabinet,C13-C14, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
7	43222600	3.00000	EA	820.370000	2461.11
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: CISCO UCS VIC 1480 MODULAR LOM FOR BLADE SERVERS, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
70	43222600	4.00000	EA	75.000000	300.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: Cable,12Gb,Mini SAS HD,2m, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
71	81112200	1.00000	EA	21709.230000	21709.23
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: SupportEdge Premium 4hr Onsite, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
72	43222600	1.00000	EA	1500.000000	1500.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: PS Deployment,Standard,Shelf, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
73	43222600	12.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: Sam Services Americas, 1-10 Systems, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
74	81112309	1.00000	EA	2500.000000	2500.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: Disaster Recovery, NetApp Implementation Services, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
75	43233004	10.00000	EA	3300.000000	33000.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: CUSTOMER PURCHASING PROGRAM T2 VMWARE VSPHERE 7 ENTERPRISE P

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
76	43233004	10.00000	EA	2200.000000	22000.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: PRODUCTION SUPPORT/SUBSCRIPTION FOR VMWARE VSPHERE 7 ENTERPR

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
77	43233004	1.00000	EA	19000.000000	19000.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: Recovery Manager 8 Enterprise - 25 VM Pack - 3 Years, or eq

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
78	81112309	1.00000	EA	3500.000000	3500.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: VMware Implementation Services, or equal

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
8	43222600	3.00000	EA	36.230000	108.69
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: TRUSTED PLATFORM MODULE 2.0, FIPS140-2 COMPLIANT, UCS M6 SVR

Extended Description:

Exact specifications can be found on the attached specifications sheet.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
9	43222600	3.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: UCS 5108 BLADE CHASSIS FW PACKAGE 4.2, or equal

Extended Description:
Exact specifications can be found on the attached specifications sheet.

	Document Phase	Document Description	Page 16
ERP2200000001	Draft	Network Infrastructure Additions	

ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions

GENERAL TERMS AND CONDITIONS:

1. CONTRACTUAL AGREEMENT: Issuance of an Award Document signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance by the State of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid, or on the Contract if the Contract is not the result of a bid solicitation, signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.

2. DEFINITIONS: As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.

2.1. "Agency" or "Agencies" means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.

2.2. "Bid" or "Proposal" means the vendors submitted response to this solicitation.

2.3. "Contract" means the binding agreement that is entered into between the State and the Vendor to provide the goods or services requested in the Solicitation.

2.4. "Director" means the Director of the West Virginia Department of Administration, Purchasing Division.

2.5. "Purchasing Division" means the West Virginia Department of Administration, Purchasing Division.

2.6. "Award Document" means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the contract holder.

2.7. "Solicitation" means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.

2.8. "State" means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.

2.9. "Vendor" or "Vendors" means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

3. CONTRACT TERM; RENEWAL; EXTENSION: The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

☐ **Term Contract**

Initial Contract Term: This Contract becomes effective on _____ and the initial contract term extends until _____.

Renewal Term: This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal should be delivered to the Agency and then submitted to the Purchasing Division thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Unless otherwise specified below, renewal of this Contract is limited to _____ successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed the total number of months available in all renewal years combined. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

☐ **Alternate Renewal Term** – This contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

Delivery Order Limitations: In the event that this contract permits delivery orders, a delivery order may only be issued during the time this Contract is in effect. Any delivery order issued within one year of the expiration of this Contract shall be effective for one year from the date the delivery order is issued. No delivery order may be extended beyond one year after this Contract has expired.

☐ **Fixed Period Contract:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within _____ days.

☐ **Fixed Period Contract with Renewals:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within _____ days. Upon completion of the work covered by the preceding sentence, the vendor agrees that maintenance, monitoring, or warranty services will be provided for _____ year(s) thereafter.

☒ **One Time Purchase:** The term of this Contract shall run from the issuance of the Award Document until all of the goods contracted for have been delivered, but in no event will this Contract extend for more than one fiscal year.

☐ **Other:** See attached _____
Revised 07/01/2021

4. AUTHORITY TO PROCEED: Vendor is authorized to begin performance of this contract on the date of encumbrance listed on the front page of the Award Document unless either the box for "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked in Section 3 above. If either "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked, Vendor must not begin work until it receives a separate notice to proceed from the State. The notice to proceed will then be incorporated into the Contract via change order to memorialize the official date that work commenced.

5. QUANTITIES: The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.

☐ **Open End Contract:** Quantities listed in this Solicitation/Award Document are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

☐ **Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.

☒ **Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

☐ **One Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.

6. EMERGENCY PURCHASES: The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute of breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.

7. REQUIRED DOCUMENTS: All of the items checked below must be provided to the Purchasing Division by the Vendor as specified below.

☐ **BID BOND (Construction Only):** Pursuant to the requirements contained in W. Va. Code § 5-22-1(c), All Vendors submitting a bid on a construction project shall furnish a valid bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. The bid bond must be submitted with the bid.

☐ **PERFORMANCE BOND:** The apparent successful Vendor shall provide a performance bond in the amount of 100% of the contract. The performance bond must be received by the Purchasing Division prior to Contract award.

☐ **LABOR/MATERIAL PAYMENT BOND:** The apparent successful Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be delivered to the Purchasing Division prior to Contract award.

In lieu of the Bid Bond, Performance Bond, and Labor/Material Payment Bond, the Vendor may provide certified checks, cashier's checks, or irrevocable letters of credit. Any certified check, cashier's check, or irrevocable letter of credit provided in lieu of a bond must be of the same amount and delivered on the same schedule as the bond it replaces. A letter of credit submitted in lieu of a performance and labor/material payment bond will only be allowed for projects under \$100,000. Personal or business checks are not acceptable. Notwithstanding the foregoing, West Virginia Code § 5-22-1 (d) mandates that a vendor provide a performance and labor/material payment bond for construction projects. Accordingly, substitutions for the performance and labor/material payment bonds for construction projects is not permitted.

☐ **MAINTENANCE BOND:** The apparent successful Vendor shall provide a two (2) year maintenance bond covering the roofing system. The maintenance bond must be issued and delivered to the Purchasing Division prior to Contract award.

☐ **LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section of the General Terms and Conditions entitled Licensing, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits upon request and in a form acceptable to the State. The request may be prior to or after contract award at the State's sole discretion.

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The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications regardless of whether or not that requirement is listed above.

8. INSURANCE: The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below and must include the State as an additional insured on each policy prior to Contract award. The insurance coverages identified below must be maintained throughout the life of this contract. Thirty (30) days prior to the expiration of the insurance policies, Vendor shall provide the Agency with proof that the insurance mandated herein has been continued. Vendor must also provide Agency with immediate notice of any changes in its insurance policies, including but not limited to, policy cancelation, policy reduction, or change in insurers. The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether that insurance requirement is listed in this section.

Vendor must maintain:

☒ **Commercial General Liability Insurance** in at least an amount of: \$1,000,000.00 per occurrence.

☐ **Automobile Liability Insurance** in at least an amount of: _____ per occurrence.

☐ **Professional/Malpractice/Errors and Omission Insurance** in at least an amount of: _____ per occurrence. Notwithstanding the forgoing, Vendor's are not required to list the State as an additional insured for this type of policy.

☐ **Commercial Crime and Third Party Fidelity Insurance** in an amount of: _____ per occurrence.

☒ **Cyber Liability Insurance** in an amount of: \$2,000,000.00 per occurrence.

☐ **Builders Risk Insurance** in an amount equal to 100% of the amount of the Contract.

☐ **Pollution Insurance** in an amount of: _____ per occurrence.

☐ **Aircraft Liability** in an amount of: _____ per occurrence.

☒ State of West Virginia - wvOasis Enterprise Resource Planning Board must be included as a certificate holder and additionally insured.

☐☐☐

Notwithstanding anything contained in this section to the contrary, the Director of the Purchasing Division reserves the right to waive the requirement that the State be named as an additional insured on one or more of the Vendor's insurance policies if the Director finds that doing so is in the State's best interest.

9. WORKERS' COMPENSATION INSURANCE: Vendor shall comply with laws relating to workers compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

10. [Reserved]

11. LIQUIDATED DAMAGES: This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

☐ _____ for _____.

☐ Liquidated Damages Contained in the Specifications.

☒ Liquidated Damages Are Not Included in this Contract.

12. ACCEPTANCE: Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the State that cannot be unilaterally withdrawn, signifies that the product or service proposed by vendor meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in the Solicitation unless otherwise indicated.

13. PRICING: The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the State and invoice at the lower of the contract price or the publicly advertised sale price.

14. PAYMENT IN ARREARS: Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software maintenance, licenses, or subscriptions may be paid annually in advance.

15. PAYMENT METHODS: Vendor must accept payment by electronic funds transfer and P-Card. (The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards.)

16. TAXES: The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.

17. ADDITIONAL FEES: Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State of West Virginia, included in the Contract, or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.

18. FUNDING: This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.

19. CANCELLATION: The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may also cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-5.2.b.

20. TIME: Time is of the essence regarding all matters of time and performance in this Contract.

21. APPLICABLE LAW: This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code, or West Virginia Code of State Rules is void and of no effect.

22. COMPLIANCE WITH LAWS: Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

23. ARBITRATION: Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.

24. MODIFICATIONS: This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the Purchasing Division and the Attorney General's Office (as to form) prior to the implementation of the change or commencement of work affected by the change.

25. WAIVER: The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

26. SUBSEQUENT FORMS: The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.

27. ASSIGNMENT: Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments.

28. WARRANTY: The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

29. STATE EMPLOYEES: State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.

30. PRIVACY, SECURITY, AND CONFIDENTIALITY: The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/default.html>.

31. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

32. LICENSING: In accordance with West Virginia Code of State Rules § 148-1-6.1.e, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to be licensed, in good standing, and up-to-date on all state and local obligations as described in this section. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

33. ANTITRUST: In submitting a bid to, signing a contract with, or accepting a Award Document from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

34. VENDOR CERTIFICATIONS: By signing its bid or entering into this Contract, Vendor certifies (1) that its bid or offer was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid or offer for the same material, supplies, equipment or services; (2) that its bid or offer is in all respects fair and without collusion or fraud; (3) that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; and (4) that it has reviewed this Solicitation in its entirety; understands the requirements, terms and conditions, and other information contained herein.

Vendor's signature on its bid or offer also affirms that neither it nor its representatives have any interest, nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency. The individual signing this bid or offer on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or offer or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.

35. VENDOR RELATIONSHIP: The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing.

Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

36. INDEMNIFICATION: The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

37. PURCHASING AFFIDAVIT: In accordance with West Virginia Code §§ 5A-3-10a and 5-22-1(i), the State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State, Vendors are required to sign, notarize, and submit the Purchasing Affidavit to the Purchasing Division affirming under oath that it is not in default on any monetary obligation owed to the state or a political subdivision of the state.

38. CONFLICT OF INTEREST: Vendor, its officers or members or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.

39. REPORTS: Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:

☒ Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

☐ Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at purchasing.division@wv.gov.

40. BACKGROUND CHECK: In accordance with W. Va. Code § 15-2D-3, the State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check. Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

41. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS: Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process.
- c. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:

1. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or
2. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

42. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL: In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a "substantial labor surplus area", as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products. This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

43. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE: W. Va. Code § 6D-1-2 requires that for contracts with an actual or estimated value of at least \$1 million, the vendor must submit to the Agency a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-award interested party disclosure, within 30 days following the completion or termination of the contract. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.

44. PROHIBITION AGAINST USED OR REFURBISHED: Unless expressly permitted in the solicitation published by the State, Vendor must provide new, unused commodities, and is prohibited from supplying used or refurbished commodities, in fulfilling its responsibilities under this Contract.

45. VOID CONTRACT CLAUSES – This Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law.

DESIGNATED CONTACT: Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to this Contract.

Karen A. Smallwood, Director of C&C
(Name, Title)

Karen Smallwood, Director of Contracts & Compliance

(Printed Name and Title)

165 Barr St., Lexington, KY 40507

(Address)

859-398-3222/859.977.4750

(Phone Number) / (Fax Number)

karen.smallwood@convergetp.com

(email address)

CERTIFICATION AND SIGNATURE: By signing below, or submitting documentation through wvOASIS, I certify that: I have reviewed this Solicitation in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the State that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that I am authorized by the vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

By signing below, I further certify that I understand this Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law.

Software Information Systems

(Company)

Karen A. Smallwood, Director of C&C
(Authorized Signature) (Representative Name, Title)

Karen Smallwood, Director of Contracts & Compliance

(Printed Name and Title of Authorized Representative)

10/26/2021

(Date)

859-398-3222/859.977.4750

(Phone Number) (Fax Number)

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wvOASIS Network Infrastructure Specifications

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Enterprise Resource Planning Board (wvOASIS) to establish a contract to add products to the existing Production and Disaster Recovery Infrastructure of the wvOASIS system and obtain Services to assist in the installation and configuration of the new hardware and software.

The Vendor shall furnish all materials, labor, equipment, and software license necessary to complete all services per the specification's requirements.

The primary Production Site is located in Morgantown, WV. The Disaster Recovery Site is located in Charleston, WV. All products proposed must be an identical match in order for compatibility with our existing infrastructure. Vendors submitting an "or equal" products must fill out Attachment A.

2. **DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.
 - 2.1 **"Attachment A"** – means the excel document attached to this solicitation with the Build of Materials for Vendors submitting "or equal" products.
 - 2.2 **"Contract Item"** means all parts, products, software licenses, maintenance, support and services as more fully described by these specifications.
 - 2.3 **"Pricing Page"** means the pages, contained in wvOASIS, upon which Vendor should list its proposed price for the Contract Items. For submission/entry in wvOASIS, the Commodity Code section is where pricing is entered for each item/category listed.
 - 2.4 **"Solicitation"** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.
 - 2.5 **"3YR"** means Three Years.
 - 2.6 **"4HR"** means Four Hours.
 - 2.7 **"CPU"** means Central Processing Unit, also called a central processor, which is the electronic circuitry within a computer that executes instructions that make up a computer program.

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- 2.8 “DDR4”** means Double Data Rate 4, a type of memory commonly used in desktop and laptop computers.
- 2.9 “DIMM”** means dual in-line memory module, which is a module that contains one or more random access memory chips on a small circuit board that connects to the motherboard.
- 2.10 “GB”** means gigabyte which is commonly used to mean either 1000^3 bytes or 1024^3 bytes.
- 2.11 “GHZ”** means GigaHertz, represents 1 billion cycles per second of an electronic device.
- 2.12 “HDD”** means a hard disk drive, a data storage device that uses magnetic storage to store and retrieve digital information using one or more rigid rapidly rotating disks (platters) coated with magnetic material.
- 2.13 “MHZ”** means MegaHertz, which is used to measure the transmission speed of electronic devices.
- 2.14 “MLC”** means Multi-Level Cell, a non-volatile flash memory technology.
- 2.15 “SAS”** means Serial Attached SCSI, a point-to-point serial protocol that moves data to and from computer storage devices, such as hard drives and tape drives.
- 2.16 “SSD”** means a solid-state storage device that uses integrated circuit assemblies as memory to store data persistently.
- 2.17 “UCS”** means Unified Computing System, which is a converged data center infrastructure that integrates computing, networking, and storage resources to increase efficiency and enable centralized management.
- 2.18 “VIC”** means Virtual Interface Card, used for physical and virtual networks.
- 3. QUALIFICATIONS:** Vendor, or Vendor's staff if requirements are inherently limited to individuals rather than corporate entities, shall have the following minimum qualifications:
- 3.1 Professional Services and Qualifications** - This section will include the baseline minimum requirements for all professional services requested as part of this solicitation as well as an outline of project timeline.

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3.1.1 Requirements for Professional Services/Professional Services Personnel

3.1.1.1 All professional services must be performed by the employees of the successful reseller or manufacturer of the solution.

3.1.1.2 All professional services personnel must be fluent conversational English language speakers. The wvOASIS reserves the right to request a different technician if the resource provided cannot be understood clearly by wvOASIS personnel.

3.1.1.3 Professional services are to be coordinated via a single point of contact, either a dedicated project manager or lead technical resource is acceptable. Individual to be identified before beginning Project.

3.1.1.4 All professional services personnel must have experience with projects of similar scope utilizing like hardware and software

3.1.1.4.1 Vendor should provide Vendor's proposed relevant certifications including but not limited to: VMware and NetApp of project staff who will be assigned to the Project with its bid response. wvOASIS reserves the right to request proof and may be required before award of contract.

Experience will be determined prior to contract award by the State through references provided by the Vendor upon request; through knowledge or documentation of the Vendor's past projects; or some other method that the State determines to be acceptable.

Vendor must provide any documentation requested by the State to assist in confirmation of experience.

References, documentation, or other information may be requested after bid opening and prior to contract award.

3.1.1.5 All professional services related to project implementation (hardware installation, configuration and updating, software installation, migration services, etc.) will be performed on-site working alongside wvOASIS staff.

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3.1.1.6 Project planning meetings may be held via conference call or web conferencing sessions.

3.1.1.7 Any required/included project management functions can be performed offsite/remotely

- 4. MANDATORY REQUIREMENTS:** The state of West Virginia is currently operating a converged infrastructure solution that includes compute, storage and switching or equivalent which hosts its wvOASIS platform utilizing an Oracle Database hosting CGI Advantage ERP. Required additions to this existing infrastructure will be detailed in the following mandatory requirements.

- 4.1 Mandatory Contract Services and Item Requirements:** Contract Items must meet or exceed the minimum mandatory technical/functional requirements for replacement infrastructure hardware and integrated software functionality as listed. All hardware shall be new and warranted by the original manufacturer for five (5) years. Associated licensing with five (5) years of hardware and software support and maintenance must be included for Cisco products, at least 52 months for NetApp, and VMware which is for three (3) years. wvOASIS will not accept remanufactured, refurbished, or warranted as new or like new equipment, unless specifically noted in this solicitation, and must include the same warranty provided with new equipment, as per these specifications.

Vendor submitting an alternate brand must include documentation with their bid. Vendor must include alternate brand information with alternative part numbers on **Attachment A**. Any alternate brand cannot void existing warranty and must work with FlexPod Cooperative Support that is already in place.

- 4.1.1 Solution for the PRODUCTION SITE located at WVNET (on behalf of wvOASIS), 837 Chestnut Ridge Road, Morgantown, WV 26505**

- 4.1.1.1 Cisco UCS with 3 Years Support with the following part numbers and quantities for each, or equal.**

- 4.1.1.1.1 One (1) – UCS M6 Rack, Blade, Chassis MLB (Part # UCS-M6-MLB), or equal**
A. Must be compatible with existing Cisco System
B. Must not void warranty

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- 4.1.1.1.2** Three (3) - UCS B200 Blade w/o CPU, MEM, HDD, MEZZ (Part# UCSB-B200-M6-U), or equal
A. Must be compatible with existing Cisco system
B. Must not void warranty
- 4.1.1.1.3** Three (3) – SNTC 24x7x40S UCS B200 M6 Blade w/o CPU (Part# CON-OSP-UCSB2M6U), or equal
A. Must be compatible with existing Cisco system
B. Must not void warranty
- 4.1.1.1.4** Six (6) – 240GB SATA M.2 Drives (Part# UCS-M2-240GB), or equal
A. Must be compatible with existing Cisco system
B. Must not void warranty
- 4.1.1.1.5** Three (3) – Cisco Boot Optimized M.2 Raid Controller (Part# UCS-M2-HWRAID), or equal
A. Must be compatible with existing Cisco system
B. Must not void warranty
- 4.1.1.1.6** Three (3) – Cisco UCS VIC 1440 Modular LOM for Blade Servers (Part# UCSB-MLOM-40G-04), or equal
A. Must be compatible with existing Cisco system
B. Must not void warranty
- 4.1.1.1.7** Three (3) – Cisco UCS VIC 1480 Modular LOM for Blade (Part# UCSB-VIC-M84-4P), or equal
A. Must be compatible with existing Cisco system
B. Must not void warranty
- 4.1.1.1.8** Three (3) – Trusted Platform Module 2.0, FIPS140-2 Compliant, UCS M6 Server (Part# UCSX-TPM-002C), or equal
A. Must be compatible with existing Cisco system
B. Must not void warranty
- 4.1.1.1.9** Three (3) – UCS 5108 Blade Chassis FW Package 4.2 (Part# N20-FW018), or equal
A. Must be compatible with existing Cisco system
B. Must not void warranty
- 4.1.1.1.10** Six (6) – Cisco B200 M6 Front Drive Blank Sleds (Part# UCSB-FBLK-M6), or equal
A. Must be compatible with existing Cisco system
B. Must not void warranty

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- 4.1.1.1.11** Forty-Eight (48) – UCS DIMMM Blanks (Part# UCS-DIMM-BLK), or equal
- A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.1.1.12** Three (3) – CPU Heat Sink for UCS B-Series M6 CPU Socket (Front) - (Part# UCSB-HS-M6-F), or equal
- A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.1.1.13** Three (3) – CPU Heat Sink for UCS B-Series M6 CPU Socket (Rear) – (Part# UCSB-HS-M6-R), or equal
- A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.1.1.14** Three (3) – Cisco FlexStorage Mini Storage for M.2 – (Part# UCSB-MSTOR-M6), or equal
- A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.1.1.15** Six (6) – Intel 5317 3.0 GHz/150W 12C/18MB DDR 4 2933MHz Processors – (Part# UCS-CPU-I5317), or equal
- A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.1.1.16** Three (3) – (Part# UCS-SID-WKL-UNK), or equal
- A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.1.1.17** Three (3) – (Part# UCS-SID-INFR-UNK), or equal
- A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.1.1.18** Forty-Eight (48) – 64GB RDIMM DRX4 3200 (16GB) – (Part# UCS-MR-X64G2RW), or equal
- A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.1.1.19** One (1) – Intersight Opt Out – (Part# DC-MGT-OPTOUT), or equal
- A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.1.1.20** One (1) – Cisco Implementation Services, or equal
- A. Must be compatible with existing Cisco system
 - B. Must not void warranty

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4.1.1.2 NetApp Shelf with 36 Months Support, with the following part numbers and quantities for each, or equal:

- 4.1.1.2.1** One (1) – NetApp Shelf – (Part# DS224C), or equal
 - A. Must be compatible with existing NetApp system
 - B. Must not void warranty
- 4.1.1.2.2** One (1) – Hardware Kit, Add-on Peripheral, Cabinet, R6 – (Part# X8781-R6), or equal
 - A. Must be compatible with existing NetApp system
 - B. Must not void warranty
- 4.1.1.2.3** One (1) – Rail Kit III, Cabinet – (Part# X8783A-R6), or equal
 - A. Must be compatible with existing NetApp system
 - B. Must not void warranty
- 4.1.1.2.4** One (1) – SSD Shelf, 12G, 12x7.6TB, -QS (Part# DS224C-S-7.6-12S-QS), or equal
 - A. Must be compatible with existing NetApp system
 - B. Must not void warranty
- 4.1.1.2.5** Nine-Hundred Twelve (912) – ONTAP, Per-0.1TB, FlashBundle, Add-On, 2P, QS (Part# SW-FLASHBNDL-ADD-2P-QS), or equal
 - A. Must be compatible with existing NetApp system
 - B. Must not void warranty
- 4.1.1.2.6** Two (2) – Power Cable, In-Cabinet, C13-C14 (Part# X800-42U-R6), or equal
 - A. Must be compatible with existing NetApp system
 - B. Must not void warranty
- 4.1.1.2.7** Four (4) – Cable, 12Gb, Mini SAS HD, 2m (Part# X66032A), or equal
 - A. Must be compatible with existing NetApp system
 - B. Must not void warranty
- 4.1.1.2.8** One (1) – SupportEdge Premium 4hr Onsite – (Part# CS-O2-4HR), or equal
 - A. Must be compatible with existing NetApp system
 - B. Must not void warranty
- 4.1.1.2.9** One (1) – PS Deployment, Standard, Shelf – (Part# PS-DEPLOY-STAND-SHELF), or equal
 - A. Must be compatible with existing NetApp system
 - B. Must not void warranty

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- 4.1.1.2.10** Twelve (12) – Sam Services Americas, 1-10 Systems (Part# SVC-SAM-AMER-MSB), or equal
 - A. Must be compatible with existing NetApp system
 - B. Must not void warranty
- 4.1.1.2.11** One (1) – NetApp Implementation Services, or equal
 - A. Must be compatible with existing NetApp system
 - B. Must not void warranty

4.1.2 Solution for Disaster Recovery Site located at WVSAO (on behalf of wvOASIS), 1900 Kanawha Blvd. E., Building 1, Charleston, WV 25311

4.1.2.1 Cisco UCS with 3 Years Support with the following part numbers and quantities for each, or equal:

- 4.1.2.1.1** One (1) – UCS M6 Rack, Blade, Chassis MLB (Part # UCS-M6 MLB), or equal
 - A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.2.1.2** Two (2) – UCS B200 M6 Blade W/O CPU, MEM, HDD, MEZZ (Part# UCSB-B200-M6-U), or equal
 - A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.2.1.3** Two (2) – SNTC-24x7x4OS UCS B200 M6 Blade w/o CPU (Part# CON-OSP-UCSB2M6U), or equal
 - A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.2.1.4** Four (4) – 240GB SATA M.2 Drives (Part# UCS-M2-240GB), or equal
 - A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.2.1.5** Two (2) – Cisco Boot Optimized M.2 RAID Controller (Part# UCS-M2-HWRAID), or equal
 - A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.2.1.6** Two (2) – Cisco UCS VIC 1440 Modular LOM for Blade Servers (Part# UCSB-MLOM-40G-04), or equal
 - A. Must be compatible with existing Cisco system
 - B. Must not void warranty

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- 4.1.2.1.7** Two (2) – Cisco UCS VIC 1480 Modular LOM For Blade Servers (Part# UCSB-VIC-M84-4P), or equal
 - A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.2.1.8** Two (2) – Trusted Platform Module 2.0, FIPS 140-2 Compliant, UCS M6 Server (Part# UCSX-TPM-002C), or equal
 - A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.2.1.9** Two (2) – UCS 5108 Blade Chassis FW Package 4.2 (Part# N20-FW018), or equal
 - A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.2.1.10** Four (4) Cisco B200 M6 Front Drive Blank Sleds (Part# UCSB-FBLK-M6), or equal
 - A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.2.1.11** Thirty-two (32) – UCS DIMM Blanks (Part# UCS-DIMM-BLK), or equal
 - A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.2.1.12** Two (2) – CPU Heat Sink for UCS B-Series M6 CPU Socket (Front) – (Part# UCSB-HS-M6-F), or equal
 - A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.2.1.13** Two (2) – CPU Heat Sink for UCS B-Series M6 CPU Socket (Rear) – (Part# UCSB-HS-M6-R), or equal
 - A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.2.1.14** Two (2) – Cisco FlexStorage Mini Storage, For M.2 (Part# UCSB-MSTOR-M6), or equal
 - A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.2.1.15** Four (4) – Intel 5317 3.0GHz/150W 12C/18MB DDR4 2933MHz Processors (Part# UCS-CPU-I5317), or equal
 - A. Must be compatible with existing Cisco system

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B. Must not void warranty

- 4.1.2.1.16** Two (2) – (Part# UCS-SID-WKL-UNK), or equal
A. Must be compatible with existing Cisco system
B. Must not void warranty
- 4.1.2.1.17** Two (2) – (Part# UCS-SID-INFR-UNK), or equal
A. Must be compatible with existing Cisco system
B. Must not void warranty
- 4.1.2.1.18** Thirty-two (32) – 64GB RDIMM DRX4 3200 (16GB)
(Part# UCS-MR-X64G2RW), or equal
A. Must be compatible with existing Cisco system
B. Must not void warranty
- 4.1.2.1.19** One (1) – Intersight Opt Out – (Part# DC-MGT-
OPTOUT), or equal
A. Must be compatible with existing Cisco system
B. Must not void warranty
- 4.1.2.1.20** One (1) – UCS 5108 Blade Server AC2 Chassis / 0PSU / 8
Fans / 0 FEX (Part# UCSB-5108-AC2=), or equal
A. Must be compatible with existing Cisco system
B. Must not void warranty
- 4.1.2.1.21** One (1) – UCS 5108 AC Chassis, Updated Backplane,
Onsite 24x7x4 (Part# CON-OSP-6508AC2), or equal
A. Must be compatible with existing Cisco system
B. Must not void warranty
- 4.1.2.1.22** One (1) - UCS 5108 Packaging for Chassis with Half width
blades (Part# UCSB-5108-PKG-HW), or equal
A. Must be compatible with existing Cisco system
B. Must not void warranty
- 4.1.2.1.23** One (1) Single Phase AC Power Module for UCS 5108
(Part# N01-UAC1), or equal
A. Must be compatible with existing Cisco system
B. Must not void warranty
- 4.1.2.1.24** One (1) Access Kit for 5108 Blade Chassis Incl. Rail Kit,
KVM Dongle (Part# N20-CAK), or equal
A. Must be compatible with existing Cisco system
B. Must not void warranty

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- 4.1.2.1.25** Eight (8) Blade Slot Blanking Panel for UCS 5108 / Single Slot (Part# N20-CBLKB1), or equal
 - A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.2.1.26** Eight (8) Fan Module for UCS 5108 (Part# N20-FAN5), or equal
 - A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.2.1.27** Four (4) – 2500W Platinum AC Hot Plug Power Supply – DV (Part# UCSB-PSU-2500ACDV), or equal
 - A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.2.1.28** Four (4) Cabinet Jumper Power Cord, 250 VAC 16A, C20-C19 Connectors (Part# CAB-C19-CBN), or equal
 - A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.2.1.29** One (1) – UCS 5108 Blade Chassis FW Package 4.2 (Part# N20-FW018), or equal
 - A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.2.1.30** Two (2) – UCS 2304V2 I/O Module (4 External, 8 Internal 40GB Ports) (Part# UCS-IOM-2304V2), or equal
 - A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.2.1.31** Four (4) – 40GBase-CR4 Passive Copper Cable 3M (Part# QSFP-H40G-CU3M=), or equal
 - A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.2.1.32** One (1) – Cisco Implementation Services, or equal
 - A. Must be compatible with existing Cisco system
 - B. Must not void warranty
- 4.1.2.2 NetApp Shelf with 36 Months Support, with the following part numbers and quantities for each, or equal:**
 - 4.1.2.2.1** One (1) – NetApp Shelf – (Part# DS224C), or equal
 - A. Must be compatible with existing NetApp system

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- B. Must not void warranty
- C. Must be compatible with existing FlexPod Support
- 4.1.2.2.2** One (1) – Hardware Kit, Add-on Peripheral, Cabinet, R6 (Part# X8781-R6), or equal
 - A. Must be compatible with existing NetApp system
 - B. Must not void warranty
 - C. Must be compatible with existing FlexPod Support
- 4.1.2.2.3** One (1) – Rail Kit III, Cabinet (Part# X8783A-R6), or equal
 - A. Must be compatible with existing NetApp system
 - B. Must not void warranty
 - C. Must be compatible with existing FlexPod Support
- 4.1.2.2.4** One (1) SSD Shelf, 12G, 12x7.6TB, -QS (Part# DS224C-S-7.6-12S-QS), or equal
 - A. Must be compatible with existing NetApp system
 - B. Must not void warranty
 - C. Must be compatible with existing FlexPod Support
- 4.1.2.2.5** Nine-Hundred Twelve (912) – ONTAP, Per-0.1TB, FlashBundle, Add-on, 2P, QS (Part# SW-FLASHBNDL-ADD-2P-QS), or equal
 - A. Must be compatible with existing NetApp system
 - B. Must not void warranty
 - C. Must be compatible with existing FlexPod Support
- 4.1.2.2.6** Two (2) – Power Cable, In-Cabinet, C13-C14 (Part# X800-42U-R6), or equal
 - A. Must be compatible with existing NetApp system
 - B. Must not void warranty
 - C. Must be compatible with existing FlexPod Support
- 4.1.2.2.7** Four (4) – Cable, 12Gb, Mini SAS HD, 2m (Part# X66032A), or equal
 - A. Must be compatible with existing NetApp system
 - B. Must not void warranty
 - C. Must be compatible with existing FlexPod Support
- 4.1.2.2.8** One (1) – Support Edge Premium 4hr Onsite (Part# CS-O2-4HR), or equal
 - A. Must be compatible with existing NetApp system
 - B. Must not void warranty

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C. Must be compatible with existing FlexPod Support

4.1.2.2.9 One (1) – PS Deployment, Standard, Shelf (Part# PS-DEPLOY-STAND-SHELF), or equal

A. Must be compatible with existing NetApp system

B. Must not void warranty

C. Must be compatible with existing FlexPod Support

4.1.2.2.10 Twelve (12) – Sam Services Americas, 1-10 Systems (Part# SVC-SAM-AMER-MSB), or equal

A. Must be compatible with existing NetApp system

B. Must not void warranty

C. Must be compatible with existing FlexPod Support

4.1.2.2.11 One (1) – NetApp Implementation Services, or equal

A. Must be compatible with existing NetApp system

B. Must not void warranty

C. Must be compatible with existing FlexPod Support

4.1.3 VMware for Production and Disaster Recovery Sites

4.1.3.1 Ten (10) – Customer Purchasing Program T2 VMware VSphere 7 Enterprise Plus for 1 Processor (Part# VS7-EPL-C-T2), or equal

4.1.3.1.1 Must be compatible with existing Cisco and NetApp systems

4.1.3.1.2 Must not void warranty

4.1.3.1.3 Must be compatible with existing FlexPod Support

4.1.3.2 Ten (10) – Production Support / Subscription for VMware VSphere 7 Enterprise Plus for 1 Process – 3 Years (Part# X8781-VS7-EPL-3P-SSS-C6), or equal

4.1.3.2.1 Must be compatible with existing Cisco and NetApp systems

4.1.3.2.2 Must not void warranty

4.1.3.2.3 Must be compatible with existing FlexPod Support

4.1.3.3 One (1) – Recovery Manager 9 Enterprise – 25VM Pack – 3 Years (Part# VC-SRM8-25E-3PSSS-C), or equal

4.1.3.3.1 Must be compatible with existing Cisco and NetApp systems

4.1.3.3.2 Must not void warranty

4.1.3.3.3 Must be compatible with existing FlexPod Support

4.1.3.4 One (1) – VMware Implementation Services, or equal

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- 4.1.3.4.1 Must be compatible with existing Cisco and NetApp systems
- 4.1.3.4.2 Must not void warranty
- 4.1.3.4.3 Must be compatible with existing FlexPod Support

4.1.4 Project Closeout: Project Closeout shall include the following:

- 4.1.4.1 Provide all available/applicable operating manuals, information/instructions for all components after completion and acceptance.
- 4.1.4.2 Provide contact information, online web portal site for support and customer service needs
- 4.1.4.3 Vendor shall submit applicable warranty documents to the wvOASIS project manager during this time, or upon final inspection or testing.
- 4.1.4.4 Vendor shall provide wvOASIS with all applicable final drawings and diagrams during cleanup and/or final inspection activities.
- 4.1.4.5 Vendor shall provide copies of all software license documents as required
- 4.1.4.6 Final payment will be withheld until these documents are provided

5. CONTRACT AWARD:

- 5.1 Contract Award:** The Contract is intended to provide Agency with a purchase price for the Contract Items. The Contract will be awarded to the lowest qualified responsible Vendor that provides the Contract Items meeting the required specifications for the lowest TOTAL BID AMOUNT as shown on the Pricing Page(s), or if entered in wvOASIS, the combined total of all Commodity Lines.

Vendor should provide with their bid a copy of any and all Software Terms and Conditions or licenses that the State of West Virginia or the Agency will have to agree to or accept as part of this solicitation. **This information will be required before Purchase Order is issued.**

Vendor should include a copy of any Maintenance Terms and Conditions or Licenses that the State of West Virginia or the Agency will be required to agree to and accept as part of this solicitation. **This information will be required before Purchase Order is issued.**

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5.2 Pricing Page:

5.2.1 Vendors should complete the Pricing Page by entering the Unit Price per Commodity Line in wvOasis. The system will sum the extended cost automatically.

Vendors submitting a paper bid should print a copy of the wvOasis assembled document and enter pricing in each commodity line under the Unit Price, multiply by the quantity and enter the Line Total.

5.2.2 If submitting an "or Equal" bid, Vendor must complete Attachment A – Build of Materials with the Alternate Part Number and Alternate Description. Vendor should submit with their bid but must be submitted prior to award. Vendor may upon request, be required to provide samples of submitted "or Equal" products. Vendor should provide any product brochures with their submitted bid response. This information may be required before award of contract.

6. PERFORMANCE: Vendor and Agency shall agree upon a schedule for performance of Contract Services and Contract Services Deliverables, unless such a schedule is already included herein by Agency.

7. PAYMENT: Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.

7.1 Milestone Payment – Equipment Delivery/Acceptance: Upon request from the Vendor, wvOASIS will consider a milestone payment for the Goods (Equipment) as described in the Specifications. Vendor shall provide all itemization/details on its invoice to support a payment request.

7.2 All other contract services/items will be paid upon the completion of the final project migration, testing and acceptance, training (as applicable) by wvOASIS. Vendor shall provide an itemized invoice based upon the pricing page submitted.

7.3 TRAVEL: Vendor shall be responsible for all mileage and travel costs, including travel time, associated with performance of this Contract. Any anticipated mileage or travel costs may be included in the Vendor's fee bid but such costs will not be paid by the Agency separately.

8. DELIVERY:

8.1 Shipment and Delivery: Vendor shall provide an estimated ship date of Contract

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Items immediately after being awarded this Contract and receiving a purchase order or notice to proceed. Vendor shall deliver the Contract Items (Goods) within a reasonable timeframe, with the understanding from the Agency that some of these Contract Items may be adversely affected by the current supply chain issues affecting our world, as a result of the COVID-19 pandemic. Vendor will communicate any unforeseen delays in the shipment of these Contract items and will ship them as soon as they become available to the Vendor.

The Integrations Services grants up to an additional 45 (forty-five) days once the project plan is approved by the Agency.

The Knowledge Transfer and Training, as applicable, grants an additional 3 (three) days. Contract Items *must* be delivered to Agency at the following:

8.1.1 Production Site: WVNET (on behalf of wvOASIS), 837 Chestnut Ridge Road, Morgantown, WV 26505

8.1.2 Disaster Recovery Site: WVSAO (on behalf of wvOASIS), 1900 Kanawha Blvd. E., Building 1, Charleston, WV 25311

8.2 Late Delivery: The Agency placing the order under this Contract must be notified in writing if the shipment of the Contract Items will be delayed for any reason. Any delay in delivery that could cause harm to an Agency will be grounds for cancellation of the Contract, and/or obtaining the Contract Items from a third party.

Any Agency seeking to obtain the Contract Items from a third party under this provision *must* first obtain approval of the Purchasing Division.

9. FACILITIES ACCESS: Performance of Contract Services may require access cards and/or keys to gain entrance to Agency's facilities. In the event that access cards and/or keys are required:

9.1 Vendor must identify principal service personnel which will be issued access cards and/or keys to perform service.

9.2 Vendor will be responsible for controlling cards and keys and will pay replacement fee, if the cards or keys become lost or stolen.

9.3 Vendor shall notify Agency immediately of any lost, stolen, or missing card or key.

9.4 Anyone performing under this Contract will be subject to Agency's security protocol and procedures.

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9.5 Vendor shall inform all staff of Agency's security protocol and procedures.

10. VENDOR DEFAULT:

10.1 The following shall be considered a vendor default under this Contract.

10.1.1 Failure to provide Contract Items in accordance with the requirements contained herein.

10.1.2 Failure to comply with other specifications and requirements contained herein.

10.1.3 Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.

10.1.4 Failure to remedy deficient performance upon request.

10.2 The following remedies shall be available to Agency upon default.

10.2.1 Immediate cancellation of the Contract.

10.2.2 Immediate cancellation of one or more release orders issued under this Contract.

10.2.3 Any other remedies available in law or equity.

11. MISCELLANEOUS:

11.1 **Contract Manager:** During its performance of this Contract, Vendor must designate and maintain a primary contract manager responsible for overseeing Vendor's responsibilities under this Contract. The Contract manager must be available during normal business hours to address any customer service or other issues related to this Contract. Vendor should list its Contract manager and his or her contact information below.

Contract Manager: Karen Smallwood

Telephone Number: 859 398-3222

Fax Number: 859 977 4750

Email Address: KSmallwood@convergence4.com



MARY JANE PICKENS
ACTING CABINET SECRETARY

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION

W. MICHAEL SHEETS
DIRECTOR

PURCHASING DIVISION

November 3, 2021

Ms. Karen Smallwood
Software Information Systems LLC
165 Barr St
Lexington KY 40507

RE: CRFQ – ERP2200000001

Dear Ms. Smallwood:

After review of the bid submitted in the above-reference matter, the following information is needed:

1. On the attached Pricing Pages submitted with your bid, there is a zero (0) in the "Unit Cost" for the following item numbers: Item(Commodity Line) No. 1, Section 4.1.1.1.1 – UCS M6 RACK, BLADE, CHASSIS MLB - Item No. 9, Section 4.1.1.1.9 – UCS 5108 BLADE CHASSIS FW PACKAGE 4.2; Item No. 10, Section 4.1.1.1.10 – CISCO B200 M6 FRONT DRIVE BLANK SLEDS; Item No. 11, Section 4.1.1.1.11 – UCS DIMM BLANKS; Line No. 12, Section 4.1.1.1.13 – CPU HEAT SINK FOR UCS B-SERIES M6 CPU SOCKET (FRONT); Item No. 13, Section 4.1.1.1.12 – CPU HEAT SINK FOR UCS B-SERIES M6 CPU SOCKET (REAR); Item No. 14 Section 4.1.1.1.14 – CISCO FLEX STORAGE MINI STORAGE (FOR 3.00000M.2); Item No. 16 Section 4.1.2.1.16 – UCS-SID-WKL-UNK; Item No. 17, Section 4.1.2.1.17 – UCS-SID-INFR-UNK; Item No. 19, Section 4.1.2.1.19 INTERSIGHT OPT OUT; Item No. 21, Section 4.1.2.2.1 NETAPP SHELF; Item No. 26, Section 4.1.2.2.6 POWER CABLE, IN-CABINET, C13-C14; Item No. 30, Section 4.1.2.2.10 SAM SERVICES AMERICAS, 1-10 SYSTEMS; Item No. 32, Section 4.1.1.1.1 UCS M6 RACK, BLADE, CHASSIS MLB; Item No. 40, Section 4.1.1.1.9 UCS 5108 BLADE CHASSIS FW PACKAGE 4.2; Item No. 41, Section 4.1.1.1.10 CISCO B200 M6 FRONT DRIVE BLANK SLEDS; Item No. 42, Section 4.1.1.1.11 UCS DIMM BLANKS; Item No. 43, Section 4.1.1.1.12 CPU HEAT SINK FOR UCS B-SERIES M6 CPU SOCKET (FRONT); Item No. 44, Section 4.1.1.1.13 CPU HEAT SINK FOR UCS B-SERIES M6 CPU SOCKET (REAR); Item No. 45, Section 4.1.1.1.14 CISCO FLEXSTORAGE MINI STORAGE (FOR M.2); Item No. 47, Section 4.1.1.1.16 UCS-SID-WKL-UNK; Item No. 48, Section 4.1.1.1.17 UCS-SID-INFR-UNK; Item No. 53, Section 4.1.2.1.22 UCS 5108 PACKAGING FOR CHASSIS WITH HALF WIDTH BLADES; Item No. 54, Section 4.1.2.1.23 SINGLE PHASE AC POWER MODULE FOR UCS 5108; Item No. 55, Section 4.1.2.1.24 ACCESS KIT FOR 5108 BLADE

CHASSIS INCL RAILKIT, KVM DONGLE; Item No. 56, Section 4.1.2.1.25 BLADE SLOT BLANKING PANEL FOR UCS 5108/SINGLE SLOT; Item No. 57, Section 4.1.2.1.26 FAN MODULE FOR UCS 5108; Item No. 59, Section 4.1.2.1.28 CABINET JUMPER POWER CORD, 250 VAC 16A, C20-C19 CONNECTORS; Item No. 60, Section 4.1.1.1.9 UCS 5108 BLADE CHASSIS FW PACKAGE 4.2; Item No. 64, Section 4.1.1.2.1 NETAPP SHELF; Item No. 69, Section 4.1.1.2.6 POWER CABLE, IN-CABINET, C13-C14; Item No. 73, Section 4.1.2.2.10 SAM SERVICES AMERICAS, 1-10 SYSTEMS

Please check one (1) of the following -

_____ I am **not** bidding on Item Nos.
1;9;10;11;12;13;14;16;17;19;21;26;30;32;40;41;42;43;44;45;47;48
;54;55;56;57;59;60;64;69;73.

✓ I am bidding on Item Nos.
1;9;10;11;12;13;14;16;17;19;21;26;30;32;40;41;42;43;44;45;47;48
;54;55;56;57;59;60;64;69;73. however, there is no charge.

2. Please provide any software terms, conditions or licenses, any maintenance terms and conditions or licenses.

11/4/2021
Charles D. Arnett, Sr. Client Executive

Please respond to this request, in writing, by fax at (304) 558-3970 or email at Toby.L.Welch@wv.gov by 4:00 pm Thursday, November 4, 2021. If you have any questions, please contact me at 304-558-8802. Thank you for your cooperation in this matter.

Very truly yours,



Toby Welch
Buyer

See attached email with links
to Item 2 responses.

Thank you



GENERAL TERMS

Global Terms for All Transactions (excluding Germany)

These General Terms ("Terms") apply to the sale of Products and Services by NetApp, Inc., NetApp B.V. and/or any of their affiliates (collectively, "NetApp") directly to a customer acquiring Products and Services for its own use ("Customer"), unless Customer has entered into a separate agreement with NetApp governing such sale. By ordering, accepting delivery, keeping, or using Products or otherwise proceeding with any transaction with NetApp, Customer agrees to these Terms. NetApp and Customer may each be referred to as a "Party" or collectively, as the "Parties."

1. DEFINITIONS

1.1. Cloud Data Service(s). A NetApp cloud service made available to customers on demand via the internet. A complete list of NetApp Cloud Data Services subject to the Cloud Data Service Terms referenced herein can be accessed at: the How-to-Buy Site (defined below).

1.2. Confidential Information. All information, whether written, oral or in any other tangible or intangible medium disclosed by or on behalf of the Disclosing Party (as defined below) to the Receiving Party (as defined below) for purposes arising out of or in connection with these Terms, that (a) in the case of information in tangible form, is marked "confidential" or "proprietary" or with words with similar import at the time of disclosure; (b) in the case of any information disclosed orally, visually or in any other intangible form is designated "confidential" or "proprietary" at the time of disclosure, and if disclosed orally, is summarized in reasonable detail in a writing delivered to the Receiving Party within 30 days of disclosure; or (c) by its nature or the circumstances surrounding disclosure should reasonably be considered confidential or proprietary; and will include any reproduction of such information in any form or medium, or any part of such information. Confidential Information will not include any information that: (a) is already known to the Receiving Party without restrictions at the time of disclosure; (b) is or becomes known to the general public through no act or omission of the Receiving Party in breach of these Terms; (c) is disclosed to the Receiving Party by a third party who is not, to the knowledge of the Receiving Party, in breach of an obligation of confidentiality; or (d) is independently developed by employees and/or contractors of the Receiving Party who did not have access to, and without use of, the Disclosing Party's Confidential Information.

1.3. Documentation. NetApp-supplied technical documentation describing the features and functions of the associated Products.

1.4. Functional Data. Data and data elements collected by NetApp Software systems configuration which, as applicable, pertains to the Software environment, usage or performance of Software and components managed by Software, or which is generated as a result of NetApp providing Cloud Data Services, which informs NetApp in the development, deployment, operations, maintenance, and securing of such Services. Functional Data does not contain Customer Information (as defined in the Cloud Data Service Terms) or Personal Information.

1.5. Hardware. NetApp-branded hardware, including its components and spare parts, but excluding any firmware and Third-Party Branded Products.

1.6. How-to-Buy Site. <http://netapp.com/us/how-to-buy/stc.html>.

1.7. NetApp Cloud Provider. A third party authorized by NetApp to offer or enable the use of the Cloud Data Services as part of such provider's cloud-based services.

1.8. Order Documentation. The applicable NetApp price quotation (and the Engagement Document, if required for the purchase

of Professional Services), corresponding Purchase Order and the associated Documentation for the Products or Services purchased or licensed under these Terms.

1.9. Personal Information. Information relating to, directly or indirectly, an identified or identifiable natural person or household, which includes, but is not limited to, name, postal address, telephone number, and email address, electronic network information, Customer records, and other information as described in the NetApp Privacy Policy, which can be accessed at <https://www.netapp.com/us/legal/privacypolicy/index.aspx>.

1.10. Price List. NetApp's then-current list of Products and Services, and their associated prices for the country of destination.

1.11. Products. Hardware, Software, associated Documentation, and any Third-Party Branded Products.

1.12. Professional Services. NetApp's consulting, installation, implementation and other services that are not Support Services to be provided by or on behalf of NetApp and are set forth in the relevant Order Documentation, as further described in the Professional Services Terms.

1.13. Purchase Order. An electronic order provided to NetApp consistent with these Terms and the corresponding price quotation for the purchase of Products and Services.

1.14. Services. NetApp's Support Services, Professional Services and/or Cloud Data Services.

1.15. Software. NetApp-branded software in object code format, including (as applicable) operating system software, protocols, firmware, backup and recovery, disaster recovery, storage efficiency, and management software.

1.16. Support Services. NetApp's generally available technical support and maintenance services for Products to be provided by or on behalf of NetApp.

1.17. Third-Party Branded Products. Any hardware or software that is manufactured, developed, licensed or otherwise made available by any entity other than NetApp and is distributed by NetApp for use in conjunction with Hardware and Software.

2. ORDERS

2.1. Orders. Customer will submit all Purchase Orders to NetApp electronically via email. Each Purchase Order will be based on, and refer to, a valid and current price quotation and will include relevant Product and Services information, appropriate legal entities, "ship to" and "bill to" locations and requested delivery date. All Purchase Orders are subject to acceptance by NetApp.

2.2. Changes, Cancellation, and Rescheduling. Customer may modify or cancel Purchase Orders up to 10 days prior to any scheduled shipment date, and Customer may reschedule a requested delivery date one time per Purchase Order without additional charge. Product returns are subject to NetApp approval and applicable charges.

3. DELIVERY AND ACCEPTANCE

3.1. Hardware Delivery. Delivery of Hardware, Software pre-installed on Hardware and applicable Third-Party Branded Products occurs according to the applicable trade term specified on the NetApp price quotation or as agreed to by NetApp on a case by case basis.

3.2. Software Delivery. Delivery of Software that is not pre-installed on Hardware and applicable Third-Party Branded Products occurs when NetApp makes the enabling key available electronically via email or otherwise to Customer or, if an enabling key is not required, when NetApp makes such Software or Third-Party Branded Product available for download or use electronically via email or otherwise by Customer.

3.3. Risk of Loss. Risk of loss or damage to the Products and title to any Hardware in the Products will pass to Customer upon delivery.

3.4. Acceptance. Acceptance of Products by Customer will occur upon delivery, and acceptance of Services by Customer will occur when such Services are rendered, unless otherwise agreed in an Engagement Document.

4. PRICING AND PAYMENTS

4.1. Pricing. NetApp may, in its sole discretion, change the prices set forth on its Price List and may add or remove Products and Services from its Price List at any time. A Purchase Order received after the effective date of a price change, but pursuant to a valid and current NetApp quotation, will be invoiced at the price stated on the NetApp quotation.

4.2. Invoicing. NetApp will be entitled to invoice shipments, including partial shipments, on delivery in accordance with the applicable trade term specified.

4.3. Payment Terms. Customer will make full payment in the currency specified in the invoice, without set-off and in immediately available funds, no later than 30 days from the date of NetApp's invoice. Fees are non-refundable and payment obligations are non-cancelable, except as provided in these Terms or where prohibited by law.

4.4. Remedies for Non-payment. Customer payment of an amount less than the invoice amount will not be deemed as acceptance of payment in full, nor will any endorsement or statement on any check or letter accompanying any payment or check be deemed an accord and satisfaction. NetApp may accept such payment without prejudice to NetApp's right to recover the balance of any amount due or pursue any other remedy provided for in these Terms or by law or in equity. NetApp has the right to apply any payment received from Customer to any account of Customer which is due and/or delinquent. If Customer fails to make timely payment, in addition to all other available remedies, NetApp will have the right to decline to make further deliveries of Product and provision of Services to Customer.

4.5. Taxes and Duties. Customer is solely responsible for the payment of taxes (except taxes based on NetApp's net income), fees, duties and charges, and all related penalties and interest, that arise from its utilization or NetApp's provision of the Products and/or Services. If such taxes are incurred, including any withholding taxes, the sum payable by Customer (in respect of which such deduction or withholding is required to be made) will be increased to the extent necessary to ensure that NetApp receives payment in full of an amount equal to the invoiced amount. If Customer is tax-exempt, then Customer will provide NetApp with tax exemption certificates or other documentation acceptable to the taxing authorities not later than 30 days from the date Customer places a Purchase Order with NetApp. If Customer does not provide such documentation to NetApp, NetApp reserves the right to include such taxes in the invoice. In addition to the stated prices, Customer will be liable for all applicable duties, license fees and taxes

for Products shipped across international borders in accordance with the applicable trade term specified or as otherwise may apply.

5. SOFTWARE LICENSE

5.1. License Grant. Subject to these Terms and any limitations or restrictions set forth in the corresponding Order Documentation, NetApp grants to Customer a personal, non-exclusive, non-transferable, worldwide, limited, and revocable license, without the right to sublicense, to (a) install and use the Software for Customer's internal business purposes, and (b) use the Documentation in support of Customer's use of the Software. The Software associated with Customer's license is either bundled with a specific storage controller identified by a unique serial number ("Controller-based"), or is independent of a storage controller ("Standalone"), and is one or more of the following license types: (a) "Life-of-controller": Controller-based licenses granted for the period of time during which Customer's controller is operable; (b) "Perpetual": Standalone licenses granted in perpetuity; (c) "Term": Controller-based licenses or Standalone licenses granted for a fixed period; or (d) "Capacity": Controller-based licenses or Standalone licenses granted for a specified amount of storage capacity or usage, which may be measured as "raw" or "provisioned" storage capacity, number of hosts or other measure of usage as specified in the Documentation. Certain license types may require the enablement and use of NetApp's remote support diagnostic systems. Each storage controller deployed in a cluster or a high-availability pair or group must have the same Controller-based licenses as the other storage controllers in that cluster, high-availability pair, or group. Subject to NetApp's prior written agreement, and in the context of non-disruptive operations within a cluster, Customer may deploy storage controllers with different Controller-based licenses and failover from one storage controller to another for the time required to remedy a failure, provided that all storage controllers in the cluster have the same level of Support Services in effect at all times.

5.2. License Restrictions. Customer will not, nor will Customer allow any third party to: (a) use the Software in breach or excess of any limitations (e.g., the types, quantities, user limits, time limits, capacity limits) and other usage attributes related to the associated Software licenses or other limitations prescribed by NetApp in these Terms or the associated Order Documentation; (b) reverse-engineer, decompile or disassemble the Software or otherwise reduce it to human-readable form except to the extent required for interoperability purposes under applicable law or as expressly permitted in open-source licenses; (c) remove or conceal any Product identification, proprietary, intellectual property, or other notices in the Software and Documentation; (d) use the Software and Documentation to perform services for third parties in a service bureau, managed services, commercial hosting services, or similar environment unless (i) the Software has been obtained from a NetApp Cloud Provider, (ii) is used in conjunction with a NetApp Cloud Provider service, or (iii) otherwise agreed to in writing by NetApp; (e) assign or otherwise transfer, in whole or in part, the Software or Documentation licenses to another party or Controller-based licenses to a different storage controller, unless otherwise agreed to in writing by NetApp; (f) install Controller-based licenses on, or use them with, third-party hardware or any second-hand or grey market hardware that Customer has not purchased from NetApp or a NetApp authorized reseller; (g) modify, adapt, or create a derivative work of the Software or Documentation; or (h) publish or provide any Software benchmark or comparison test results.

5.3. Third-Party Licenses. Customer represents and warrants that it has obtained and/or will obtain, all applicable third-party licenses necessary to operate any third-party software required in connection with

the use of the Products and for NetApp to freely and without interruption perform the Services hereunder.

5.4. Software Notices. Notwithstanding other statements in this Section 5, third-party software components, including free, copyleft and open source software components, if any, embedded in Software ("Third-Party Embedded Software") are distributed in compliance with the particular licensing terms and conditions attributable to such Third-Party Embedded Software. Copyright notices and licensing terms and conditions applicable to Third-Party Embedded Software are available for review with the Software Documentation at <https://mysupport.netapp.com/> or may be included on the media on which Customer receives the Software, within a "NOTICE" file (e.g., NOTICE.PDF or NOTICE.TXT) or included within the downloaded files, and/or reproduced within the materials or Documentation accompanying the Software.

5.5. Unauthorized Use. Use of the Software outside of the scope of the applicable license terms constitutes a material breach, and Customer agrees to promptly pay to NetApp upon notice any additional license fees calculated in accordance with NetApp's Price List.

6. SERVICES SUPPLEMENTAL TERMS. Customer may purchase Support Services, Professional Services, and/or Cloud Data Services pursuant to these Terms as well as the Support Services Terms, Professional Services Terms and Cloud Data Service Terms, as applicable, located on the How-To-Buy Site.

7. DIRECT WARRANTY

7.1. Hardware Warranty. NetApp warrants that the Hardware will materially conform to the Documentation for a period of 3 years from the date of delivery, unless otherwise specified in the applicable Documentation ("Hardware Warranty Period"). In the event of any material non-conformity in the Hardware during the Hardware Warranty Period that is reproducible and verifiable, NetApp will, in its sole discretion and at its own expense, repair or replace the Hardware, or refund the amounts received by NetApp for the non-conforming Hardware. Replacement parts will be warranted for the remainder of the Hardware Warranty Period in effect for the original Hardware purchased, unless otherwise mandated by applicable law.

7.2. Software Warranty. NetApp warrants for a period of 90 days from date of first delivery of the Software or such other minimum period required under applicable law ("Software Warranty Period") that (a) the Software will materially conform to the then-current Documentation; and (b) the Software media will be free from physical defects. NetApp does not warrant that Customer's use of the Software will be error-free or uninterrupted. In the event of any material non-conformity in the Software during the Software Warranty Period that is reproducible and verifiable, NetApp will, in its sole discretion and at its own expense, repair or replace the Software, or refund the amounts received by NetApp for the non-conforming Software. This warranty does not cover software, other items, or any services provided by persons other than NetApp. Notwithstanding the foregoing, Software that is obtained for use solely in conjunction with a NetApp Cloud Provider's services is provided "AS IS" and without warranty of any kind. Customer assumes all risks arising from the use of such Software together with a NetApp Cloud Provider's offering.

7.3. Support and Professional Services Warranty. NetApp warrants that while providing Support Services or Professional Services, such Services will be performed in a professional and workmanlike manner consistent with generally accepted industry practices. In the event of a breach of the foregoing warranty, NetApp will re-perform such Services.

7.4. Limitations. NetApp will not be liable under the foregoing warranties for claims arising from Customer's, Customer's subcontractor's, or any unauthorized third person's misuse, neglect, improper installation or testing, attempts to repair, or any other cause beyond the range of the intended use. The Hardware warranty will become void if a Hardware component is installed as an add-on to, or replacement for, the original Hardware without NetApp's prior written approval. The Software warranty will become void if the Software is modified or otherwise used in violation of the Software license terms set forth in Section 5, except as authorized in writing by NetApp.

7.5. Exclusive Warranties. TO THE EXTENT PERMITTED BY APPLICABLE LAWS, THE FOREGOING WARRANTIES ARE CUSTOMER'S SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES. NETAPP SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

8. INTELLECTUAL PROPERTY RIGHTS AND PROTECTION

8.1. General. The Software and related Documentation is licensed, not sold, to Customer. It is protected by intellectual property laws and treaties worldwide, and contains trade secrets, in which NetApp and its licensors reserve and retain all rights not expressly granted to Customer. No right, title or interest to any trademark, service mark, logo, or trade name of NetApp or its licensors is granted to Customer.

8.2. IP Claims. Subject to the terms and conditions of this Section, NetApp will defend or settle any claim brought by a third party against Customer that Hardware, Software, and Documentation sold and delivered by or for NetApp to Customer under these Terms (individually or collectively, "Covered Product(s)") infringe any patent, trademark, or copyright ("IP Claim"). NetApp will pay settlement amounts or, if applicable, damages and costs finally awarded by a court of competent jurisdiction (collectively, "Damages") against Customer to the extent such Damages are specifically attributable to the IP Claim, provided that Customer: (a) promptly notifies NetApp in writing of the IP Claim; (b) provides information and assistance to NetApp to defend such IP Claim; and (c) provides NetApp with sole control of the defense or settlement negotiations.

8.3. Remedies. NetApp may, at its option, substitute or modify the applicable Covered Product(s), or the relevant portion thereof, so that it becomes non-infringing; procure any necessary license; or replace the applicable Covered Product(s). If NetApp determines that none of these alternatives is reasonably available, then Customer may cease using and, if applicable, return the Covered Product(s) and NetApp will refund Customer's purchase price for such Covered Product(s).

8.4. Exclusions. Notwithstanding anything to the contrary in these Terms, NetApp has no obligation or liability for any IP Claim related to the Covered Product(s) that arises from or relates to: (a) NetApp's compliance with, or use of, designs, specifications, inventions, instructions, or technical information furnished by or on behalf of Customer; (b) modifications to the Covered Product(s) made by or on behalf of Customer without NetApp's prior written authorization; (c) Customer's failure to upgrade or use a new version of the Covered Product(s), to make a change or modification requested by NetApp, or to cease using the Covered Product(s) if requested by NetApp; (d) the Covered Product(s), or any portion thereof, in combination with any other product or service (including a NetApp Cloud Provider's services); (e) Third-Party Branded Products; or (f) any content or information stored on or used by Customer or a third party in connection with a Covered Product.

8.5. Entire Liability. Notwithstanding anything to the contrary in these Terms, this Section 8 states NetApp's entire liability and Customer's sole and exclusive remedies for IP Claims.

9. CONFIDENTIALITY

9.1. General. Each Party ("Disclosing Party") may disclose Confidential Information to the other Party ("Receiving Party"). Confidential Information will remain the exclusive property of the Disclosing Party. Each Party will have the right to use the other's Confidential Information solely for the purpose of fulfilling its obligations under these Terms. The Receiving Party agrees to disclose the Disclosing Party's Confidential Information only to those employees or agents who have a need to know in furtherance of these Terms and who are required to protect such Confidential Information against unauthorized disclosure under terms no less restrictive than those set forth herein. The Receiving Party will protect the Confidential Information from unauthorized use, access, or disclosure in the same manner as it protects its own proprietary information of a similar nature, and in any event with at least a reasonable degree of care.

9.2. Period of Disclosure. Each Party's obligations regarding the other Party's Confidential Information will expire 3 years from the date of disclosure.

9.3. Legally Compelled Disclosure. The Receiving Party may disclose the Disclosing Party's Confidential Information to the extent such disclosure is required pursuant to a judicial or administrative proceeding, provided that, unless prohibited by applicable law, the Receiving Party gives the Disclosing Party prompt written notice thereof and the opportunity to seek a protective order or other legal remedies.

9.4. Return/Destruction. Upon the Disclosing Party's written request, all Confidential Information (including all copies thereof) of the Disclosing Party will be returned or destroyed, unless the Receiving Party is required by law to retain such information, and the Receiving Party will provide written certification of compliance with this Section.

10. LIMITATION OF LIABILITY

10.1. Liability Exclusions. To the extent permitted by applicable law, regardless of the basis of the claims (e.g., whether in contract, tort (including negligence), statute, products or strict liability, or any other form of action), in no event will NetApp or its suppliers or subcontractors be liable to Customer for special, incidental, exemplary, indirect or consequential damages; downtime costs; loss or corruption of data; loss of revenues, profits, goodwill, or anticipated savings; procurement of substitute goods and/or services; interruption of business; Customer's failure to comply with applicable "non-erasable" and "non-rewriteable" U.S. government regulations; or Customer's failure to obtain any applicable third-party licenses necessary to operate any third-party software required in connection with the use of the Products and for NetApp to freely and without interruption perform the Services. This exclusion is independent of any remedy set forth in these Terms.

10.2. Cumulative Liability. To the extent permitted by applicable law, NetApp's liability to Customer is limited to direct damages in an amount not to exceed US\$1,000,000. This limitation is cumulative and not per incident.

10.3. Exceptions. The limitations set forth in Sections 10.1 and 10.2 will not apply to liability for claims arising from: (a) death or bodily injury caused by a Party's negligence or gross negligence; (b) willful misconduct or fraud; (c) any other liability which cannot be excluded under applicable law; or (d) IP Claims under Section 8.

11. COMPLIANCE WITH LAWS

11.1. Compliance. Each Party will comply with all applicable laws and regulations.

11.2. Export. Customer acknowledges that Products and Services supplied by NetApp under these Terms are subject to controls under the laws and regulations of the United States, the European Union, and other countries as applicable, and that Products and Services may include export and import of controlled technologies, including, without limitation, encryption technology. Customer agrees to comply with such laws and regulations and represents and warrants that it: (a) will not, unless authorized by U.S. export licenses or other government authorizations, directly or indirectly, import, export, re-export or divert Products and Services to (or use Products and Services in) countries subject to U.S. embargoes or trade sanctions programs; (b) is not a party, nor will it import, export, re-export or divert to a party, identified on any government export exclusion lists, including but not limited to the U.S. Denied Persons, Entity, and Specially Designated Nationals Lists; and (c) will not use Products, Services or technology for any purposes prohibited by United States law, including, without limitation, the development, design, manufacture, or production of nuclear, missile, chemical or biological weaponry or other weapons of mass destruction. Customer agrees to provide NetApp with destination end use and end user (i.e., Customer name or business division using the Products) information upon NetApp's request. Customer will obtain all required authorizations, permits, or licenses to export, re-export or import, as required. Customer agrees to obligate, by contract or other similar assurances, the parties to whom it re-exports or otherwise transfers Products and Services to comply with all obligations set forth herein.

11.3. Anti-Bribery. Each Party will comply with all applicable country laws relating to anti-corruption or anti-bribery, including but not limited to the requirements of the U.S. Foreign Corrupt Practices Act, as amended, the U.K. Bribery Act, and legislation implementing the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

11.4. Privacy. In the event Customer provides NetApp with access to Personal Information in order for NetApp to provide Products or Services hereunder, the Parties will ensure that such Personal Information is disclosed and handled in accordance with all applicable data protection laws and the confidentiality provisions set forth in Section 9 of these Terms. Article 28 (1) of the European Union General Data Protection Regulation ("GDPR") requires an agreement between a controller and processor, and between a processor and sub processor, that processing of Personal Information be conducted in accordance with technical and organizational measures that meet the requirements of the GDPR and ensure the protection of the rights of data subjects. To the extent NetApp acts as a data processor of Personal Information on behalf of Customer: (a) additional terms and conditions applicable to NetApp acting in a role as a data processor are set forth at the How to Buy Site; and (b) NetApp will not retain, use, or disclose such Personal Information for any purpose other than providing or improving Products or Services in accordance with these Terms. NetApp certifies that it understands the foregoing restrictions and will comply with them.

12. MISCELLANEOUS

12.1. Term and Termination. These Terms are effective until terminated. Customer may terminate these Terms at any time upon written notice to NetApp. NetApp may terminate these Terms immediately upon written notice to Customer if Customer commits a material breach of these Terms, including failure to remit payments when due (whether payable to NetApp or its authorized third party financing partners in connection with an Approved Financing Agreement, described below) and, in the event that the breach is remediable, fails to

remedy it within 30 days of NetApp's written notice requiring Customer to do so. Upon termination of these Terms, all rights to use the Software and Documentation cease and Customer will, at NetApp's request, promptly return or destroy all copies of the Software and Documentation, including any license enablement keys, in Customer's possession or under Customer's control, unless the license granted to Customer under Section 5.1 is a perpetual license and Customer remains in full compliance with these Terms. The following Sections will survive termination or expiration of these Terms in accordance with the terms set forth herein: Software License, Direct Warranty, Intellectual Property Rights and Protection, Confidentiality, Limitation of Liability, Compliance with Laws, and Miscellaneous.

12.2. U.S. Federal Government Customers. This Section 12.2 applies only to U.S. Federal Government Customers. The Software and Documentation is "commercial" computer software and documentation and is licensed in accordance with the rights articulated in applicable U.S. government acquisition regulations (e.g. FAR, DFARs) pertaining to commercial computer software and documentation. U.S. Federal Government customers will not be subject to applicable audit costs specified in Section 12.16. Disputes will be subject to resolution pursuant to the Contract Disputes Act of 1978. Nothing contained in these Terms is meant to derogate the rights of the U.S. Department of Justice as identified in 28 U.S.C. §516. All other terms remain in effect as written.

12.3. Product Evaluation. Unless there is a separate written agreement between the Parties related to Product evaluations, then, subject to these Terms, NetApp may loan Hardware to Customer or license Software specifically identified by NetApp as evaluation, demonstration or trial ("Trial Equipment"), at no cost for a 90-day period from the initial delivery of the Trial Equipment to Customer, or such other period as agreed by NetApp in writing. Trial Equipment provided to Customer under this Section is for evaluation, demonstration, and internal non-commercial use only and Customer will not use the Trial Equipment for production use or in a production environment. Customer is responsible for the Trial Equipment from the date it is received by Customer until NetApp picks up the Trial Equipment at Customer's location, except for reasonable wear and tear. The Trial Equipment will remain NetApp's personal property, even if the Trial Equipment becomes attached or affixed to real property, and NetApp will exclusively maintain title and ownership to all Trial Equipment. In no event will title to the Trial Equipment transfer to Customer unless purchased by Customer. Trial Equipment may only be used up to the maximum amounts of raw storage capacity, number of hosts or other measure of usage as specified in the Documentation, and to evaluate and assess the suitability of the Trial Equipment for Customer's needs. Notwithstanding anything in these Terms to the contrary, Trial Equipment is provided and licensed to Customer on an "AS IS" basis and all warranties, whether express, implied, statutory or otherwise are excluded to the maximum extent permitted by applicable laws, including the implied warranty of merchantability, satisfactory quality, fitness for a particular purpose, or non-infringement. Customer agrees to delete or deinstall the Trial Equipment at the expiration of the evaluation period and make available for pickup by NetApp. Customer is solely responsible for erasing all Customer data from the Trial Equipment before being picked up by NetApp. Customer acknowledges that any data remaining on any Trial Equipment that is returned to NetApp may be disposed of or destroyed by NetApp without any liability to NetApp.

12.4. Force Majeure. Neither Party will be liable to the other for any alleged loss or damages resulting from acts of God, acts of civil or military authority, governmental priorities, fire, floods, earthquakes, epidemics, quarantine, energy crises, strikes, labor trouble, terrorism,

war, riots, accidents, shortages, delays in transportation, or any other causes beyond the reasonable control of a Party (collectively, "Force Majeure"). Force Majeure will not relieve the obligation of any payments due hereunder for delivered Products or Services actually performed. If the Force Majeure event continues for more than 30 days, the Parties will negotiate in good faith the termination of the affected Order Documentation.

12.5. Data Security and Recovery. Customer is solely responsible for its use of the Products, including Personal Information managed or stored using Products. Customer is solely responsible for (a) management of its data back-up, data recovery, and disaster recovery measures; and (b) undertaking the supervision, control and management of Hardware and Software including following industry-standard processes, procedures and requirements for (i) the security of data, accuracy of input and output, and back-up plans, including restart and recovery in the event of a Force Majeure event or a Hardware or Software error or malfunction; and (ii) reconstruction of lost or altered files, data, and programs. NetApp will have no responsibility or liability with respect to Customer's internal processes and procedures related to the protection, loss, confidentiality, or security of Customer's data or information in connection with Customer's use of the Products.

12.6. Functional Data. NetApp retains all right, title and interest in Functional Data. Without limiting the foregoing, NetApp may collect and use Functional Data to provide and improve the Software, the Cloud Data Services and NetApp's other products and services.

12.7. Hazardous Environments. Products are not designed or intended for use in or in the design, construction, operation, or maintenance of a nuclear facility or similar hazardous environment. NetApp will not be liable for any damages resulting from such use.

12.8. NetApp Approved Financing. These Terms also apply to "Financed Software," which means Software and Documentation licensed to Customer for a limited period of use pursuant to the terms of a financing agreement between Customer and NetApp or its authorized third-party financing partner (an "Approved Financing Agreement" or "AFA"), subject to the following: (a) the particular Financed Software, period of use, installation site, and other transaction-specific conditions will be as agreed in the applicable AFA; and (b) notwithstanding anything to the contrary in these Terms, all licenses for Financed Software terminate at the expiration of the term of the AFA unless otherwise expressly agreed in the AFA, or when sooner terminated by NetApp (whether in accordance with these Terms or the AFA). Customer agrees that the license granted, and NetApp's termination rights set forth in these Terms, may be affected by an authorized third-party financing partner's rights under the applicable AFA, even if such partner has paid to NetApp all or any portion of the license fees for the Financed Software. Title and risk of loss will pass as specifically provided in the AFA, and Customer agrees that such provisions take precedence to the extent of any conflict or inconsistency with Sections 3.3 and 3.4 of these Terms.

12.9. Modification, Substitution, Discontinued Product. NetApp will have sole discretion, at any time, to change, substitute, or discontinue Products. NetApp will use commercially reasonable efforts to provide 60 calendar days' prior notice if a Product will be discontinued.

12.10. Waiver. Any waiver or failure to enforce any provision of these Terms on any occasion will not be deemed a waiver of any other provision or of such provision on any other occasion. Either Party's exercise of any right or remedy provided in these Terms will be without prejudice to its right to exercise any other right or remedy.

12.11. Severability. In the event any provision of these Terms is held by a court of competent jurisdiction to be unenforceable for any reason, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under

applicable law and the remaining provisions hereof will be unaffected and remain in full force and effect.

12.12. Assignment. Customer may not assign any rights or delegate any obligations under these Terms without the prior written consent of NetApp. Any purported assignment by Customer without NetApp's prior written consent will be null and void.

12.13. Subcontractors. NetApp may use subcontractors to fulfill its obligations under these Terms. NetApp will be responsible for its subcontractors' obligations hereunder.

12.14. Independent Contractors. The relationship of the Parties under these Terms is that of independent contractors. Nothing set forth in these Terms will be construed to create the relationship of principal and agent, franchisor/franchisee, joint venture, or employer and employee between the Parties. Neither Party will act or represent itself, directly or by implication, as an agent of the other Party.

12.15. Publicity. No advertising, publicity releases, or similar public communications concerning these Terms, the Products, or the Services will be published or caused to be published by either Party without the prior written consent of the other Party. Notwithstanding the foregoing, Customer agrees to be mentioned in the list of buyers of NetApp Products and/or Services and that its logo and trademark may be used for this purpose only.

12.16. Audit. Customer grants NetApp and its independent accountants the right to audit Customer or Customer's subcontractors once annually during regular business hours upon reasonable notice to verify compliance with these Terms. If the audit discloses Software, or Cloud Data Services or CDS Software Agent (as defined in the Cloud Data Service Terms) over-usage or any other material noncompliance, Customer will promptly pay to NetApp any additional fees, upon notice to Customer, and the reasonable costs of conducting such audit.

12.17. General. These Terms will be governed by and interpreted in accordance with the laws of (a) the State of California, United States, excluding its conflicts of law provisions, if Customer is located in the United States or in a country in which NetApp has no local sales subsidiary; or (b) the Netherlands, excluding its conflict of law provisions, if Customer is located in EMEA (excluding the United Kingdom, Ireland and France which are set forth below) or South America; all disputes arising under or in connection with these Terms will be subject to the exclusive jurisdiction of the competent city of Amsterdam Courts; or (c) if the Customer is established and registered in the United Kingdom, or Ireland, construction, performance and validity of these Terms will be governed by and construed in accordance with the laws of England and

Wales and will be subject to the exclusive jurisdiction of the English Courts in London; the provisions of the Contracts (Rights of Third Parties) Act 1999 are expressly excluded from these Terms; or (d) if Customer is established and registered in France, these Terms are governed by and interpreted in accordance with the laws of France, excluding its conflict of laws rules; all disputes arising under or in connection with these Terms will be subject to the exclusive jurisdiction of the Commercial Court of Paris, France and the Parties submit to the personal jurisdiction of this court and waive any claims of inconvenient forum; or (e) except as set forth above, in the country in which Customer is located if NetApp has a local sales subsidiary in that country. The Parties agree to disclaim the application of the United Nations Convention on Contracts for the International Sale of Goods. If required by NetApp's agreement with a third-party licensor, NetApp's licensor will be a direct and intended beneficiary of these Terms and may enforce them directly against Customer. These Terms may not be changed except by an amendment accepted by an authorized representative of each Party. In the event of a dispute between the English and non-English version of these Terms (where translated for local requirements), the English version of the Terms will govern, to the extent permitted by applicable laws. These Terms, including any supplemental terms referenced herein, (a) represent the entire agreement and understanding between the Parties with respect to the Products and Services acquired hereunder; (b) supersede any previous communications, representations or agreements between the Parties; and (c) prevail over any conflicting or additional terms in any quote, purchase order, acknowledgement, or similar communications between the Parties. To the extent there is a conflict between the Services supplemental terms referenced herein in Section 6 and these Terms, the Services supplemental terms will control. Order Documentation(s) issued by Customer will be deemed to incorporate and be subject to these Terms, except where the Parties expressly agree in writing to variations thereto. The pre-printed terms or general terms and conditions on any Purchase Order, or other similar correspondence originating by either Party will have no effect. The Section headings in these Terms are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or extent of a Section or in any way affect a Section. Any use of the word "including" in these Terms will not be deemed to limit the meaning of the preceding word or phrase.

12.18. Use Restriction. Products and Services are for Customer's use and are not for resale or redistribution.



SUPPORT SERVICES TERMS

These Support Services Terms ("Support Services Terms") set forth the terms and conditions under which NetApp will provide Support Services to Customer. For Customer purchasing Support Services directly from NetApp, the NetApp General Terms (posted at <http://netapp.com/us/how-to-buy/stc.html>) also apply. For Customer purchasing Support Services from a NetApp authorized distributor or reseller, the NetApp Channel End User Terms (posted at <http://netapp.com/us/how-to-buy/stc.html>) also apply. To the extent that there is any conflict between these Support Services Terms and those contained in the NetApp General Terms or NetApp Channel End User Terms, these Support Services Terms will control and take precedence. These Support Services Terms will not apply if Customer has a separate applicable agreement with NetApp for the provision of Support Services. Any revenue-related terms set forth in these Support Services Terms will not apply if Customer is purchasing Support Services from a NetApp authorized distributor or reseller.

1. DEFINITIONS Capitalized terms not specifically defined in these Support Services Terms will have the same meaning as in the NetApp General Terms or NetApp Channel End User Terms, as applicable. In addition to the definitions set forth in the General Terms or Channel End User Terms, the following definitions apply:

1.1. AutoSupport. NetApp's AutoSupport™ remote support diagnostic system including Active IQ™, a customer-facing portal and mobile application that displays remote diagnostics and provides Customer with remote tools to help optimize Customer's environment.

1.2. Business Day. Monday through Friday, 8:00 a.m. to 5:00 p.m. Customer local time, except: (a) in Japan, Business Day means Monday through Friday, 9:00 a.m. to 6:00 p.m.; and (b) in the Middle East and Israel, Business Day means Sunday through Thursday, 8:00 a.m. to 5:00 p.m. Designated local holidays are not considered Business Days.

1.3. Customer Replaceable Unit (CRU). Any FRU which can be replaced by Customer following guidelines and documentation provided by NetApp.

1.4. Field Replaceable Unit (FRU). A component of or disk in the Hardware which can be replaced at a Customer location without pre-configuration by NetApp. FRUs will be new or equivalent to new, at NetApp's reasonable discretion.

1.5. NetApp Support Site. <http://mysupport.netapp.com>

1.6. Remote Technical Support. Remote means of providing support which may include telephone and web-based support.

1.7. Software Updates. Updates to the Software which include: (a) enhancements made generally available at no charge by NetApp to existing Software versions; (b) Software releases made generally available by NetApp to resolve known issues with existing versions of Software; and (c) temporary software modifications developed for individual, known Software issues as part of the applicable Support Services.

1.8. Support Services Period. The period of time specified in the applicable quotation and corresponding purchase order during which NetApp will provide Support Services.

1.9. TRO. The Target Response Objective for timing of delivery of Support Services.

2. SUPPORT SERVICES

2.1. Scope of Support Services. NetApp agrees to provide the Support Services purchased by Customer as set forth in the applicable quotation and corresponding purchase order during the Support Services Period. On a case by case basis, and as explicitly set forth in the applicable quotation and purchase order, NetApp may also offer Support Services in relation to Third-Party Branded Products as described on the NetApp Support Site. In such cases, references to Hardware and Software in these Support Services Terms will also be deemed to include such Third-Party Branded Products for which Support Services are provided. NetApp reserves the right to revise or update the scope of Support Services on a prospective basis at its sole discretion. Support Services are non-transferrable without NetApp's prior written authorization.

2.2. Combined Use. Customer must purchase the same level of Support Services entitlement for all components and controllers in a system. Customer will notify NetApp prior to any combined use of Hardware and Software initially purchased for use in separate systems

and will upgrade to the highest level of Support Services entitlement existing in the newly combined system. Customer also will pay any additional Support Services fees required by NetApp, as calculated in accordance with the then current NetApp price list.

2.3. Out-of-Scope Services. The following services are not included in the scope of Support Services:

- (a) Subject to Section 2.1 above, services related to any third-party products of Customer, including Third-Party Branded Products;
- (b) Transit or relocation of Hardware and related services, including services to remediate any associated damage;
- (c) Provision of accessories, supplies or replacement of disposable parts, including without limitation rack mounting kits and cables;
- (d) Customer education, training and consulting services;
- (e) Implementation or installation assistance for hardware and software not procured from a NetApp authorized source;
- (f) Services related to any work performed at Customer's site except as specified in the applicable quotation and purchase order;
- (g) Services relating to issues arising from Customer or third-party modifications, customizations, or enhancements to Software;
- (h) Services relating to issues arising from a change in Customer's system configuration which is not in conformance with the NetApp Interoperability Matrix located on the NetApp Support Site at <https://mysupport.netapp.com/matrix/#welcome>; or
- (i) Services relating to issues arising from Customer or third party error or use of software other than Software.

2.4. Hardware and Software Warranty Disclaimers. All NetApp warranties related to Hardware and Software will be voided where:

- (a) Hardware has been mishandled, altered, damaged or rendered inoperable (e.g., degaussed disk drives) due to willful or negligent acts or omissions, accident, Force Majeure, or operation of the Hardware other than as specified in the Documentation;
- (b) A solid state drive or flash device has been used in excess of its rated life as set forth in the Documentation and/or as determined by its original manufacturer or has not been configured as set forth in the Documentation;
- (c) Services have been performed by a person or entity other than NetApp or an authorized NetApp service representative in relation to the Hardware and Software, in the absence of a prior written agreement with NetApp;
- (d) A power surge or failure has occurred or Hardware was subjected to fire suppression discharge;
- (e) Customer has failed to provide a suitable environment for the Hardware within the range of tolerances set forth in the applicable NetApp Hardware Universe guidelines and related information at <https://hww.netapp.com/Home/Index>;
- (f) An issue arises from cleaning, refinishing or cosmetic modification of Hardware, or any electrical or site preparation; or
- (g) Products or components, including without limitation, software or hardware, have been procured from a source not authorized by NetApp, and then combined with Products.

2.5 End of Availability and End of Support. The NetApp Service and Support Product Programs End of Availability Index, which is located on the NetApp Support Site, details information related to the last date on

which Hardware or Software will be available for quoting from NetApp ("End of Availability" or "EOA"), and the last date on which Hardware or Software will be supported by NetApp ("End of Support" or "EOS"). NetApp will not provide Support Services for any Hardware or components thereof or Software after the applicable published EOS date. In relation to Hardware running Software which has passed its EOS date, NetApp may require Customer to update to a supported version of Software as a prerequisite to NetApp continuing to provide Hardware Support Services.

2.6. Replacement of Hardware Components and Return Material Authorization. In the event the resolution of a support case initiated with the NetApp Technical Support Center ("TSC") is a Hardware failure and the Customer is eligible for a replacement, NetApp will provide a part with the expectation that the Customer will return such Hardware within 15 calendar days of the support case resolution and follow the return guidelines that are provided to the Customer. Failure to return the Hardware components within the 15 days specified above or their return in a condition rendering them unsupportable under Section 2.4 above will result in Customer being responsible for the cost of the replacement Hardware components supplied, calculated in accordance with the then current NetApp price list. Customer will ensure that the failed Hardware is free of any legal obligations or restrictions that could prevent its replacement and will return each CRU and FRU individually by separate shipment.

2.7. Support Included with Original and Extended Hardware Warranty. During the applicable Hardware warranty period, NetApp will provide Customer with access to 24/7/365 Remote Technical Support, delivery of replacement Hardware components and access to the NetApp Support Site. Customer will also have access to AutoSupport. In relation to Support Services included with the Hardware warranty, NetApp will use commercially reasonable efforts to deliver replacement Hardware components within 5 Business Days. Such delivery is subject to local country limitations, including but not limited to shipment cut-off times, and other factors beyond the reasonable control of NetApp. Any TRO applicable for Support Services does not apply during warranty-only support if Customer has not paid for Support Services.

2.8. Next Business Day Schedule. If Customer has purchased Support Services with next Business Day delivery, the cutoff time for next Business Day delivery of FRUs or CRUs and/or arrival of a NetApp Authorized Service Engineer is 3:00 p.m. local Customer time. Remote diagnosis completion and/or CRU/FRU ordering that occurs after 3:00 p.m. local Customer time, will be deemed completed on the following Business Day and shipment and/or arrival will be scheduled accordingly (e.g., if diagnosis occurs after 3:00 p.m. on Monday, CRU/FRU ships Tuesday to arrive on Wednesday).

2.9. Onsite Support Services. If Customer has purchased onsite Support Services, it will receive such services as follows: when Customer initiates a technical support case with the TSC, a Technical Support Engineer ("TSE") will commence issue identification and repair as necessary. If the issue cannot be resolved remotely, and where the TSE and Customer jointly agree that onsite Support Services are necessary and appropriate, the TSE will dispatch an Authorized Support Engineer ("ASE") to the Customer site. The ASE will, at the direction of the TSC, work to diagnose and isolate the issue, make necessary changes and restore the normal operation of the systems. The TRO for onsite Support Services will be the same as that specified for replacement Hardware components in the Documentation. Subject to Section 2.11 below, in relation to onsite Software Support Services, NetApp reserves the right to define the most appropriate onsite resources to resolve the case and restore normal operation. In such cases, NetApp will communicate with Customer the estimated time of arrival for the ASE, which may or may not fall within the TRO specified above.

2.10. Non-Returnable Disk. If Customer has purchased the Non-Returnable Disk ("NRD") option, it will not return defective or failed disks, solid state drives and other non-volatile memory components as defined on the NetApp Support Site that are part of the Hardware. Customer will retain such non-volatile components and remain solely responsible for their disposal. Customer agrees that if components covered by the NRD option are returned to NetApp, NetApp will have no obligation or liability whatsoever associated with any data remaining on such components. NetApp will treat such components like other returned parts and convey them into the NetApp supply chain for repair and/or destruction.

2.11. Software Support Services. If Customer has purchased Support

Services, it is entitled to Software Support Services during the applicable Support Services Period. Software Support Services consists of Remote Technical Support and access to all Software Updates made generally available by NetApp. Customer will be responsible for installing and implementing Software and Software Updates unless it has purchased a Support Services offering that includes assistance with installation of remedial Software Updates by NetApp, as described in Section 2.12 below. NetApp may require Customer to implement specific Software upgrades to resolve current or prospective issues. Customer may be required to purchase additional Hardware at its own expense to make use of Software Updates and/or Software upgrades.

2.12. Installation of Remedial Software Updates. If Customer has purchased such installation services, NetApp will assist with installation of remedial Software Updates during the provision of Support Services during the Support Services Period. This feature is limited to system Software for which Software is identified as the remedy for a material issue on the system. The TSE will determine the method and timing of installation, with Customer's agreement and participation. NetApp may choose to dispatch an ASE to the Customer site to participate in Software Update activities.

2.13. Software Support Services Prerequisites. Provision of Software Support Services is conditioned upon Customer having: (a) installed and operated the Software in accordance with the applicable Documentation; (b) described with sufficient specificity the nature of the Software issues Customer is experiencing and the circumstances in which they occur; (c) reproduced the Software issue such that it can be confirmed and evaluated by NetApp; (d) made no changes, additions, or modifications to the Software, directly or indirectly; and (e) installed the Software in an infrastructure/environment that adheres to the published NetApp Interoperability Matrix on the NetApp Support Site.

2.14. AutoSupport. AutoSupport data (including ActiveIQ data) is deemed to be NetApp Confidential Information.

3. CUSTOMER RESPONSIBILITIES

3.1. Customer Contacts. Customer will designate up to 3 technically qualified employees to serve as Customer's primary points of contact in relation to the receipt of Support Services.

3.2. Customer Information. Immediately on receipt, Customer will register all Hardware and Software on the NetApp Support Site to create Customer's support profile. Customer will keep this profile up-to-date. TROs, if any, can be met only if Customer has provided NetApp with accurate information including delivery and on-site service addresses, names and phone numbers of key Customer contacts and access to Customer's location. If this information is inaccurate or obsolete and/or access to Customer's location is unavailable or denied to the NetApp ASE or other representatives, adherence to any applicable TRO will be measured from the time that correct information is provided by the Customer to NetApp and/or the NetApp ASE is granted access to Customer's location.

3.3. NetApp Support Site. During the Support Services Period, Customer will be granted access to the NetApp Support Site. A unique login and password will be assigned to Customer by NetApp, which will be deemed NetApp Confidential Information.

3.4. Miscellaneous Permissions. In the event that NetApp requires access to any computer systems or software owned or licensed by Customer in order to provide the Support Services, Customer will obtain all associated permissions.

3.5. Work Environment. Customer will provide NetApp or the NetApp ASE with a safe working environment and make all necessary arrangements as NetApp may determine are reasonably necessary to perform the Support Services.

3.6. Equipment Relocation. In the event that Customer wishes to relocate Hardware or Software, Customer will contact the NetApp TSC at least 30 days prior to such relocation. NetApp will notify Customer if Customer's existing Support Services are available at the new location. Customer acknowledges that relocation of the Hardware or Software may result in a decrease in the scope and an increase in the pricing of Support Services. NetApp will communicate this to Customer on a case-by-case basis. If Customer fails to notify NetApp of the relocation of Hardware or Software as required above, NetApp may refuse to provide the Support Services at its sole discretion. In the event of an increase in pricing of Support Services following relocation, Customer will promptly pay the associated increased fees.

3.7. Reinstatement of Lapsed Support. In the event that Customer

wishes to reinstate Support Services after a lapsed period following expiration or termination of the original Support Services Period, Customer will pay an amount equal to the Support Services fees that would have been due for accrued Support Services during such lapsed

period, as well as any applicable reinstatement fee and the amount due for the go-forward Support Services Period being purchased. All such amounts will be calculated in accordance with the then current NetApp price list.



END USER LICENSE AGREEMENT

1. DEFINITIONS

1.1. **"Documentation"** means technical documentation describing the features and functions of the Software.

1.2. **"NetApp Cloud Provider"** means a third party authorized by NetApp to offer or enable the use of the Software as part of such provider's cloud-based service.

1.3. **"NetApp Partner"** means an authorized NetApp distributor, reseller or other channel partner.

1.4. **"Open Source Software"** means third party software that is openly and freely licensed under the terms of a public license designated by the third party.

1.5. **"Software"** means all NetApp-branded software in object code format comprising backup and recovery, disaster recovery, storage efficiency and management software, operating systems, protocols, utilities and storage management tools.

2. **SCOPE.** This end user license agreement ("EULA") is between you ("You" or "Your"), and NetApp, Inc. and (as applicable) its subsidiaries and affiliates ("NetApp"). This EULA sets forth the terms under which NetApp licenses Software and Documentation to You. In the absence of a more specific written agreement, this EULA applies to Software and Documentation obtained by You directly from NetApp, indirectly from a NetApp Partner or a NetApp Cloud Provider or made available to you by NetApp at no charge. The types, quantities and other usage attributes related to Your Software licenses are specified in other documents associated with the Software, including (as applicable) the Documentation, a NetApp quote or related document (for direct transactions), or the corresponding documents from a NetApp Partner or NetApp Cloud Provider (for indirect transactions). This EULA does not entitle You to receive Software updates, upgrades, technical support or professional services, which must be purchased separately unless otherwise provided at NetApp's discretion.

3. **ACCEPTANCE.** By clicking the "I ACCEPT" button when downloading or installing the Software, or by copying, accessing or using the Software or Documentation, You agree that this EULA exclusively governs NetApp's license to You and Your use of the Software and Documentation unless You have a separate applicable written agreement with NetApp. If You are accepting this EULA on behalf of another person, company or other legal entity, whether as an employee, contractor, distributor, reseller, partner, agent or otherwise, You represent and warrant that You have full authority to bind them. If You do not agree to the terms of this EULA, do not download, install, copy, access, or use the Software or Documentation, or click the "I ACCEPT" button, and promptly return the Software and Documentation to the party from whom it was obtained.

4. **LICENSE GRANT.** NetApp grants to You a personal, nonexclusive, non-transferrable, worldwide, limited and revocable license, without the right to sublicense, to i) install and use the Software for Your internal business purposes, and ii) use the Documentation in support of Your use of the Software. Your Software license is either bundled with a specific storage controller identified by a unique serial number ("Controller-based") or is independent of a storage controller ("Standalone"), and is one of the following license types:

- a) "Life-of-controller": Controller-based licenses granted for the period during which Your storage controller is operable;
- b) "Perpetual": Standalone licenses granted in perpetuity;
- c) "Term": Controller-based licenses or Standalone licenses granted for a fixed period;
- d) "Capacity": Controller-based licenses or Standalone licenses granted for a specified amount of raw storage capacity, number of hosts, or other measure of usage as specified in the Documentation.

Each storage controller deployed in a cluster or a high-availability pair or group must have the same Controller-based license as the other storage controllers in that cluster, high-availability pair or group. Subject to NetApp's separate written agreement, and in the context of non-disruptive operations within a cluster, You may deploy storage controllers with different Controller-based licenses and failover from one storage controller to another for the time required to remedy a failure, provided that all storage controllers in the cluster have the same hardware and software support offerings in effect at all times. Certain license types may require the enablement and use of NetApp's remote support diagnostics systems.

5. **LICENSE RESTRICTIONS.** You must comply with the EULA terms at all times when using the Software and Documentation. You will not, nor will You allow anyone else to:

- a) use the Software in breach or excess of the types, quantities and other usage attributes related to Your Software licenses or other limitations prescribed by NetApp in this EULA;
- b) reverse-engineer, decompile or disassemble the Software or otherwise reduce it to human-readable format except to the extent required for interoperability purposes under applicable laws or as expressly permitted in open-source licenses;
- c) remove or conceal any product identification, proprietary, intellectual property or other notices in the Software or Documentation;
- d) use the Software or Documentation to perform services for third parties in a service bureau, managed services, commercial hosting services or similar environment, unless i) the Software has been obtained from a NetApp Cloud Provider, ii) is used in conjunction with a NetApp Cloud Provider service, iii) or has been otherwise agreed in writing with NetApp;
- e) assign or otherwise transfer, in whole or in part, the Software or Documentation licenses to another party or Controller-based licenses to a different storage controller, unless otherwise agreed in writing with NetApp;
- f) install Controller-based licenses on or use them with third party hardware or any second-hand or grey market NetApp hardware not purchased by You from NetApp or a NetApp Partner;
- g) modify, adapt or create a derivative work of the Software or Documentation; or
- h) publish or provide any Software benchmark or comparison test results.

6. **INTELLECTUAL PROPERTY RIGHTS.** The Software and Documentation is licensed, not sold, to You. It is protected by intellectual property laws and treaties worldwide, and contains trade secrets, in which NetApp and its licensors reserve and retain all rights not expressly granted to You. No right, title or interest to any trademark, service mark, logo or trade name, of NetApp or its licensors is granted to You.

7. WARRANTY. NetApp warrants that for a period of 90 days from the date of first delivery of the Software to You or a NetApp Partner, whichever is the earlier, or such other minimum periods under applicable laws (the "Software Warranty Period"), the Software will materially conform to the then-current Documentation. NetApp does not warrant that Your use of the Software will be error-free or uninterrupted. If a material defect arises in the Software during the Software Warranty Period and if the defect is reproducible and verifiable, NetApp will, at its sole discretion and expense, repair or replace the defective Software or refund the amounts received by NetApp for the Software. Software that is obtained for use solely in conjunction with a NetApp Cloud Provider's services is provided "AS IS" and without a warranty of any kind. You assume all risks arising from Your use of the Software together with a NetApp Cloud Provider's offering. The Software warranty will be voided if You or any third parties misuse, neglect, attempt to repair or modify (unless authorized by NetApp), or use the Software beyond the range of the intended use. TO THE EXTENT PERMITTED BY APPLICABLE LAWS, THIS IS YOUR SOLE AND EXCLUSIVE WARRANTY AND REMEDY. NETAPP SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING THOSE OF MERCHANTABILITY, ACCEPTABLE QUALITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. THE WARRANTY IN THIS SECTION 7 WILL NOT APPLY IF NETAPP MAKES THE SOFTWARE GENERALLY AVAILABLE AT NO COST.

8. LIMITATION OF LIABILITY. Regardless of the basis of the claim (e.g. contract, tort or statute), the total liability of NetApp and its licensors, under or in connection with this EULA, will not exceed the amounts actually received by NetApp for the Software or the minimum amounts permitted by applicable laws, if greater. NetApp and its licensors are not liable for:

- a) any indirect, consequential, incidental, exemplary or special damages;
- b) loss or corruption of data;
- c) loss of revenues, profits, goodwill or anticipated savings;
- d) procurement of substitute goods and/or services;
- e) interruption to business; or
- f) Your failure to comply with applicable "non-erasable" and "non-rewriteable" U.S. government regulations.

The limitations and exclusions above will not apply to liability for death or bodily injury caused by negligence, gross negligence, willful misconduct, fraud or any other liability that cannot be excluded under applicable laws.

9. AUDIT. Upon reasonable notice, You grant NetApp and its independent accountants the right to examine Your Software usage annually to verify compliance with this EULA. If the audit discloses over-usage or any other material non-compliance, then a) You will promptly pay to NetApp or to a NetApp Partner, as designated by NetApp, any additional fees that NetApp or a NetApp Partner notifies You are owed, and the reasonable costs of conducting the audit; and b) NetApp may conduct subsequent audits, upon reasonable notice, as NetApp reasonably determines is necessary to verify compliance with this EULA.

10. TERMINATION. This EULA is effective until expiration or termination. You may terminate the EULA at any time on written notice to NetApp. NetApp may terminate the EULA immediately on written notice for material breach of the EULA. Any failure to remit payments in relation to the Software and Documentation when due, whether payable to NetApp or a NetApp Partner, constitutes a material breach of this

EULA. Upon expiration or termination of this EULA, You will promptly return or destroy all copies of the Software and Documentation, including any license enablement keys. Sections 1, 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 survive expiration or termination of this EULA.

11. EXPORT CONTROLS. You acknowledge that the Software and Documentation supplied by NetApp under this EULA is subject to export controls under the laws and regulations of the United States, the European Union and other countries (as applicable), and the Software may include technology controlled under export and import regulation, including encryption technology. You agree to comply with such laws and regulations and represent and warrant that You:

- a) will not, unless authorized by U.S. export licenses or other government authorizations, directly or indirectly export or re-export the Software and Documentation to or use the Software and Documentation in countries subject to U.S. embargoes or trade sanctions programs;
- b) are not a party, nor will You export or re-export to a party, identified on any applicable government export exclusion lists, including but not limited to the U.S. Denied Persons, Entity, and Specially Designated Nationals Lists;
- c) will not use the Software and Documentation for any purposes prohibited by U.S. law, including the development, design, manufacture or production of nuclear, missile, chemical, or biological weaponry or other weapons of mass destruction; and
- d) are responsible for compliance with all local encryption laws and regulations, where applicable, and for obtaining any permits and licenses required under those laws and regulations for your use of the Software.

You agree to provide NetApp destination end use and end user information upon NetApp's request. You will obtain all required authorizations, permits, or licenses to export, re-export or import, as required. You agree to obligate, by contract or other similar assurances, the parties to whom You re-export or otherwise transfer the Software to comply with all obligations set forth in this Section 11.

12. U.S. FEDERAL GOVERNMENT END USERS. This Section 12 applies to You only if You are a U.S. Federal Government end user. The Software and Documentation is "commercial" computer software and documentation and is licensed to You in accordance with the rights articulated in applicable U.S. government acquisition regulations (e.g. FAR, DFARs) pertaining to commercial computer software and documentation. You will not be subject to applicable audit costs specified in Section 9. Any dispute between You and NetApp will be subject to resolution pursuant to the Contract Disputes Act of 1978. Nothing contained in this EULA is meant to derogate the rights of the U.S. Department of Justice as identified in 28 U.S.C. §516. All other provisions of this EULA remain in effect as written.

13. EVALUATION OR PRE-RELEASE SOFTWARE. This Section 13 applies to You only if You are acquiring generally available Software for the purposes of evaluation ("Evaluation Software") or Software specifically identified by NetApp as alpha, beta, pre-release, demonstration or preview ("Pre-Release Software"). Unless otherwise agreed in writing by NetApp, Evaluation Software or Pre-Release Software may be used a) for a period not exceeding 90 days from the effective date of this EULA ("Evaluation Period") and b) up to the maximum amounts of raw storage capacity, number of hosts or other measure of usage as specified in the Documentation. Unless otherwise agreed in writing by NetApp, Evaluation Software or Pre-Release

Software may only be used in non-production environments and not for commercial purposes. You agree to delete or deinstall the Evaluation Software or Pre-Release Software at the expiration of the Evaluation Period. For the avoidance of doubt, Software is considered in use when installed or deployed after expiry of the 90-day period regardless of whether or not the Evaluation Software or Pre-Release Software is used in a production environment. You will pay fees to NetApp, calculated in accordance with the applicable NetApp price list, within 30 days of NetApp's demand for use exceeding the limits above. You agree to cooperate with NetApp in testing the Pre-Release Software and providing feedback, to NetApp, which NetApp can use without restriction, concerning the functionality and performance of the Pre-Release Software. ("Feedback"). You acknowledge that the Pre-Release Software and Feedback are proprietary and confidential information of NetApp ("Confidential Information"). You will not make the Confidential Information available in any form to any person other than to Your employees or consultants with a need to know and who are under an obligation of confidentiality not to disclose such Confidential Information. You will use the same degree of care to protect the confidentiality of such Confidential Information as You use to protect Your own confidential information. NOTWITHSTANDING SECTIONS 7 AND 8 ABOVE, THE EVALUATION SOFTWARE OR PRE-RELEASE SOFTWARE IS PROVIDED "AS IS" WITHOUT ANY WARRANTIES OR REPRESENTATIONS EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF QUALITY, PERFORMANCE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND NETAPP DISCLAIMS ALL LIABILITIES TO THE MAXIMUM EXTENT PERMITTED BY LAW.

14. PERFORMANCE DATA. NetApp retains all right, title and interest in data and data elements collected by the Software systems configuration which, as applicable, pertains to the Software environment, the usage and performance of the Software, and the components managed by the Software, as applicable ("Performance Data"). Without limiting the

foregoing, NetApp may collect and use Performance Data to provide and improve the Software and NetApp's other products and services.

15. GOVERNING LAW AND ENFORCEMENT RIGHTS.

This EULA will be construed pursuant to the laws of i) the State of California, United States, excluding its conflicts of law provisions, if You are in the United States or in a country in which NetApp has no local sales subsidiary, or ii) the country in which You are located if NetApp has a local sales subsidiary in that country. NetApp reserves the right to control all aspects of any lawsuit or claim that arises from Your use of the Software or Documentation. If required by NetApp's agreement with a third-party licensor, NetApp's licensor will be a direct and intended third party beneficiary of this EULA and may enforce it directly against You. To the extent that Software may include or be distributed with Open Source Software, the terms of the applicable license for the Open Source Software supersede the terms set forth in this EULA.

16. GENERAL. NetApp does not waive any of its rights under this EULA by failing to or delaying the exercise of its rights or partially exercising its rights at any time. To the extent that any Section of this EULA, or part thereof, is determined to be invalid or unenforceable, the remainder of this EULA will remain in full force and effect. This EULA may not be changed except by a written amendment executed by an authorized representative of each party. In the event of a conflict between the English and non-English version of the EULA (where translated for local requirements), the English version of this EULA will govern, to the extent permitted by applicable laws. This EULA represents the entire agreement and understanding between NetApp and You with respect to the Software and Documentation. It supersedes any previous communications, representations or agreements between NetApp and You and prevails over any conflicting or additional terms in any quote, purchase order, acknowledgment, or similar communication between the parties.

VMware Technical Support and Subscription and VMware Success 360 Services ("SnS") Terms and Conditions (For On-Premises Software Products)

VMware, Inc., a Delaware corporation, or VMware International Unlimited Company, a company organized under the laws of Ireland, as applicable ("**VMware**"), will provide Technical Support and Subscription and VMware Success 360 Services ("**Services**") as specified in these Terms and Conditions ("**SnS Terms**") to the customer identified in an Order ("**Customer**"), pursuant to these SnS Terms and the Data Processing Addendum (which is incorporated into these SnS Terms by this reference), and as set forth at the VMware Support Services Website, <http://www.vmware.com/support/services.html>. The VMware entity, effective date, Software, and Services level will be as set forth on the applicable enterprise license agreement, SnS order form, Customer's purchase order, or, if Customer has purchased support on a per-incident basis, the registration form completed by Customer for that purchase (each, an "**Order**"). Any terms used but not defined in these SnS Terms have the meanings set forth in the VMware End User License Agreement ("**EULA**").

1. Definitions. For purposes of these SnS Terms, the following definitions apply:

1.1 "Content" means data provided by Customer to VMware to address a Technical Support issue. Content does not include customer account or relationship data that VMware uses in connection with a Technical Support request, or data collected by VMware to verify the support entitlement or to facilitate any communications.

1.2 "Data Processing Addendum" means the then-current version of the VMware Data Processing Addendum located at <https://www.vmware.com/content/dam/digitalmarketing/vmware/en/pdf/downloads/eula/vmware-data-processing-addendum.pdf>.

1.3 "Deliverables" means any reports, analyses, scripts templates, code, or other work results to be delivered by VMware to Customer under the SnS Terms.

1.4 "Error" means a failure in the Software to materially conform to the specifications described in the applicable product documentation ("**Documentation**").

1.5 "Modified Code" means any modification, addition and/or development of code scripts deviating from the predefined product code tree(s)/modules developed by VMware for production deployment or use. Modified Code excludes customizable Software options for which VMware offers Services.

1.6 "Services Fees" means the fees for Services specified in a VMware or reseller invoice.

1.7 "Services Period" means the period for which Customer has purchased the Services and any subsequent renewal periods, and commences: (a) for Software Licenses for which Services are mandatory, on the date the applicable Software License Key(s) are made available for download, and (b) for Software Licenses for which Services are optional, on the date of purchase of the Services.

1.8 "Severity" is a measure of the relative impact an Error has on the use of the Software, as assigned by Customer when opening a support request. The following Severity levels apply to all Software:

(a) "**Severity One**" means Customer's production system or other mission critical system(s) are down and no workaround such as application level redundancy is immediately available, or (i) all or a substantial portion of Customer's mission critical data is at a significant risk of loss or corruption; (ii) Customer has had a substantial loss of service or capacity (>10%); or (iii) Customer's business operations have been severely disrupted.

(b) "**Severity Two**" means that major functionality of the Customers system is severely impaired such that (i) operations can continue in a restricted fashion, but normal day to day management or configuration of the system has been adversely affected; or (ii) a major deployment milestone is at risk; ongoing and incremental installations or upgrades are affected; (iii) Customer has a minor loss of capacity (<10%); (iv) Customer has loss some or all of their redundancy functionality; or (v) there is a substantial risk of an imminent service outage.

(c) "**Severity Three**" means a partial, non-critical loss of functionality of the Software such that: (i) the operation of some component(s) is impaired but allows the Customer to continue using the Software; or (ii) initial installation milestones are at minimal risk; or (iii) failures of the Software that do not affect the normal daily operations of the Customer's system.

(d) "**Severity Four**" means general usage questions and cosmetic issues, including errors in the Documentation, or general issues with performance management or logging functionality.

1.9 "Software" means software on the VMware price list, and all components shipped with the Software, including Open Source Software components.



1.10 "Subscription Services" means any Maintenance Releases, Minor Releases, and Major Releases to the Software and related Documentation that VMware provides to Customer.

(a) **"Maintenance Release" or "Update"** means a generally available release of the Software that typically provides maintenance corrections only or high severity bug fixes, designated by means of a change in the digit to the right of the second decimal point (e.g. Software 5.0 >> Software 5.0.1), or for certain Software by a change in the digit of the Update number (e.g., Software 5.0 Update 1).

(b) **"Minor Release"** means a generally available release of the Software that: (i) introduces a limited number of new features, functionality, and minor enhancements; (ii) fixes for high severity and high priority bugs identified in the current release; and (iii) is designated by a change in the digit to the right of the decimal point (e.g., Software 5.0>>Software 5.1).

(c) **"Major Release"** also known as an **"Upgrade"** means a generally available release of the Software that: (i) contains functional enhancements and extensions; (ii) fixes for high severity and high priority bugs; and (iii) is designated by VMware by a change in the digit to the left of the first decimal point (e.g., Software 5.0 >> Software 6.0).

1.11 "Technical Support" means telephone or web-based technical assistance by VMware to Customer's technical contact(s) regarding installation of the Software, Errors, and technical product problems, at the corresponding Services level purchased by Customer.

1.12 "Third Party Products" means any software or hardware that is manufactured by a party other than VMware and is either (i) not delivered with the Software, or (ii) not incorporated into the Software.

2. Service Terms.

2.1 Provision of Services. VMware will provide Services to Customer during the Services Period at the Services level purchased. Customer's use of a Subscription Services release will be subject to the terms of the VMware Product Guide posted at <https://www.vmware.com/download/eula> on the date Customer first installs that release.

2.2 End of Availability. VMware may, at its discretion, decide to retire any Software and/or Services offering from time to time (**"End of Availability"**). VMware will notify affected customers, and will post information regarding End of Availability and the timeline for discontinuing the affected Services at <https://www.vmware.com/support/policies/lifecycle.html>. VMware has no obligation to provide Services for any Software after the End of Availability date published in the life cycle policy for that Software.

2.3 Purchase Requirements.

(a) Except as otherwise provided, Customer must purchase Services for the initial Services Period for the most current, generally available version of the Software.

(b) Customer must purchase and/or renew Services at the same Services level for all licenses for a particular Software product installed in a given environment, such as Test, Development, QA, or Production (e.g., a customer cannot purchase Production level support for only one license of vSphere in its lab and purchase Basic level support for the other vSphere licenses in that environment).

(c) Except as otherwise provided in the applicable price list, the minimum term for any Services offering is one (1) year.

(d) Upon renewal of Services, these SnS Terms will automatically update to the then-current Services terms and conditions set forth at https://www.vmware.com/files/pdf/support/support_terms_conditions.pdf.

2.4 Exclusions.

(a) Services do not cover problems caused by the following:

(i) unusual external physical factors such as inclement weather conditions that cause electrical or electromagnetic stress, or a failure of electric power, air conditioning or humidity control; neglect; misuse; operation of the Software with other media not in accordance with manufacturer's specifications; or causes other than ordinary use;

(ii) use of the Software that deviates from any operating procedures as specified in the Documentation;

(iii) Third Party Products, other than the interface of the Software with the Third Party Products;

(iv) Modified Code;

(v) issues relating to VMware cloud service offerings;

(vi) any customized deliverables created by VMware, VMware partners, or third party service providers;

(vii) use of the Software with unsupported tools (e.g., Java Development Kit (JDK); Java Runtime Environment (JRE)), APIs, interfaces or data formats other than those included with the Software and supported as set forth in the Documentation. Customer may request assistance from VMware for such problems, for an additional fee.



- (b) If VMware suspects that a reported problem may be related to Modified Code, VMware, may, in its sole discretion,
- (i) request that the Modified Code be removed, and/or
 - (ii) inform Customer that additional assistance may be obtained by Customer from various product discussion forums or by engaging VMware's consulting services group for an additional fee.

2.5 Customer Responsibilities. VMware's obligation to provide the Services is subject to the following:

- (a) Customer agrees to receive communications from VMware via email, telephone, and other formats, regarding Services (such as communications concerning support coverage, Errors or other technical issues, availability of new releases of the Software, and training options).
- (b) Customer's technical contact must cooperate with VMware to enable VMware to deliver the Services.
- (c) As between VMware and Customer, Customer is solely responsible for use of the Software by its personnel, and must properly train its personnel in the use of the Software.
- (d) Customer must promptly report to VMware all problems with the Software, and must implement all corrective procedures provided by VMware reasonably promptly after receipt of the corrective procedures.
- (e) Before contacting VMware for Technical Support, Customer must protect and back up the data and information stored on the systems on which the Software is used, and must confirm that the data and information is protected and backed up in accordance with any applicable Customer or regulatory requirements. VMware is not responsible for lost data or information in the event of Errors or other malfunction of the Software or the systems on which the Software is used.
- (f) Customer must have dedicated resources available to work 24x7 on Severity One Errors.

3. Services Fees, Service Offerings, and Authorized Technical Contacts, Deliverables.

3.1 Services Fees.

- (a) Services Fees are payable on the effective date specified in the applicable Order or, in the case of a renewal Services Period, no later than the date of commencement of the renewal term. Services Fees are specified in the applicable price list and are non-refundable.
- (b) If Customer renews or adds a Services offering that has a minimum term of one (1) year, Customer may elect to make Services for all of its Software Licenses coterminous with the renewed or added Services. In that case, VMware will prorate the applicable Services Fees to extend the current Services Period to make it coterminous with the renewed or added Services.
- (c) For Software that is licensed on a perpetual basis, if Customer purchases Services after acquiring the Licenses, or had elected not to renew Services and later wishes to re-enroll in the Services, Customer must move to the then-current Major Release of the Software and must pay: (i) the applicable Services Fees for the current Services Period; (ii) the amount of Services Fees that would have been paid for the period of time that Customer was not enrolled in the Services, and (iii) a twenty percent (20%) reinstatement fee on the sum of the Services Fees in (i) and (ii).
- (d) If Customer purchases a License to upgrade up from one edition of the Software to another (e.g., VMware vSphere Standard to VMware vSphere Enterprise Plus), any unused portion of the Services Period on the original License will be converted and used to extend the Services Period for the new License. This paragraph (d) does not apply to customers who have purchased Services through an enterprise license agreement.

3.2 Advanced and Complimentary Services Offerings.

- (a) Certain advanced Services (e.g., Business Critical Support, Mission Critical Support, Premier Support, Premier Support for Healthcare, Telco, Financial, and Fed, and Mission Critical Support for Workspace ONE) require that Customer also purchase a base level of support. See the Services description at <https://www.vmware.com/support/services.html>.
- (b) VMware may, at its discretion, offer complimentary Services, including VMware Complimentary Update Services for certain Software, as more fully described on the VMware Technical Support Services website, at <https://www.vmware.com/support/services/complimentary.html>. "VMware Complimentary Update Services" means the provision of Maintenance Releases and Minor Releases to Customer, at no cost. This VMware Complimentary Update Service does not include providing any Major Releases.

3.3 Authorized Technical Contacts. The number of authorized technical contacts to which Customer is entitled is limited depending on the level of Services Customer purchased. For more information on the detailed number of authorized contacts, see the comparison chart for On-Premises Support at <https://www.vmware.com/support/services.html>. The contact information of authorized technical contacts must be provided on an individual basis (i.e., each technical contact) and must not be a group alias.

3.4 License to Deliverables. If Deliverables are included in the Services, VMware grants Customer a non-exclusive, non-transferrable, irrevocable (except in case of breach of the SnS Terms) perpetual license, without the right to sublicense, to use and copy, for Customer's internal business operations only (the "Deliverables License").



4. Payment, Warranty, Limitation of Liability, and Termination

4.1 Payment Terms. VMware will invoice Customer or Customer's reseller for Services Fees promptly following Customer's purchase. Payment is due within thirty (30) days of the date of the invoice. Services Fees are exclusive of any taxes, duties, or similar charges imposed by any government. Customer must pay or reimburse VMware for all federal, state, dominion, provincial, or local sales, use, personal property, excise, value added, withholding or other taxes, fees, or duties relating to the transactions contemplated by these SnS Terms (other than taxes on the net income of VMware). Amounts not paid on time are subject to a late charge equal to the lesser of one and one-half percent (1.5%) per month or the maximum amount allowed by applicable law. If payment of any Services Fee is delinquent, VMware may also suspend performance of all Services until such delinquency is corrected.

4.2 Limited Warranty. VMware warrants that the Services will be performed in a workmanlike manner and will conform to industry standards. Upon Customer providing VMware with a reasonably detailed written notice of the alleged nonconformance, VMware will use reasonable efforts to re-perform the Services. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THIS WARRANTY IS GIVEN EXPRESSLY AND IN PLACE OF ALL OTHER WARRANTIES, STATUTORY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THIS WARRANTY IS CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO NONCONFORMANCE OF SERVICES.

4.3 Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY LAW, VMWARE WILL NOT BE LIABLE FOR ANY LOST PROFITS OR BUSINESS OPPORTUNITIES, LOSS OF USE, LOSS OF REVENUE, LOSS OF GOODWILL, BUSINESS INTERRUPTION, LOSS OF DATA, OR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, WHETHER BASED UPON CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, ARISING FROM ITS PERFORMANCE OR NON-PERFORMANCE UNDER THESE SNS TERMS. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE PRECEDING LIMITATION MAY NOT APPLY TO CUSTOMER. VMWARE'S LIABILITY UNDER THESE SNS TERMS WILL NOT, IN ANY EVENT, EXCEED THE SERVICES FEES PAID BY CUSTOMER TO VMWARE FOR SERVICES DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE DATE OF THE EVENT MOST DIRECTLY GIVING RISE TO THE CLAIM.

4.4 Termination of Services. VMware may terminate all Services at any time if (a) Customer is in breach of its License restrictions or (b) Customer is in material breach of these SnS Terms.

5. Customer Support Data.

5.1 Submission of Content. In connection with a Technical Support request, Customer may upload Content to VMware's systems. That Content will vary depending on the product and the context of the Technical Support issue. Content may consist of: (a) detailed system information about the failure such as the name and state of the affected operating system, logs, Virtual Machine descriptions (not including the contents of virtual disks or snapshot files), system identifiers, IP addresses, and user identifiers; and (b) core dumps, which may contain a full record of the memory image at the time of the crash including CPU and memory information related to the failure, passwords, cryptographic keys, and/or application data, depending upon the technical state at the time of the failure. Customer is solely responsible for taking steps necessary to protect any sensitive or confidential information, or Personal Data, included in Content. Those steps may include Customer obfuscating or removing such information or, depending on the product, otherwise working with VMware at the time of submission to limit the disclosure of such information.

5.2 Restricted Content. Customer must not submit any Content to VMware that: (a) Customer does not have the right to provide to VMware; (b) constitutes information that is regulated by the Health Insurance Portability and Accountability Act, as amended and supplemented, and the regulations thereunder (collectively, "HIPAA"), or any similar federal, state, or local laws, rules, or regulations, unless Customer has signed a Business Associate Agreement (as defined by HIPAA) with VMware; (c) contains financial information of any individual; or (d) is regulated by law or regulation without complying with the applicable laws or regulations. If Customer submits any Content in contravention of this Section 5.2, then Customer is solely responsible for the consequences of that submission.

5.3 Personal Data. To the extent Customer provides Personal Data (as defined in the Data Processing Addendum) to VMware as part of the Content, VMware will process the Personal Data in accordance with the Data Processing Addendum.

5.4 Use of Content. VMware may review and analyze Content to address a Technical Support request. VMware may use the results of that review and analysis, in combination with (i) data VMware collects from Customer regarding Customer's use of the Software (such as configuration, performance, and usage data) and (ii) information VMware maintains about the Customer's account, to provide support to VMware customers, and to improve VMware products, services, and user experiences.

5.5 Disclosure of Content. If VMware is required by a subpoena, court order, agency action, or any other legal or regulatory requirement, to disclose any Content, VMware will provide Customer with notice and a copy of the demand, as soon as practicable, unless VMware is prohibited from doing so pursuant to applicable law or regulation. If Customer requests, VMware will, at Customer's expense, take reasonable steps to contest and to limit the scope of any required disclosure.

6. Miscellaneous.

6.1 Transfer; Assignment. Customer may not assign or delegate these SnS Terms to any third party without VMware's prior written consent.



6.2 Governing Law. These SnS Terms are governed by the laws of the State of California without regard to conflict of laws principles. Customer and VMware consent to the exclusive jurisdiction of the state and federal courts located in Santa Clara County, California for the adjudication of any disputes under these SnS Terms.

6.3 Entire Agreement. These SnS Terms, the Data Processing Addendum, the applicable Order, the EULA to the extent it applies, and the information on the VMware Support Services Website, together constitute the entire agreement of the parties with respect to provision of the Services by VMware to Customer, and supersedes all prior written or oral communications, understandings, and agreements.

6.4 Customer Forms. Except as expressly set forth in these SnS Terms, no terms of any purchase order or other business form that Customer may use will affect the obligations of the parties under these SnS Terms, and any purchase order or other business form which contains additional or conflicting terms is hereby rejected by VMware. Customer agrees that purchase orders do not have to be signed by Customer to be valid and enforceable.

6.5 Amendment and Waiver. Any amendment or waiver of the provisions of these SnS Terms must be in writing signed by both parties to be effective.

6.6 Severability. If any provision of these SnS Terms is found to be invalid or unenforceable, the remaining terms will continue to be valid and enforceable to the fullest extent permitted by law.

6.7 Language. The English language versions of these SnS Terms, the Technical Support guide found at https://www.vmware.com/files/pdf/support/tech_support_guide.pdf, and the policies at <https://www.vmware.com/support/policies/index> are the governing versions of such documents and policies; any translation into languages other than English is for convenience only.

6.8 Survival. Any provision of these SnS Terms that, by its nature and context is intended to survive, including provisions relation to payment of outstanding fees, confidentiality, warranties, and limitation of liability, will survive termination of these SnS Terms. The Data Processing Addendum will continue to be effective to the extent VMware continues to process Personal Data after termination of these SnS Terms.

6.9 Use of Third Parties. VMware may deliver the Services with the assistance of our affiliates or suppliers.



TERMS OF SALE
AND SOFTWARE LICENSE AGREEMENT

These Terms of Sale and Software License Agreement ("**Terms of Sale**") are entered into by and between Cisco Systems, Inc., a California corporation having its principal place of business at 170 West Tasman Drive, San Jose, California, 95134 ("**Cisco**") and you ("**Customer**"), for Products and Services, unless Cisco and Customer enter into or have entered into another agreement (including but not limited to a written, click-wrap, click-and-accept or electronic agreement) regarding the purchase and license of the specific Cisco Products or Services being purchased and such agreement is in effect at the time the applicable Purchase Order is received by Cisco (the "**Existing Agreement**"), in which case the terms and conditions of such Existing Agreement shall govern the purchase and license of those Cisco Products or Services.

1. **DEFINITIONS**

- a. "**Affiliate**" means any corporation, firm, partnership or other entity that directly or indirectly controls, or is controlled by, or is under common control with Cisco or Customer.
- b. "**Cisco Branded**" means a Product or a Service bearing a trademark or service mark of Cisco Systems, Inc. or any Cisco Affiliate.
- c. "**Confidential Information**" means proprietary and confidential information received by Cisco or Customer in connection with these Terms of Sale and their relationship and is conspicuously marked as confidential, proprietary or the like or, in the case of confidential information disclosed orally, clearly identified as confidential, proprietary or the like at the time of oral disclosure and confirmed as confidential, proprietary or the like in writing within 14 days by the disclosing party. Such Confidential Information may include, but is not limited to, trade secrets, know how, inventions, techniques, processes, programs, schematics, software source documents, data, customer lists, financial information, and sales and marketing plans or information which the receiving party knows or has reason to know is confidential, proprietary or trade secret information of the disclosing party, as well as, in the case of Cisco, any information posted on Cisco.com (to the extent such information is not publicly accessible).
- d. "**Documentation**" means user manuals, training materials, Product descriptions and specifications, technical manuals, license agreements, supporting materials and other information relating to Products or Services offered by Cisco, whether distributed in print, electronic, CD-ROM or video format.
- e. "**Effective Date**" means the date these Terms of Sale are electronically accepted, click-accepted or, if signed in hard copy by Customer, the date of last signature, or in the absence of any of the foregoing, these Terms of Sale shall be effective from the date an order is placed by Customer.
- f. "**Force Majeure Event**" means an event beyond the affected party's reasonable control, including (without limitation) accidents, severe weather events, acts of God, actions of any government agency, epidemic, pandemic, acts of terrorism, or the stability or availability of the Internet or a portion thereof.
- g. "**Hardware**" means the tangible Cisco product acquired by Customer from Cisco and listed on the Price List. Hardware does not include any tangible product listed on the Price List in the name of a third party.
- h. "**Network Services**" means any services offered by Customer, as Customer's primary business model, which services may include the following: access to the Internet, data and voice



transmission and any other communications service furnished by Customer by means of Customer's communications network.

- i. **"Price List"** means the price list(s) published at Cisco.com applicable to the relevant Cisco entity to which each Purchase Order is issued by Customer. Products on the Price List are categorized and discounts provided by Cisco will vary by category.
- j. **"Product"** means, individually or collectively as appropriate, Hardware, Software and Documentation listed on the then-current Price List.
- k. **"Purchase Order"** or **"PO"** means a written or electronic order to Cisco for Products or Services to be provided by Cisco under these Terms of Sale.
- l. **"Services"** means any maintenance, technical support, or any other services performed or to be performed by Cisco, provided that "Services" does not include those services for which Cisco requires a separate statement of work to be executed between the parties.
- m. **"Software"** means the machine readable (object code) version of the computer programs listed from time to time on the Price List or provided with the Hardware and made available by Cisco for license to Customer including firmware, and any copies made, bug fixes for, updates to, or upgrades thereof. Software does not include any computer programs listed on the Price List in the name of a third party.
- n. **"Territory"** means any country(ies) in which Customer has been granted Cisco resale certifications, or in the absence of any such certifications, the country in which Customer's principal place of business is located.

2. SCOPE

- a. These Terms of Sale set forth the terms and conditions for Customer's purchase of Products and Services solely for use in the Territory and solely for (i) Customer's internal business use, (ii) providing Network Services if Customer's primary business is Network Services, or (iii) resale only if and where Customer has been granted appropriate reseller certifications or distribution rights by Cisco for the specific Products or Services to be resold/distributed. Customer shall not resell to, make available for use by, or otherwise transfer title to any Product to, any end user or other third party, including any reseller, without such reseller certifications or distribution rights.
- b. Customer is not authorized by these Terms of Sale to resell Products to any United States Federal, state, or local entity, including under such arrangements as a direct General Services Administration (**"GSA"**) Schedule contract, California Multiple Award Schedule (**"CMAS"**) or similar state or federal schedule contract.

3. PRICES

- a. Prices for Products and Services shall be those specified in Cisco's then current Price List, less any applicable Price List category or individual Product or Service based discount(s) granted by Cisco in a separate addendum in effect at the time of acceptance of the Purchase Order by Cisco, or in accordance with an applicable, valid written price quotation, if any, submitted by Cisco to Customer for such Products or Services.
- b. All prices are exclusive of any freight, handling and shipping insurance charges, taxes, fees and duties or other similar amounts, however designated, including without limitation value added, sales and withholding taxes which are levied or based upon the prices, charges or upon these



Terms of Sale. Customer shall pay any taxes related to Products and Services provided pursuant to these Terms of Sale (except for taxes based on Cisco's net income) or shall present an exemption certificate acceptable to all relevant taxing authorities. Applicable taxes shall, to the extent practical, be billed as a separate item on the invoice.

4. ORDERS

- a. Customer shall purchase or license Products or Services by issuing a Purchase Order, signed, if requested by Cisco, or (in the case of electronic transmission) sent by its authorized representative, indicating specific Products and Services, Cisco Product numbers, quantity, unit price, total purchase price, shipping instructions, requested shipping dates, bill-to and ship-to addresses, tax exempt certifications, if applicable, contract reference, and identity of the end user for each Product and Service. No contingency contained on any Purchase Order shall be binding upon Cisco. The terms of these Terms of Sale shall apply, regardless of any additional or conflicting terms on any Purchase Order or other correspondence or documentation submitted by Customer to Cisco, and any such additional or conflicting terms are deemed rejected by Cisco.
- b. Cisco shall use commercially reasonable efforts to provide order acknowledgement information within three (3) business days for all Purchase Orders placed on Cisco.com or within ten (10) business days of receipt for Purchase Orders placed by any other method. Upon and subject to credit approval by Cisco following Cisco's receipt of any Purchase Order, Cisco Customer Service will review and accept or decline any or all Purchase Orders for the Cisco entity that will supply the Products or Services, and no other person is authorized to accept Purchase Orders on behalf of Cisco. Cisco Customer Service may accept a Purchase Order even if some of the information required by Section 4a above is missing or incomplete.
- c. Customer may defer Product shipment for up to thirty (30) days from the original shipping date scheduled by Cisco, provided written or electronic notice (issued, in either case, by an authorized representative of Customer) is received by Cisco at least ten (10) days before the originally scheduled shipping date. Cancelled Purchase Orders, rescheduled shipments or Product configuration changes requested by Customer less than ten (10) days before the original scheduled shipping date shall be subject to (a) acceptance by Cisco, and (b) a charge of fifteen percent (15%) of the total invoice amount relating to the affected Products. Cisco reserves the right to reschedule shipment in cases of configuration changes requested by Customer within ten (10) days of scheduled shipment. No cancellation shall be accepted by Cisco where Products are purchased with implementation services, including design, customization or installation services, except as may be set forth in the agreement or statement of work under which the services are to be rendered.

5. SHIPPING AND DELIVERY

- a. Scheduled shipping dates will be assigned by Cisco as close as practicable to Customer's requested date based on Cisco's then-current lead times for the Products. Cisco will communicate scheduled shipping dates in the order acknowledgement or on Cisco.com. Unless given written instruction by Customer, Cisco shall select the carrier.
- b. Shipping options available as well as applicable shipment terms (per Incoterms 2010) are set forth in the Shipping Terms Exhibit available at the following URL: https://www.cisco.com/web/fw/tools/commerce/ngorder/doc/Standard_Shipping_Exhibit.pdf at Cisco.com (the "Shipping Terms Exhibit"). The selected shipping option shall be indicated on the Purchase Order. Where applicable, Customer shall pay the shipping and handling charges in addition to the purchase price for the Products, which will be included in remittance and/or commercial invoices issued by Cisco. Title and risk of loss shall transfer from Cisco to Customer



and delivery shall be deemed to occur in accordance with the Shipping Terms Exhibit. Customer shall be responsible for all freight, handling and insurance charges subsequent to delivery.

- c. Where Customer places orders on any Cisco Affiliate other than Cisco, Customer shall pay any invoices issued by such entity with respect to such orders and the delivery terms agreed with such entity shall apply. Different shipping terms may apply to such Purchase Orders as set forth in the Shipping Terms Exhibit or otherwise as set out on Cisco.com.
- d. Customer shall assume responsibility for compliance with applicable export laws and regulations, including the preparation and filing of shipping documentation necessary for export clearance. This also applies in cases where Customer requests in its Purchase Order delivery of Products to Customer's forwarding agent or another representative in the country of shipment. Customer agrees not to use any export licenses owned by Cisco or any of its Affiliates.
- e. For shipments under FCA as per the Shipping Terms Exhibit, Customer specifically agrees to provide Cisco with the complete name and address of each End User either (i) in the Purchase Order issued, or (ii) in writing within five (5) days of receiving a request by Cisco, and other information required under these Terms of Sale or requested by Cisco. Export clearance will ensure utilizing Cisco's general global export licenses or in the case a general global license does not include the listed End User destination, then individual export licenses must be obtained prior to export. Customer accepts any additional delays caused by the export licensing process as well as delays to comply with conditions of the individual export license.
- f. CISCO SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE OR PENALTY FOR DELAY IN DELIVERY OR FOR FAILURE TO GIVE NOTICE OF ANY DELAY. EXCEPT IN ACCORDANCE WITH THE APPLICABLE SHIPPING TERMS SET FORTH IN THESE TERMS OF SALE, CISCO SHALL NOT HAVE ANY LIABILITY IN CONNECTION WITH SHIPMENT, NOR SHALL THE CARRIER BE DEEMED TO BE AN AGENT OF CISCO.
- g. All sales are final. Except as provided in Cisco's warranty statements, Cisco does not accept returns unless (i) Cisco shipped a product other than as specified in the Purchase Order, (ii) such Product is unopened, and (iii) the Product is returned in accordance with Cisco's then current RMA policy and procedures.

6. PAYMENT

Upon and subject to credit approval by Cisco, payment terms shall be thirty (30) days from shipping date. All payments shall be made in the currency of the Price List applicable to the Purchase Order. If at any time Customer is delinquent in the payment of any invoice, or is otherwise in breach of these Terms of Sale, Cisco may, in its discretion, and without prejudice to its other rights, withhold shipment (including partial shipments) of any order, require Customer to prepay for further shipments, and/or withhold the provision of Services, until complete payment has been received. Any sum not paid by Customer when due shall bear interest from the due date until paid at a rate of (i) ten per cent per annum or (ii) the maximum rate permitted by law, whichever is less. Customer grants Cisco a security interest in Products purchased under these Terms of Sale to secure payment for such Products. If requested by Cisco, Customer agrees to execute financing statements to perfect this security interest.

7. PROPRIETARY RIGHTS AND SOFTWARE LICENSING

- a. Subject to Section 7a and the terms of Cisco's End User License Agreement (the "EULA"), Cisco grants to Customer a non-exclusive, non-transferable license (a) to use the Software and Documentation for Customer's internal use, and (b) where Customer is a certified Cisco reseller



or authorized distributor, to market and Resell the Software and related Documentation in the Territory during the term of these Terms of Sale, solely as permitted by Section 2 (Scope) and this Section 7 (Proprietary Rights And Software Licensing) of these Terms of Sale. Any resale of Software or Documentation to any person or entity other than as expressly permitted by Section 2 (Scope) is expressly prohibited. Customer may not sublicense, to any person or entity, any rights to distribute the Software or Documentation.

- b. For non-Cisco Branded products and/or services delivered in connection with these Terms of Sale: (i) third-party software and related documentation is separately licensed by the applicable third party, and Customer's rights and responsibilities with respect to such software or documentation shall be governed in accordance with the third party licensor's applicable software license; (ii) non-Cisco Branded products shall be governed by the applicable third party's product terms; and (iii) non-Cisco Branded services and support shall be governed by the applicable third party's services and support terms. If Customer chooses to order non-Cisco Branded products and/or services, Customer shall enter into one or more separate "click-accept" agreements or other third party agreements as part of the ordering, fulfillment, installation and/or download processes for such non-Cisco branded products and services. For the avoidance of doubt, the third-party supplier of non-Cisco Branded products and services shall be solely responsible for support, warranties, indemnities and other terms and conditions applicable to such products and services. Such agreements shall supersede these Terms of Sale with respect to such non-Cisco Branded products and services.
- c. Where Customer is a certified Cisco Reseller, Customer shall provide a copy of the Cisco EULA and applicable third party license agreement to each end user with delivery of the Product or prior to installation of the Software.
- d. Customer shall notify Cisco promptly of any breach or suspected breach of the Cisco EULA or third party license and further agrees that it will, at Cisco's request, assist Cisco in efforts to preserve Cisco's or its supplier's intellectual property rights including pursuing an action against any breaching third parties.

8. LIMITED WARRANTY

- a. Products. The warranties for Cisco Branded Products may be found at the following URL: <http://www.cisco.com/go/warranty>.
- b. Products. Notwithstanding any other term of these Terms of Sale, Cisco's sole and exclusive warranty and obligations are set forth in Cisco's Limited Warranty Statement delivered with the Cisco Branded Product and this Section 8. Customer shall not make any warranty commitment, whether written or oral, on Cisco's behalf. Customer shall indemnify Cisco against any warranties made in addition to Cisco's standard warranty and for any misrepresentation of Cisco's reputation or of Cisco's Products and Services.
- c. Services. Services provided hereunder shall be performed in a workmanlike manner consistent with industry standards. Customer must notify Cisco promptly, but in no event more than thirty (30) days after completion of the Services, of any claimed breach of this warranty. Customer's sole and exclusive remedy for breach of this warranty shall be, at Cisco's option, re-performance of the Services, or termination of these Terms of Sale or the applicable Service and return of the portion of the Service fees paid to Cisco by Customer for such non-conforming Services. The provision of Services under these Terms of Sale shall not extend the warranties provided with any Hardware purchased or Software licensed by Customer.



- d. **Restrictions.** The limited warranties referenced in this Section 8 do not apply if the Cisco Branded Product (i) has been altered, except by Cisco, (ii) has not been installed, operated, repaired, used or maintained in accordance with instructions made available by Cisco, (iii) has been subjected to abnormal or unusual physical or electrical stress or environmental conditions, misused, or negligently handled or operated; (iv) is acquired by Customer for beta, evaluation, testing, demonstration purposes or other circumstances for which Cisco does not receive a payment of a purchase price or license fee.
- e. Unless otherwise specified in writing by Cisco, the limited warranties referenced in this Section 8 do not apply to any non-Cisco Branded Software or Hardware that may be offered for sale on the Price List in the name of a third party. Non-Cisco Branded Hardware and Software are warranted solely by the applicable manufacturer or licensor. Cisco will pass through, to the extent permitted, the manufacturer's and/or licensor's warranties and Customer shall look solely to such manufacturer and/or licensor for warranty claims.
- f. **DISCLAIMER OF WARRANTY.** EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 8, CISCO HEREBY DISCLAIMS AND CUSTOMER WAIVES ALL REPRESENTATIONS, CONDITIONS AND WARRANTIES (WHETHER EXPRESS, IMPLIED, OR STATUTORY), INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OR CONDITION (A) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, TITLE, SATISFACTORY QUALITY, QUIET ENJOYMENT, ACCURACY, OR SYSTEM INTEGRATION, OR (B) ARISING FROM ANY COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE IN THE INDUSTRY. TO THE EXTENT AN IMPLIED WARRANTY OR CONDITION CANNOT BE DISCLAIMED, SUCH WARRANTY OR CONDITION IS LIMITED IN DURATION TO THE APPLICABLE EXPRESS WARRANTY PERIOD.

9. CONFIDENTIALITY

- a. Customer and Cisco acknowledge that they may each obtain Confidential Information in connection with these Terms of Sale and their relationship. The receiving party shall at all times keep in trust and confidence all such Confidential Information, and may use such Confidential Information solely for the purpose of furtherance of the business relationship between the parties as provided in these Terms of Sale.
- b. Notwithstanding the above, Cisco shall be authorized to disclose Customer's Confidential Information to contractors or employees of a Cisco entity who have a legitimate business need to have access to such information.
- c. Upon termination or expiration of these Terms of Sale (for any reason and at any time), the receiving party shall if so requested, immediately cease use of and return to the disclosing party or destroy all Confidential Information (including all copies thereof) in the receiving party's possession, custody, or control, provided that the receiving party may keep archival copies for regulatory purposes and to enforce its rights and subject to the obligations of confidentiality herein.
- d. This Section 9 shall not apply to information which: (i) has entered the public domain except where such entry is the result of the receiving party's breach of these Terms of Sale; (ii) was rightfully in the receiving party's possession prior to disclosure under these Terms of Sale; or (iii) is obtained by the receiving party on a non-confidential basis from a third party who has the right to disclose such information to the receiving party.



- e. The receiving party will be authorized to disclose Confidential Information as may be required by applicable law pursuant to a valid order issued by a court or government agency or relevant regulatory authority (including a stock exchange), provided that the receiving party provides: (i) prior written notice to the disclosing party of such obligation; and (ii) the opportunity to oppose such disclosure.
- f. Nothing in these Terms of Sale will prohibit either party from developing or having developed for it products, concepts, systems or techniques that are similar to or compete with the products, concepts, systems or techniques contemplated by or embodied in the Confidential Information provided that such party does not violate any of its obligations under these Terms of Sale in connection with such development. In addition, either party shall be free to use for any purpose the residuals resulting from access to or work with such Confidential Information, provided that such party shall maintain the confidentiality of the Confidential Information as provided herein. The term "residuals" means information in non-tangible form which may be retained by persons who have had access to the Confidential Information, including ideas, concepts, know-how or techniques contained therein, provided such Confidential Information is not expressly incorporated in a tangible form provided by the disclosing party.
- g. Neither party shall disclose the terms and conditions of these Terms of Sale without the prior written consent of the other party. Any press release or publication regarding these Terms of Sale is subject to both the prior review and the written approval of both parties.

10. PATENT, COPYRIGHT AND TRADEMARK INFRINGEMENT INDEMNIFICATION

- a. Cisco will defend any claim against Customer that a Cisco-Branded Product or Cisco-Branded Service provided under these Terms of Sale infringes third party patents, copyrights or registered trademarks (the "Claim") and will indemnify Customer against the final judgment entered by a court of competent jurisdiction or any settlements arising out of a Claim.
- b. Customer shall:
 - i. promptly notify Cisco in writing of the Claim (or threat thereof), and any subsequent litigation updates; and
 - ii. cooperate with Cisco in the defense of the Claim (including any statements to third parties regarding the Claim), and grant Cisco full and exclusive control of the defense and settlement of the Claim and any subsequent appeal.

If Customer fails to notify Cisco promptly of the Claim, and that failure prejudices Cisco's ability to defend, settle or respond to the Claim, then Cisco's obligation to defend or indemnify Customer with respect to that Claim will be reduced to the extent Cisco has been prejudiced. In addition, such failure to provide prompt notification shall relieve Cisco of any obligation to reimburse for Customer attorneys' fees incurred prior to notification.

- c. If a Claim is made or appears likely, Customer agrees to permit Cisco to procure for Customer the right to continue using the Cisco-Branded Product and/or Cisco-Branded Service, or to replace or modify the Cisco-Branded Product and/or Cisco-Branded Service with one that is at least functionally equivalent. If Cisco determines that none of those alternatives is reasonably available, then Customer will return the Cisco-Branded Product and Cisco will refund Customer's remaining net book value of the Cisco-Branded Product calculated according to generally accepted accounting principles, or in the case of a claim alleging infringement by a Cisco-Branded Service, Cisco will terminate the infringing Service and refund to Customer a pro rata



portion of the price originally paid by Customer for such Cisco-Branded Service for the remainder of the unexpired term.

- d. Cisco has no obligation for any Claim based on:
 - i. compliance with any designs, specifications, requirements or instructions provided by Customer or a third party on Customer's behalf;
 - ii. modification of a Cisco-Branded Product or Cisco-Branded Service by Customer or a third party;
 - iii. the amount or duration of use made of the Cisco-Branded Product or Cisco-Branded Service, revenue earned through use of the Cisco-Branded Product or Cisco-Branded Service, or services offered through use of the Cisco-Branded Product or Cisco-Branded Service; or
 - iv. combination, operation or use of a Cisco-Branded Product or Cisco-Branded Service with non-Cisco products, software, services or business processes.
- e. This Section states Cisco's entire obligation and Customer's exclusive remedy regarding any claims for intellectual property infringement.

11. TERM AND TERMINATION

- a. These Terms of Sale shall commence on the Effective Date and continue thereafter for a period of one year, unless sooner terminated, as set forth below. These Terms of Sale shall be automatically renewed thereafter, for successive one (1) year periods, unless at least forty-five (45) days prior to the date of any such renewal, either party shall have given written notice to the other of its intention that these Terms of Sale not be renewed. These Terms of Sale shall automatically terminate at the end of the annual period during which such notice is given.
- b. Either party may terminate these Terms of Sale at any time by providing the other party with at least forty-five (45) days' prior written notice of termination.
- c. A party may terminate these Terms of Sale immediately by written notice if (i) the other party ceases or threatens to cease to carry on business as a going concern; or (ii) the other party becomes or is reasonably likely to become subject to voluntary or involuntary proceedings in bankruptcy or liquidation; or (iii) a receiver or similar officer is appointed with respect to the whole or a substantial part of the other party's assets; or (iv) an event similar to any of the foregoing occurs under any applicable law.
- d. If a party breaches any of the provisions of these Terms of Sale, the non-breaching party may terminate these Terms of Sale as follows: (i) immediately upon providing written notice to the breaching party if the breach is not capable of being cured, and (ii) thirty (30) days after providing written notice to the breaching party if the breaching party fails to cure such breach within such thirty (30) day period.
- e. Cisco may terminate these Terms of Sale upon twenty (20) days' written notice in the event it becomes known that (i) Customer or an Affiliate or Customer's direct or indirect parent has acquired or intends to acquire a controlling interest in a third party, or (ii) Customer or its direct or indirect parent is to be acquired by a third party, or (iii) a controlling interest in Customer or its direct or indirect parent is to be transferred to a third party.



- f. Cisco may terminate these Terms of Sale immediately upon written notice in the event that Customer is in breach of Sections 7 (Proprietary Rights and Software Licensing), Section 9 (Confidentiality), or Section 14 (Export, Re-Export, Transfer & Use Controls), or Section 15 (Compliance with Laws, Including Anti-Corruption Laws).
- g. Upon termination or expiration of these Terms of Sale, (a) Cisco reserves the right to cease all further delivery of Product or Services, (b) all outstanding invoices immediately become due and payable by certified or cashier's check, and (c) all rights and licenses of Customer under these Terms of Sale shall terminate, subject to the terms of the last sentence of this paragraph. If Cisco agrees to complete delivery of any further Products or Services due against any existing Purchase Orders then Customer shall pay for such Products or Services in advance by certified or cashier's check. Except for a termination of these Terms of Sale resulting from Customer's breach of Section 7 (Proprietary Rights and Software Licensing), Section 9 (Confidentiality), or Section 14 (Export, Re-Export, Transfer & Use Controls), upon termination or expiration of these Terms of Sale, Customer may continue to use, in accordance with these Terms of Sale, Products provided to it by Cisco prior to the date of termination or expiration.
- h. Upon termination or expiration of these Terms of Sale, Customer shall immediately return to Cisco all Confidential Information (including all copies thereof) then in Customer's possession, custody or control; provided, that except for a termination resulting from Customer's breach of Section 7 (Proprietary Rights and Software Licensing), or Section 14 (Export, Re-Export, Transfer & Use Controls), Customer may retain a sufficient amount of such Confidential Information and material to operate its installed base of Products.
- i. In the event that, following the expiration or termination of these Terms of Sale, Customer places Purchase Orders and Cisco accepts such Purchase Orders, then any such Purchase Orders shall be governed by these Terms of Sale notwithstanding the earlier expiration or termination of these Terms of Sale; provided, however, that acceptance by Cisco of any such Purchase Order will not be considered to be an extension of the term of these Terms of Sale nor a renewal thereof.

12. SERVICES

- a. Customer may place Purchase Orders for the various Services offered by Cisco. Such Services, if accepted by Cisco, shall be subject to these Terms of Sale, as well as the additional terms and conditions set forth in Cisco's then-current applicable Service descriptions that describe the deliverables and other terms applicable to such Services unless an Existing Agreement is in effect in which case the terms of the Existing Agreement shall govern any such Services. Copies of Cisco's Services descriptions may be found at www.cisco.com/go/servicedescriptions/. Cisco reserves the right to subcontract Services to a third party maintenance organization to provide Services to Customer.

13. RECORDS

- a. Customer shall keep full, true, and accurate records and accounts, in accordance with generally-accepted accounting principles, of each Product, Service and Software license purchased, resold, and/or deployed, including information regarding Software usage and export or transfer. Customer shall make such records available for review by or on behalf of Cisco upon fifteen (15) days' prior written notice, during regular business hours, at Customer's principal place of business and shall provide Cisco with reasonable assistance in order to review and secure copies of such records. In the event such review discloses non-compliance with these Terms of Sale, Customer shall promptly pay to Cisco the appropriate license fees, plus the reasonable cost of conducting the review.



- b. Inventory Review. From time-to-time Cisco may perform an inventory review of Customer's installed base of Products and review serial numbers and other records (upon reasonable advance notice) to validate Service entitlement. Cisco will charge a Service fee if it finds that Services are being provided beyond that for which Customer has paid Cisco. This Service fee includes amounts which should have been paid, interest, attorneys' fees, if any, and audit fees. Cisco requires that Customer take all necessary action (for example, disabling passwords) to ensure that any former employees or contractors do not access or use the Services.

14. EXPORT, RE-EXPORT, TRANSFER & USE CONTROLS

Cisco products, technology and Services are subject to U.S. and local export control laws and regulations. The parties shall comply with such laws and regulations governing use, export, re-export and transfer of Products and technology and shall obtain all required U.S. and local authorizations, permits or licenses.

15. COMPLIANCE WITH LAWS, INCLUDING ANTI-CORRUPTION LAWS

- a. Cisco Systems expects and requires that all of its suppliers, subcontractors, channel partners, consultants, agents and other parties with whom Cisco does business ("**Cisco Partners**"), act at all times in a professional and ethical manner in carrying out their services and contractual obligations to Cisco, or on Cisco's behalf to a Cisco customer or other third party. To that end, all Cisco Partners shall:
- i. Comply with all country, federal, state and local laws, ordinances, codes, regulations, rules, policies and procedures, including, but not limited to, anti-corruption laws, such as the U.S. Foreign Corrupt Practices Act ("**Applicable Laws**"). Cisco Partners can find more information about the FCPA at the following URL: <http://www.usdoj.gov/criminal/fraud/fcpa/>, or by contacting publicsectorcompliance@cisco.com;
 - ii. Not take any action or permit the taking of any action by a supplier or third party which may render Cisco liable for a violation of Applicable Laws, including the FCPA;
 - iii. Not use any money or other consideration paid by Cisco for any unlawful purposes, including any purposes violating the FCPA or other Applicable Laws, such as direct or indirect payments, for the purpose of assisting Cisco in obtaining or retaining business, to any of the following:
 - 1. Government officials (including any person holding an executive, legislative, judicial or administrative office, whether elected or appointed, or of any public international organization, such as the United Nations or World Bank, or any person acting in any official capacity for or on behalf of such government, public enterprise or state-owned business);
 - 2. Political parties or party officials;
 - 3. Candidates for political office; or
 - 4. Any person, while knowing that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly, to any of the above-identified persons or organizations.



- iv. Upon request, Cisco's Partners may be required to have their own subcontractors, consultants, agents or representatives execute a similar written anti-corruption compliance statement, and to confirm to Cisco that such action has been taken;
- v. The record-keeping, audit and other related terms and obligations, as set forth in Partners' agreement(s) with Cisco, shall equally apply to their compliance with this policy;
- vi. In no event shall Cisco be obligated under any supplier or third party agreement to take any action or omit to take any action that Cisco believes, in good faith, would cause it to be in violation of the FCPA or other Applicable Laws;
- vii. Cisco retains the right to suspend or terminate any Cisco Partner agreement immediately upon written notice if Cisco believes, in good faith, that such Cisco Partner has breached any elements of this policy, or if the Partner makes a false or fraudulent statement, representation or warranty while carrying out their contractual obligations;
- viii. Cisco's Partners shall immediately report to Cisco any concerns it may have regarding any business practices by any Cisco employee or Cisco Partner by emailing ethics@cisco.com, or by calling Cisco's Helpline toll free number in North America 1-877-571-1700 or worldwide number (reverse calling charges to Cisco) 001-770-776-5611.
- ix. Customer has read and agrees to act consistently with Cisco's Policy re: Compliance with Global Anticorruption Laws by Cisco's Partners", published at http://www.cisco.com/legal/anti_corruption.html (available in English and ten other languages), or by contacting publicsectorcompliance@cisco.com.
- x. Customer shall use its best efforts to regularly inform Cisco of any requirements under any Applicable Laws that directly or indirectly affect these Terms of Sale, the sale, use and distribution of Products or Services, or Cisco's trade name, trademarks or other commercial, industrial or intellectual property interests, including, but not limited to, certification or type approval of the Products from the proper authorities in the Territory;
- xi. Additionally, Customer shall comply, and notify end users of their obligations to comply, with all applicable Cisco published policies, including Software Transfer Policy, Used Equipment Policy, as published by Cisco and as amended from time to time. Customer shall promptly notify Cisco of any failure by any end user to comply with any of the foregoing policies that comes to Customer's attention.

16. LIMITATION AND EXCLUSION OF LIABILITY

- a. Nothing in these Terms of Sale limits or excludes the liability of:
 - i. Either party to the other for:
 - 1. bodily injury or death resulting directly from the negligence of the other party;
 - 2. fraud or fraudulent misrepresentation;
 - 3. a breach of Section 9 (Confidentiality); or
 - 4. any liability that cannot be limited or excluded under applicable law.
 - ii. Customer to Cisco arising out of:



1. Customer's breach of Section 7 (Proprietary Rights and Software Licensing);
 2. Customer's breach of Cisco's EULA; or
 3. Failure to pay any amounts due to Cisco under these Terms of Sale.
- b. Subject to Section 16a above and Section 16c below, each party's total aggregate liability is limited to the money paid to Cisco under these Terms of Sale during the twelve (12) month period prior to the event that first gave rise to such liability.
- c. Subject to Section 16a above, and notwithstanding anything else in these Terms of Sale to the contrary, neither party will be liable for any:
- i. special, incidental, indirect or consequential damages;
 - ii. loss of any of the following: profits, revenue, business, anticipated savings, use of any product or service, opportunity, goodwill or reputation;
 - iii. lost or damaged data; or
 - iv. wasted expenditure (other than any expenditure necessarily incurred to discharge the innocent party's duty or to mitigate its losses).

This limitation of liability applies whether the claims are contract, tort (including negligence), misrepresentation or otherwise. This limitation of liability is in the aggregate and not per incident.

- d. Except for Customer's breach of Cisco's intellectual or proprietary rights, neither party may bring a claim under these Terms of Sale more than 24 months after the event that creates the action or claim.
- e. References in this Section 16 to (a) a **"party"** includes a party's affiliates, officers, directors, employees, agents and suppliers and (b) **"liability"** includes liability arising from contract, tort (including negligence), under any indemnity, strict liability or otherwise, in each case even if a party has been informed of the possibility of that liability. In Section c, references to **"loss"** refers to any and all kinds of loss or damage including, without limitation, any damages, fines, costs, charges, fees or other liability.

17. GENERAL

- a. Choice of Law. The validity, interpretation, and performance of these Terms of Sale shall be governed by and construed under the laws of the State of California, United States of America, as if performed wholly within the state and without giving effect to the principles of conflicts of law.

The Federal District Court, Northern District of California or the Superior Court of Santa Clara County, California shall have exclusive jurisdiction over any claim arising thereunder, provided that either party may seek interim injunctive relief in any court of appropriate jurisdiction with respect to any alleged breach of such party's intellectual property or proprietary rights.

The parties agree that the UN Convention on Contracts for the International Sale of Goods shall not apply to the interpretation or enforcement of these Terms of Sale.



- b. Dispute Resolution. Cisco and Customer agree that any conflict, dispute, controversy, or claim arising out of or relating to these Terms of Sale or the relationship created by these Terms of Sale, including questions of arbitrability, whether sounding in tort or contract (together or individually a “Dispute”), shall be finally resolved in accordance with the following process:
- i. Escalation of Disputes. Subject to Section x below, the parties agree to attempt to resolve each Dispute by first escalating the Dispute to their respective business managers. Within fourteen (14) calendar days of written notice of a Dispute, the business managers will meet in person or by phone and work in good faith to resolve the Dispute.
 - ii. Mandatory, Non-Binding Mediation. Subject to Section x below, if the parties are unable to resolve the Dispute in accordance with Section i above, either party may initiate a mandatory, non-binding mediation. The mediation shall be in accordance with the JAMS mediation procedures then in effect. The JAMS mediation procedures are hereby incorporated by reference into this clause.
 - iii. The parties shall share all fees and costs of the mediation proceedings.
 - iv. All communications made during the course of the mediation by either of the parties or the mediator are intended to be confidential and privileged to the extent permitted by law.
 - v. Binding Arbitration. SUBJECT TO SECTION x BELOW, IF THE PARTIES ARE UNABLE TO RESOLVE THE DISPUTE THROUGH THE MEDIATION PROCESS WITHIN SIXTY (60) CALENDAR DAYS OF THE APPOINTMENT OF THE MEDIATOR, OR SUCH FURTHER PERIOD AS THE PARTIES SHALL AGREE TO IN WRITING, THE DISPUTE SHALL BE REFERRED TO AND FINALLY RESOLVED BY BINDING ARBITRATION UNDER THE JAMS ARBITRATION RULES THEN IN EFFECT, WHICH ARE HEREBY INCORPORATED BY REFERENCE INTO THIS CLAUSE.
 - vi. The arbitration tribunal shall consist of a sole arbitrator, selected in accordance with the JAMS arbitration rules. The arbitrator shall set a limited time period and establish procedures designed to reduce the cost and time for discovery while allowing the parties an adequate opportunity to discover relevant information regarding the subject matter of the Dispute.
 - vii. Cisco shall pay all fees and costs of the arbitration proceedings. After the arbitrator issues the written award, however, the prevailing party may apply to the arbitrator for recovery of all reasonable costs and expenses associated with the arbitration, including, but not limited to, the fees of the arbitrator, administrative fees, and reasonable attorneys’ fees. Such costs and expenses will be awarded at the arbitrator’s discretion.
 - viii. Notwithstanding anything to the contrary, the arbitrator shall exceed his or her powers if the arbitrator awards damages inconsistent with the provisions set forth in Section 16 of these Terms of Sale. The parties irrevocably waive the award of any such damages.
 - ix. The language to be used in the arbitration shall be English.
 - x. Preliminary Relief. At any point after a Dispute has arisen, in the event interim or provisional relief is necessary to protect the rights or property of a party under Section 9 of these Terms of Sale or otherwise prior to the resolution of the Dispute, either party may, without waiving any process or remedy under these Terms of Sale, seek such relief from any court of competent jurisdiction.



- c. Force Majeure. Neither party shall be liable for any delay or failure in non-monetary performance obligations due to a Force Majeure Event. The time for performance of the obligations and rights of the defaulting party shall be extended for a period equal to the duration of the Force Majeure Event.
- d. No Waiver. The waiver by either party of any right provided under these Terms of Sale shall not constitute a subsequent or continuing waiver of such right or of any other right under these Terms of Sale.
- e. Assignment. Neither these Terms of Sale nor any right or obligation under these Terms of Sale shall be assigned by a party without the other's prior written consent, which will not be unreasonably withheld or delayed. Any attempted assignment shall be void and of no effect. Notwithstanding the foregoing, the parties may assign these Terms of Sale and any right or obligation under it without the other's approval, to any Affiliate. Notwithstanding any assignment by Customer, Customer shall remain liable for the payment of all amounts due under these Terms of Sale.
- f. Severability. If one or more terms of these Terms of Sale become or are declared to be illegal or otherwise unenforceable by any court of competent jurisdiction, each such part or term shall be null and void and shall be deemed deleted from these Terms of Sale. All remaining terms of these Terms of Sale shall remain in full force and effect. However, if this paragraph is invoked and, as a result, the value of these Terms of Sale is materially impaired for either party, then the affected party may terminate these Terms of Sale by written notice with immediate effect.
- g. Attorneys' Fees. In any suit or proceeding relating to these Terms of Sale the prevailing party will have the right to recover from the other its costs and reasonable fees and expenses of attorneys, accountants, and other professionals incurred in connection with the suit or proceeding, including costs, fees and expenses upon appeal, separately from and in addition to any other amount included in such judgment. This provision is intended to be severable from the other provisions of these Terms of Sale, and shall survive expiration or termination and shall not be merged into any such judgment.
- h. No Agency. These Terms of Sale do not create any agency, partnership, joint venture, or franchise relationship. No employee of either party shall be or become, or shall be deemed to be or become, an employee of the other party by virtue of the existence or implementation of these Terms of Sale. Each party hereto is an independent contractor. Neither party shall assume or create any obligation of any nature whatsoever on behalf of the other party or bind the other party in any respect whatsoever.
- i. Entire Agreement. These Terms of Sale constitute the complete agreement between the parties concerning the subject matter of these Terms of Sale and replace any prior oral or written communications between the parties except as agreed in writing between the parties. There are no conditions, understandings, agreements, representations or warranties, expressed or implied. These Terms of Sale may only be modified by a written document executed by both parties.
- j. Future Products and Services. For any Products and Services included in the Price List, including Products and Services which become or have become Cisco Products or Services as a result of an acquisition by Cisco of another entity, Cisco may stipulate certification, installation, or training requirements for Customer prior to allowing Customer (if Customer is a certified Cisco reseller) to purchase such Products and Services for resale, and may require on-going fulfillment of some or all of the requirements to retain the right to purchase, license, resell or support such Products and Services. Cisco reserves the right, during the term of these Terms of Sale, to license and distribute additional items of Software. Such items of Software may be licensed



under additional or different license terms which will be made available to Customer at the time such items of Software are ordered by or provided to Customer.

- k. Notices. All notices required or permitted under these Terms of Sale shall be in writing. Notices will be deemed to have been given (i) one day after deposit with a commercial express courier specifying next day delivery; or (ii) two days for international courier packages specifying two-day delivery), with written verification of receipt.

All communications shall be sent to the parties' addresses shown on the first page of these Terms of Sale or to such other address as may be designated from time to time by a party by giving at least 14 days' written notice to the other party.

Notwithstanding the above, notices from Cisco regarding general changes in pricing, Services, policies or programs may also be by posting on Cisco.com (or any other website used by Cisco) or by e-mail or fax.

- l. Survival. The following sections shall survive the expiration or earlier termination of these Terms of Sale: Sections 1 (Definitions) 2 (Scope), 6 (Payment), 7 (Proprietary Rights and Software Licensing), 8 (Limited Warranty), 9 (Confidentiality), 10 (Patent, Copyright and Trademark Infringement Indemnification), 11 (Term and Termination), 13 (Records), 14 (Export, Re-Export, Transfer and Use Controls), 16 (Limitation and Exclusion of Liability), 17 (General), and the license to use the Software in the EULA subject to the termination provisions set forth in Section 11 (Term and Termination) of these Terms of Sale).

- m. Counterparts. These Terms of Sale may be executed in two counterparts, each of which shall be deemed an original and together which shall constitute one and the same instrument. A validly executed counterpart that is delivered by one party to the other via electronic transmission (a "**Counterpart Image**") shall be valid and binding to the same extent as one delivered physically, provided that the valid signature is clearly visible in the Counterpart Image. If a party delivers a Counterpart Image in place of an originally-executed counterpart, such party shall retain the originally-executed counterpart in its files for at least the duration of these Terms of Sale.

Client#: 649698

CONVEACQUI

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/21/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh & McLennan Agency LLC 11330 Lakefield Drive Suite 100 Johns Creek, GA 30097-1508		CONTACT NAME: Ranee Mannion PHONE (A/C, No, Ext): 770-295-1008 FAX (A/C, No): E-MAIL: Ranee.Mannion@MarshMMA.com ADDRESS:															
INSURED Software Information Systems, LLC 165 Barr Street, Suite 100 Lexington, KY 40507		<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A : Hartford Casualty Insurance Company</td> <td>29424</td> </tr> <tr> <td>INSURER B : Hartford Fire Insurance Co.</td> <td>19682</td> </tr> <tr> <td>INSURER C : The Cincinnati Insurance Company</td> <td>10677</td> </tr> <tr> <td>INSURER D : Endurance American Specialty Insurance</td> <td>41718</td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Hartford Casualty Insurance Company	29424	INSURER B : Hartford Fire Insurance Co.	19682	INSURER C : The Cincinnati Insurance Company	10677	INSURER D : Endurance American Specialty Insurance	41718	INSURER E :		INSURER F :	
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INSURER F :																	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:	Y	20UUNPB8809	06/20/2021	06/20/2022	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY		20UUNPB8809	06/20/2021	06/20/2022	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$10000		20RHUPB8432	06/20/2021	06/20/2022	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A	20WEAI4023	06/20/2021	06/20/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
B	Profssnl/Cyber		TE0290799	06/20/2021	06/20/2022	\$10MM per occ/\$10MM agg
D	Profssnl/Cyber		NRX30008071900	06/20/2021	06/20/2022	
C	Crime incl3rdPart		EMP0590511	06/20/2021	06/20/2022	\$5,000,000 per occur

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

(General Liability) Certificate holder included as Additional Insured per form HG 0001(09/16) - General Liability Coverage Form

CERTIFICATE HOLDER

CANCELLATION

State of West Virginia Department
 of Administration Purchasing
 Division
 2019 Washington Street, East
 Charleston, WV 25305-0000

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

PETER J. KRAUSE

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