

**CITY OF ST. PETERSBURG
TECHNOLOGY PURCHASE PIGGYBACK AGREEMENT
FOR PURE STORAGE THROUGH
NASPO MASTER AGREEMENT NUMBER MNWNC-125 /
FLORIDA ALTERNATE CONTRACT SOURCE NO. 43211500-WSCA-15-ACS**

This technology purchase piggyback agreement (as may be amended from time-to-time, the “**Agreement**”) is made between the City of St. Petersburg, a Florida municipal corporation, (the “**City**”) and Pure Storage, Inc., a Delaware corporation, (the “**Contractor**”) for the purchase of certain technology-related goods, services, or intellectual property rights (each a “**Deliverable**”).

1. Components of Agreement. The Agreement consists of this document and the documents listed below, each of which is attached to this Agreement as an exhibit (unless otherwise noted as being incorporated by reference):

- (a) City of St. Petersburg Addendum for Piggyback Purchases of Technology (the “**Addendum**”).
- (b) NASPO Master Agreement number MNWNC-125 between Contractor and State of Minnesota, as incorporated into and amended by the Participating Addendum between Contractor and the State of Florida for Alternate Contract Source No. 43211500-WSCA-15-ACS (collectively and as may be amended from time-to-time, the “**Underlying Contract**”), which is incorporated by reference.

2. Effective date; term. The Agreement is effective when this document has been signed by all parties. If the date established for Contractor’s initial performance predates the date on which this document is signed by all parties, the Agreement is effective retroactive to the date of the Contractor’s initial performance, and that date of that initial performance is deemed the effective date of the Agreement. Otherwise, the date on which the last party signs this document is deemed the effective date of the Agreement. The Agreement will continue in effect until the end of the term established by or pursuant to the Agreement unless (i) terminated on an earlier date in accordance with the Agreement or (ii) renewed in accordance with the terms of the Agreement.

3. Conflict. In the event of a conflict between any documents comprising the Agreement, a document listed higher in section 1 will control over a document that is listed lower.

4. Entire Agreement. The Agreement constitutes the entire agreement between the parties with respect to its subject matter, and it supersedes any previous representation, proposal, or agreement as to its subject matter, whether oral or written.

5. Execution. Any component of the Agreement may be signed in any number of counterparts, each of which is deemed to be an original, and such counterparts collectively constitute a single original copy of the Agreement. Additionally, each party is authorized to sign any component of the Agreement electronically using any method authorized by applicable law and City policy. If a party signs the Agreement but fails to date its signature, the date the City receives the signing party's signature will be deemed to be the date the signing party signed the Agreement.

[SIGNATURE PAGES FOLLOW]

Each party is signing this document on the date stated adjacent to that party's signature.

CITY OF ST. PETERSBURG, FLORIDA

Date: 10/26/2023

By: DocuSigned by:
Stephanie N. Swinson
A145E8759F46477...

Name: Stephanie N. Swinson, Esq.

Title: Director, Procurement & Supply Management

ATTEST

DocuSigned by:

7FFE25B73DCF4B2...

Chandrhava Srinivasa, City Clerk

Approved as to Content and Form

DocuSigned by:

875DDDA8BA664DC...

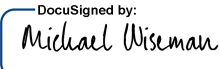
City Attorney (Designee)



[ADDITIONAL SIGNATURE PAGE FOLLOWS]

PURE STORAGE, INC.

Date: 10/26/2023

By: 
0654D9C0191442F...

Name: Michael wiseman

Title: VP, Americas Public Sector Sales

CITY OF ST. PETERSBURG
ADDENDUM FOR PIGGYBACK PURCHASES OF TECHNOLOGY
FOR PURE STORAGE THROUGH
NASPO MASTER AGREEMENT NUMBER MNWNC-125 /
FLORIDA ALTERNATE CONTRACT SOURCE NO. 43211500-WSCA-15-ACS

This City of St. Petersburg Standard Technology Addendum (the “**Addendum**”) addresses certain contractual terms required by Florida law, City Code, or City policy, as follows:

1. Incorporated Terms. For purposes of this Addendum, the following defined terms are incorporated by reference from the document to which this Addendum is attached or incorporated: “**Agreement,**” “**City,**” “**Contractor,**” “**Deliverable,**” and “**Underlying Contract.**”

2. Status of Underlying Contract: The Underlying Contract is used as the basis of the Agreement in a “piggyback” arrangement in accordance with the following:

- (a) The City has determined that the Underlying Contract was made by the Contractor and a federal, state, or local government or agency; consortium; or not-for-profit entity (the “**Government Entity**”) on the basis of a competitive process substantially equivalent to the process set forth in the City’s Procurement Code.
- (b) The City has determined that it is in the best interests of the City to obtain the Deliverables from the Contractor by using the Underlying Contract as the basis of the Agreement in a “piggyback” arrangement pursuant to St. Petersburg City Code subsection 2-219(b).
- (c) The Contractor warrants that it is authorized to utilize the Underlying Contract in such a “piggyback” arrangement.

3. Interpretation of Underlying Contract: For purposes of the Agreement, the Underlying Contract will be interpreted as follows unless doing so would be inconsistent with the purpose of the Agreement:

- (a) Any reference to the “contract,” “agreement,” or equivalent in the Underlying Contract will be interpreted as a reference to the Agreement.
- (b) Any reference to the Government Entity, or to a “customer,” “buyer,” “purchaser,” or equivalent in the Underlying Contract will be interpreted as a reference to the City.
- (c) Any reference to the “vendor,” “contractor,” “manufacturer,” “proposer,” “bidder,” “offeror,” or the equivalent in the Underlying Contract will be interpreted as a reference to the Contractor.

- (d) Any reference to a “party” or the “parties” in the Underlying Contract will be interpreted as a reference to the City, the Contractor, or both, depending on the context.
- (e) Any reference to “legislature,” “council,” “board,” or any legislative body or branch of the Government Entity in the Underlying Contract will be interpreted as a reference to the St. Petersburg City Council.
- (f) Any reference to the “governor,” “mayor,” “administration,” or any executive officer or branch of the Government Entity in the Underlying Contract will be interpreted as a reference to the City Mayor or the Mayor’s administration, depending on the context.

4. If the meaning of any other term in the Underlying Contract would be inconsistent with the purpose of the Agreement, that term will be given a meaning that is consistent with the purpose of the Agreement.

5. **City Forms.** The City may issue standard-form documents for the purpose of exercising its rights under the Agreement (each a “**City Form**”) in accordance with the following:

- (a) The City acknowledges that purchases made under the Agreement will be facilitated by a third party serving as Contractor’s authorized reseller (each a “**Reseller**”).
- (b) The City may issue any number of City Forms, alone or in combination, to exercise any right available to it under the Agreement (e.g., purchasing a Deliverable or renewing or extending the Agreement), and a City Form is subject to the terms of the Agreement regardless of whether that City Form expressly incorporates or refers to the Agreement.
- (c) A City Form may take the form of a blanket purchase agreement, contract purchase agreement, purchase order issued to a Reseller, or any other standard-form document issued by or through a City administrative system or procedure, and it includes any document that is attached or incorporated by reference (e.g., a Reseller’s proposal with descriptions and fees for the specific Deliverables being purchased through that City Form).
- (d) The following provisions in a City Form are void: (i) any provision that is inconsistent with the Addendum and (ii) any provision that would incorporate new terms and conditions through a URL. Otherwise, any provision in a City Form that is inconsistent with the Agreement is effective only with respect to that City Form.

6. **Notice.** Any notice to the City under the Agreement must be delivered in writing to a physical or electronic address explicitly designated in writing by the City for that purpose, and the City may modify such designation from time to time. The City’s initial designation for such notice is City of St. Petersburg, Procurement and Supply Management Department, ATTN: Director, P. O. Box 2842, St. Petersburg, FL 33731.

7. **Invoicing and payment.** The City is obligated to pay a Reseller for performance under the Agreement only if the applicable Reseller has submitted an invoice in accordance with the City's procedures for submission of such an invoice, and the City must be provided with at least 45 days to make payment under each invoice. Additionally, if the Contractor has not satisfied all requirements of the Agreement at the time an invoice is submitted, the City may withhold payment on that invoice until such date as the Contractor has satisfied all requirements of the Agreement and the applicable Reseller has submitted a new invoice that demonstrates correction of each deficiency to the City's satisfaction. During any period in which the City withholds payment pursuant to this section 7, the Contractor shall not terminate, suspend, impair, degrade, or otherwise limit any service or right provided to the City pursuant to the Agreement.

8. **Renewal terms.** The term of the Agreement may be renewed or extended for an additional period of time (each a "**Renewal Term**") only if the City provides written consent to the Renewal Term. Accordingly, any "automatic" renewal or extension of the Agreement that would purport to occur without written consent of the City is void. If a City Form is issued with the intent of continuing the relationship between the parties under the terms of the Agreement, that City Form is effective as written consent to a Renewal Term pursuant to this section, even if it does expressly state that it is a "renewal" or "extension" of the Agreement. Accordingly, at the beginning of each Renewal Term, the Agreement will continue on the same terms that were in effect at the conclusion of the immediately preceding term unless the parties provide express written agreement to amend the terms in conjunction with the issuance of that City Form.

9. **Intellectual property rights.** For purposes of the Agreement, "**Intellectual Property**" includes any copyright, patent right, trademark, trade secret, or other form of intellectual property, regardless of jurisdiction, along with any application, registration, or renewal for any of the foregoing, regardless of jurisdiction. If the Contractor, pursuant to the Agreement, grants, transfers, sublicenses, assigns, or otherwise conveys to the City any license, sublicense, or other right pursuant to which the City may access or use any Deliverable that constitutes or contains Intellectual Property (each a "**Licensed Deliverable**"), the following provisions apply:

- (a) Subject only to a limit on the number of authorized users explicitly stated in the Agreement, any officer, employee, agent, contractor, subcontractor, elected or appointed official, or volunteer of the City has the non-exclusive, right and license to use a Licensed Deliverable in the course of any lawful business or function of the City without the payment of any royalty or fee other than as explicitly stated in the Agreement and without geographic limitation, subject only to those limitations imposed by law or explicitly stated in this Agreement.
- (b) The City may copy any Licensed Deliverable for archival backup, disaster-recovery, or other internal purposes. Such internal purposes include installation of software Deliverable

in non-production environments for testing and configuration purposes. But unless explicitly authorized by the Agreement, the City shall not intentionally (i) remove or modify any markings or notice of the Contractor's proprietary rights to the Licensed Deliverable or (ii) copy, reverse engineer, disassemble, or decompile a Licensed Deliverable that is software.

- (c) The owner of any Licensed Deliverable, whether the Contractor or a third party, retains exclusive ownership of all Intellectual Property contained in that Licensed Deliverable unless otherwise provided for in a document that explicitly transfers ownership of that Licensed Deliverable in whole or in part to the City.

10. City information. With respect to any information, data, or other content that is provided to the Contractor in connection with the Agreement or that is uploaded, submitted, posted, transferred, transmitted, stored, or otherwise made available to or through any Deliverable that is a technology system (collectively "**City Information**"), the Contractor shall use City Information only for the purposes described in the Agreement, and the Contractor acknowledges that the City does not transfer any right of ownership of City Information to the Contractor or to any third party through the City's execution or performance of the Agreement. Furthermore, the Contractor shall not disclose any City Information that is marked or explicitly designated as "confidential" or "proprietary" unless explicitly authorized in writing by the City or required by law. This section 10 survives termination of the Agreement.

11. Security issues. If the Contractor has actual or constructive knowledge of any potential or actual vulnerability, security breach, or unauthorized access to any Deliverable; to any software or technology system provided, maintained, or supported by the Contractor; or to any City Information stored in or processed by such Deliverable, software, or technology system (each, a "**Security Issue**"), the following provisions apply:

- (a) The Contractor shall report the Security Issue to the City and may delay that report only to the extent authorized by law or needed to determine the general nature of the Security Issue and develop recommendations for the City to prevent or mitigate the Security Issue. The Contractor shall not delay that report for purposes of performing any action required under subsection 11(b).
- (b) The Contractor shall remedy the Security Issue in a timely manner and deliver to the City a root cause assessment and future incident mitigation plan with regard to the Security Issue that sets out written details regarding the Contractor's investigation of the Security Issue and, upon the City's written request, provide a second, more in-depth investigation and results of its findings.

- (c) If, before completion of the actions required under subsection 11(b), the Contractor identifies information that would assist the City in mitigating or otherwise responding to the Security Issue, the Contractor shall immediately provide that information to the City unless prohibited by law from doing so.
- (d) The Contractor shall not send notice of any Security Issue to any law enforcement agency, regulatory authority, consumer, or other person or entity for or on behalf of the City unless required to do so by law or explicitly requested to do so in writing by the City. But if the City requests that the Contractor send any such notice, the Contractor shall prepare and send each such notice at its sole expense following review and approval of the notice and distribution list by the City.
- (e) If the City determines that the Security Issue was caused, in whole or in part, by any act or omission of the Contractor, the Contractor shall reimburse the City for any cost or expense incurred by the City in providing notice of the Security Issue in a manner consistent with applicable law, City policy or procedure, or industry best practice.

12. Warranties. The Contractor warrants that each Deliverable will perform in substantial accordance with the corresponding documentation from the date of shipment by the Contractor pursuant to the Contractor's End User Agreement.

13. Third-party terms. If the Agreement incorporates any terms that are dictated by a third party, rather than controlled by the Contractor, (e.g., an end-user license agreement for a software Deliverable owned by a company other than the Contractor) and that third party elects to change any of those terms, the Contractor shall notify the City in writing of each change no more than 10 calendar days after learning of the change. In the 30 calendar days following either receipt of such a notice or the City's independent determination that the third party has elected to make such a change, whichever occurs first, the City may elect to terminate the Agreement without penalty by providing written notice of such termination to the Contractor. No more than 30 calendar days after receiving such notice from the City, the Contractor shall provide the City with a pro rata refund of any amount pre-paid by the City for usage or support of a Deliverable. Such refund does not include any amount paid for initial costs attributable to implementation, setup, training, or a perpetual right to use a Licensed Deliverable.

14. Third-party performance. If a third party provides any Deliverable under the Agreement, in whole or in part, the following provisions apply, regardless of the legal or business relationship between the Contractor and that third party:

- (a) The third party may perform any obligation of the Contractor under the Agreement or perform any action that the Contractor has permission or discretion to take under the Agreement. But the Contractor shall ensure that such performance by the third party fulfills

the requirements of the Agreement in full, and any deviation from the requirements of the Agreement by the third party constitutes a breach of the Agreement by the Contractor.

- (b) If the Contractor is prohibited from taking any action under the Agreement, the Contractor shall ensure that the third party does not take that prohibited action. Accordingly, if the third party takes any action that the Contractor is prohibited from taking, it constitutes a breach of the Agreement by the Contractor.
- (c) Any recital, representation, declaration, statement of fact, warranty, or consent in the Agreement that is made by the Contractor with respect to the third party or with respect to an action to be performed by the third party is deemed to be made by the Contractor for itself and on behalf of the third party. Accordingly, if any such recital, representation, declaration, statement of fact, warranty, or consent is or becomes false or is otherwise not fulfilled by the Contractor or the third party, it constitutes a breach of the Agreement by the Contractor.
- (d) Any breach caused in whole or in part by the third party is deemed to be the sole responsibility of the Contractor for purposes of the Agreement, and the Contractor shall cure such breach in accordance with section 23.
- (e) The Contractor acknowledges (i) that the City may withhold payment on an invoice pursuant to section 7 even if the applicable failure to satisfy a requirement of the Agreement is the fault of the third party, in whole or in part; (ii) that section 9 applies to any license, sublicense, or other right to access or use Intellectual Property that flows from a third party; and (iii) that the Contractor's obligations under section 18 apply to any Claim arising from the action or inaction of the third party as well as any Claim asserted by the third party.

15. Applicable law.

- (a) The Contractor shall comply with all applicable federal, state, and local law in the performance of the Agreement, and the Contractor hereby consents to amendment of any provision of the Agreement that is contrary to any such law to the extent necessary to be permissible under such law.
- (b) By executing, amending, or renewing the Agreement, the Contractor is deemed to have made all certifications required under Florida Statutes section 287.135 at the time of the applicable execution, amendment, or renewal. Additionally, the Contractor acknowledges that the City may terminate the Agreement as provided in Florida Statutes sections 287.135 or 448.095, as each may be amended from time-to-time.

- (c) The Agreement will be interpreted under Florida law. Venue for any action arising out of the Agreement brought in state court shall be in Pinellas County, St. Petersburg Division, and venue for any action arising out of the Agreement brought in federal court shall be in the Middle District of Florida, Tampa Division, unless a division shall be created in St. Petersburg or Pinellas County, in which case the action shall be brought in that division. Each party waives any defense, whether asserted by motion or pleading, that the courts specified in this section are an improper or inconvenient venue. Moreover, the parties consent to the personal jurisdiction of the courts specified in this section and irrevocably waive any objections to said jurisdiction.

16. Public records. With respect to Florida law regarding public records (including Florida Statutes chapter 119, generally, and Florida Statutes subsections 119.0701(2)–(3), specifically):

- (a) The Contractor shall retain each record with respect to the Agreement and make such record open to examination or audit by the City (i) during the term of the Agreement and (ii) after the term of the Agreement for the applicable retention period set forth in the most recent General Records Schedule GS1-SL for Florida State and Local Government Agencies.
- (b) Florida law regarding public records supersedes all other the terms of the Agreement, including any confidentiality provision that would prohibit the City from releasing any record related to the Agreement.
- (c) Nothing in the Agreement allows destruction of any record that must be retained for a longer period of time pursuant to Florida law regarding public records. Accordingly, the City may retain any record related to the Agreement (including any Intellectual Property of the Contractor or any third party) as needed to comply with all applicable law, including Florida law regarding public records.
- (d) **IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, AS TO CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTRACTOR SHALL CONTACT THE CITY CLERK’S OFFICE (THE CUSTODIAN OF PUBLIC RECORDS) AT 727-893-7448, CITY.CLERK@STPETE.ORG, OR 175 FIFTH ST. N., ST. PETERSBURG, FL 33701.**

17. Non-Appropriation. Notwithstanding anything in the Agreement to the contrary, the obligation of the City as to any payment or funding required pursuant to the Agreement (including any acceleration of payment or penalty resulting from termination of the Agreement before the end of the then-current term) shall be limited to an obligation in any given year to budget, appropriate, and pay from legally available funds, after monies for essential city services have been budgeted and appropriated, sufficient monies for the funding that is required during that year. Notwithstanding the foregoing, the City shall not be prohibited from pledging any legally available non-avalorem revenues for any obligations heretofore or hereafter incurred, which pledge shall be prior and superior to any obligation of the City pursuant to the Agreement.

18. Indemnity. The Contractor shall defend at its expense, pay on behalf of, hold harmless, and indemnify the City, its officers, employees, agents, elected and appointed officials, and volunteers (collectively, “**Indemnified Parties**”) from and against any and all claims, demands, liens, liabilities, penalties, fines, fees, judgments, losses, and damages (collectively, “**Claims**”), whether or not a lawsuit is filed, including, but not limited to Claims for damage to property or bodily or personal injuries, including death at any time resulting therefrom, sustained by any persons or entities, and costs, expenses, and attorneys’ and experts’ fees at trial and on appeal, which Claims are alleged or claimed to have arisen out of or in connection with, in whole or in part, directly or indirectly, the Agreement. The provisions of this section 18 (i) are independent of and are not limited by any insurance obtained by Contractor pursuant to the Agreement or otherwise and (ii) survive the expiration or earlier termination of the Agreement with respect to any Claims arising out of or in connection with any event occurring prior to such expiration or termination.

19. Insurance coverage. The Contractor shall carry the following types and amounts of insurance coverage at its own expense and shall, upon request, provide the City with proof of all such coverage on a certificate of insurance on a standard ACORD form:

- (a) Commercial general liability insurance in an amount of at least \$1,000,000 per occurrence, \$2,000,000 aggregate in occurrences form. This policy must include coverage for (i) bodily injury; (ii) property damage; (iii) personal and advertising injury; (iv) products and completed operations; and (v) contractual liability under the Agreement. Such contractual liability coverage must provide and pay for a defense for all claims or demands covered by the Contractor’s indemnification obligations under the Agreement and have an amount sufficient to cover the Contractor’s obligations under section 18.
- (b) Cyber liability insurance in an amount of at least \$1,000,000 per occurrence. This policy must include coverage for (i) security and privacy liability, including privacy breach response costs, regulatory fines and penalties, and cyber extortion; (ii) media liability, including infringement of copyright, trademark, and trade dress; and (iii) errors and omissions in any Deliverable.

- (c) Workers' Compensation insurance as required by applicable law and Employers' Liability Insurance in an amount of at least \$100,000 each accident, \$100,000 per employee, and \$500,000 for diseases.
- (d) Any other insurance coverage (i) that is required under applicable law; (ii) that would be reasonably associated with the provision of the Deliverables; or (iii) that is actually carried by the Contractor, even if such coverage is broader in scope or has greater limits than those stated elsewhere in this section 19.

20. Insurance standards. With respect to all insurance coverage required by section 19: (a) all policies other than workers' compensation must name the Indemnified Parties as additional insured; (b) all coverage must be provided by a responsible insurer licensed in the State of Florida and rated at least A- in the then-current edition of AM Best's Rating Services; (c) if any coverage is made on a "claims made" basis, such coverage must include the retro date of coverage; (d) with respect to all coverage, Contractor hereby waives all subrogation rights of its insurance carriers in favor of the Indemnified Parties; and (e) all coverage must be made on a primary and noncontributory basis.

21. Force Majeure. If either party to the Agreement is delayed, hindered, or prevented from the performance required under the Agreement by reason of strike, lockout, labor trouble, power failure, riot, insurrection, war, act of God, public health emergency, or other similar event that is not the fault of the party delayed, hindered, or prevented from that performance (each a "**Permitted Delay**"), that party (the "**Delayed Party**") is excused from performance under the Agreement for the period of time equivalent to the delay caused by that Permitted Delay if that Delayed Party requests an extension from the other party in the 10 calendar days following the date on which the Delayed Party had actual or constructive knowledge of the Permitted Delay.

22. City liability. To the extent permitted under applicable law, the City accepts no liability, responsibility, or indemnity obligation for any third-party claim or damage arising out of or in connection with the Agreement or the possession or use of any Deliverable. Nothing in the Agreement is intended to serve as a waiver of sovereign immunity by the City or acceptance by the City of any liability in excess of limits provided to the City under applicable law.

23. Dispute resolution. Notice of any alleged breach of the Agreement by the City must be delivered to the City in writing and provide the City with at least 30 calendar days to cure that alleged breach. During any such cure period, the Contractor shall not terminate, suspend, impair, degrade, or otherwise limit any service or right provided to the City pursuant to the Agreement. Additionally, the City does not (a) consent to mandatory arbitration or mediation; (b) consent to any limit on the amount of Contractor's liability under the Agreement or any exception to Contractor's obligations under section 18; (c) consent to any cure period for breach of the Agreement

by the Contractor that would exceed 30 days without express written consent of the City; or (d) waive any remedy available to the City in law or equity.

24. Assignment. The Agreement may not be assigned or transferred by either party without the prior written consent of the other party, and any purported attempt to assign or transfer the Agreement in violation of this provision is void.

25. Amendment. No amendment or termination of the Agreement is effective without mutual written consent of the parties. Accordingly, no click-through, click-wrap, browse-wrap, or other contractual provision presented by or through a Deliverable as a condition of installation or use may serve as an amendment to the Agreement, and this Addendum supersedes any such provision with respect to the City and with respect to any person who uses the applicable Deliverable pursuant to the Agreement.