

AN ORDINANCE TO AUTHORIZE AN INSTALLMENT PAYMENT AGREEMENT AND A SECURITY AGREEMENT WITH VAR RESOURCES, LLC, D/B/A VAR TECHNOLOGY FINANCE, TO FINANCE THE PROCUREMENT OF CERTAIN COMPUTER HARDWARE AND SOFTWARE.

#4196

Sponsors:

**Council
President
Gregory**

**Council
Member
Freel**

WHEREAS, pursuant to Section 2-308 and Section 8-200 of the City Charter, the City of Wilmington is authorized to enter into contracts for the supply of property or the rendering of services for more than a period of one year if approved by City Council by Ordinance; and

WHEREAS, the City desires to enter into an Installment Payment Agreement and a Security Agreement ("the Agreements") with VAR Resources, LLC, d/b/a VAR Technology Finance ("VAR"), to finance the procurement of certain hardware and software to upgrade the City's integrated technology services; and

WHEREAS, the terms of the Agreements are for a period of five (5) years beginning upon the execution thereof at a total price of One Million One Hundred Eight Thousand Ninety Eight Dollars and Sixty Three cents (\$1,108,098.63), to be paid in five (5) equal annual installments of Two Hundred Twenty One Thousand Six Hundred Nineteen Dollars and Seventy Three Cents (\$221,619.73) each; and

WHEREAS, it is the recommendation of the Division of Integrated Technologies, Office of the Mayor, that the City enter into the Agreements with VAR, copies of which, in substantial form, are attached hereto and incorporated by reference as Exhibit "A".

THE COUNCIL OF THE CITY OF WILMINGTON HEREBY

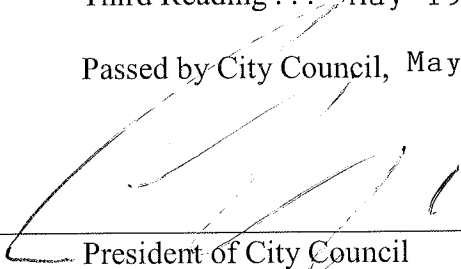
ORDAINS:

SECTION 1. The Installment Payment Agreement and the Security Agreement (“the Agreements”) with VAR Resources, LLC, d/b/a VAR Technology Finance (“VAR”), to finance the procurement of certain hardware and software to upgrade the City’s integrated technology services, copies of which, in substantial form, are attached hereto as Exhibit “A”, for a period of five (5) years beginning upon the execution thereof at a total price of One Million One Hundred Eight Thousand Ninety Eight Dollars and Sixty Three Cents (\$1,108,098.63), to be paid in five (5) equal annual installments of Two Hundred Twenty One Thousand Six Hundred Nineteen Dollars and Seventy Three Cents (\$221,619.73) each, are hereby approved, and the Mayor and the City Clerk are hereby authorized to execute as many copies of said agreements, as well as all additional undertakings related thereto, as may be necessary.

SECTION 2. This Ordinance shall be effective upon its passage by City Council and approval of the Mayor.

First Reading April 7, 2016
Second Reading.....April 7, 2016
Third Reading May 19, 2016

Passed by City Council, May 19, 2016



President of City Council

ATTEST: Maribel Seijo
City Clerk

Approved as to form this
6th day of April 2016

Mark J Pilnick
First Assistant City Solicitor

Approved this 26 day of
May, 2016

Deann P. Williams
Mayor

SYNOPSIS: This Ordinance authorizes the City to enter into an Installment Payment Agreement and a Security Agreement (“the Agreements”) with VAR Resources, LLC, d/b/a VAR Technology Finance (“VAR”), to finance the procurement of certain hardware and software to upgrade the City’s integrated technology services, for a period of five (5) years beginning upon the execution thereof at a total price of One Million One Hundred Eight Thousand Ninety Eight Dollars and Sixty Three Cents (\$1,108,098.63), to be paid in five (5) equal annual installments of Two Hundred Twenty One Thousand Six Hundred Nineteen Dollars and Seventy Three Cents (\$221,619.73) each.

IMPACT STATEMENT

This Ordinance authorizes the City to enter into an Installment Payment Agreement and a Security Agreement ("the Agreements") with VAR Resources, LLC, d/b/a VAR Technology Finance ("VAR"), to finance the procurement of certain hardware and software to upgrade the City's integrated technology services, for a period of five (5) years beginning upon the execution thereof at a total price of One Million One Hundred Eight Thousand Ninety Eight Dollars and Sixty Three Cents (\$1,108,098.63), to be paid in five (5) equal annual installments of Two Hundred Twenty One Thousand Six Hundred Nineteen Dollars and Seventy Three Cents (\$221,619.73) each.

Installment Payment Agreement

IPA Number: _____

Customer – Use EXACT registered name if a corp., LLC or LP City of Wilmington	Customer’s Chief Executive Office – Street 800 N French St			City Wilmington
Customer’s “d/b/a” (doing-business-as name), if any:	State DE	County	Zip Code 19801-3590	Customer’s Telephone 302-576-2100
Licensor and Supplier Name(s) & Address(es): NetApp, Juniper, Citrix				
Description of software license agreement(s), subscription agreement(s) or other agreement(s) under which Customer is obligated to pay the License Fee: SEE ATTACHED SCHEDULE "A"				

Recitals: The above-referenced customer (the "Customer") is entering into one or more license, subscription and/or product agreements (each a "Product Agreement") with the above-referenced licensor(s) and/or supplier(s) (each a "Supplier") pursuant to which Customer shall have the right to use the software, goods and/or other products referenced therein and/or receive certain services covered under the Product Agreement(s) (collectively, the "Software Products"). Pursuant to the terms of the Product Agreement(s), Customer is obligated to pay to the Supplier(s) the License Fee amount set forth below on account of the Software Products. Customer has chosen to finance the License Fee through VAR Technology Finance ("Payee") over a period of time instead of paying the License Fee in cash presently. Customer and Payee now desire to set forth their agreements relating to the above-described payment arrangement in this installment payment agreement (this "IPA"). Now, therefore, in consideration of the mutual promises and undertakings of Payee and Customer as set forth below, and for other good and valuable consideration, Customer and Payee hereby agree as follows:

1. Funding Authorization: Payments: By Customer's execution of this IPA (the "Effective Date"), Customer hereby requests Payee to pay to the Supplier(s) an amount necessary to satisfy Customer's License Fee obligations to the Supplier(s). Customer acknowledges that the amount so remitted by Payee to the Supplier(s) may be net of any discounts or other financial arrangements or accommodations granted by the Supplier(s) to the Payee, with any such discount, financial arrangement or accommodation reflected in the Periodic Payment.

As of the Effective Date, Customer hereby unconditionally agrees to pay to the order of Payee at such place as may be designated by Payee from time to time, the Periodic Payments in the amounts and pursuant to the payment schedule set forth below. In addition, Customer agrees to pay a per-diem charge (based on the Periodic Payment amount prorated based on a 30 day month) as reasonably calculated by Payee for the period from the Effective Date through the day preceding the commencement of the Term. If requested by Payee, Customer agrees to sign and return a certificate of acceptance with respect to the Software Products. In addition, Customer shall pay to Payee, as invoiced by Payee, a one-time origination fee in the amount set forth below (the "Origination Fee"). The Periodic Payments shown below are exclusive of taxes. Customer shall be solely responsible for the payment of all applicable fees, taxes and governmental charges, of any nature, imposed upon or relating to any of the Software Products.

TRANSACTION DETAILS AND PAYMENT SCHEDULE: Zero payments in advance

"License Fee" owed under Product Agreement(s): \$1,108,098.63	Amount of each payment (a "Periodic Payment"): \$221,619.73
Term of IPA (the "Term"): 60 months, 30 days deferral	Date first Periodic Payment is due: 30 days after commencement
Date Term begins:	Payment Frequency: <input type="checkbox"/> monthly <input type="checkbox"/> quarterly <input checked="" type="checkbox"/> yearly <input type="checkbox"/> other:
Origination Fee: \$75.00	Total number of Periodic Payments: 5

In the event Customer pays any Periodic Payment in whole or in part prior to the due date thereof, Customer agrees that the entire amount paid will be applied by Payee to the next-due installment(s). This IPA is non-cancelable for the full Term and cannot be terminated prior to the expiration of the full Term.

If Payee does not receive a payment in full on or before its due date, then Customer shall pay a late fee equal to the greater of 10% of the amount that is late or \$29.00 (or the highest amount permitted by law if less). If any check or draft is returned or dishonored, Customer shall pay Payee a fee of \$20.00. Customer agrees that the fees set forth in this IPA may include a profit.

2. Customer Representations and Acknowledgements. Customer hereby represents and warrants to Payee that: (i) the statements set forth in the "Recitals" section above are true and correct; (ii) this IPA has been duly authorized, executed and delivered by Customer and constitutes a legal, valid and binding obligation of Customer enforceable against Customer in accordance with its terms, except as enforcement may be limited by bankruptcy or other insolvency-related laws; (iii) the execution, delivery and performance of this IPA will not violate or create a default under any law, regulation, judgment, order, instrument, agreement or organizational document binding on Customer; (iv) any and all information furnished to Payee by or on behalf of Customer is true and correct in all material respects; and (v) Customer has entered into this IPA solely for commercial purposes and not for personal, family or household purposes.

Customer hereby acknowledges and agrees that: (a) this IPA constitutes a discreet financing agreement, and is separate and distinct from the Product Agreement(s); (b) no breach by any Supplier under a Product Agreement shall relieve Customer of its obligations under this IPA; (c) Customer selected each Supplier and the Software Products and negotiated the License Fee based on Customer's own judgment and expressly disclaims any reliance on statements made by Payee or its agents; (d) Customer's obligations hereunder are absolute, unconditional and irrevocable despite any failure of, or Customer's dissatisfaction with, any of the Software Products; and (e) Customer's obligation to make the Periodic Payments under this IPA shall not be subject to any abatement, setoff, claim, counterclaim, adjustment, reduction or defense of any kind.

3. No Warranties by Payee. PAYEE MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, CONCERNING THE SOFTWARE OR ANY SERVICES, GOODS OR OTHER PRODUCTS COVERED BY THE PRODUCT AGREEMENT(S), INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY. CUSTOMER WAIVES ANY CLAIM (INCLUDING ANY CLAIM BASED ON STRICT OR ABSOLUTE LIABILITY IN TORT) THAT IT MAY HAVE AGAINST PAYEE FOR ANY LOSS, DAMAGE (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, LOSS OF DATA OR SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGE) OR EXPENSE CAUSED BY THE SOFTWARE OR ANY SERVICES, GOODS OR OTHER PRODUCTS COVERED BY THE PRODUCT AGREEMENT(S), EVEN IF PAYEE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE, LOSS, EXPENSE OR COST. CUSTOMER ACKNOWLEDGES THAT PAYEE DID NOT MANUFACTURE, DISTRIBUTE OR LICENSE THE SOFTWARE, GOODS OR OTHER PRODUCTS COVERED BY THE PRODUCT AGREEMENT(S). CUSTOMER'S OBLIGATIONS UNDER THIS IPA ARE COMPLETELY INDEPENDENT OF THE DELIVERY, PERFORMANCE OR QUALITY OF THE SOFTWARE OR ANY SERVICES, GOODS OR OTHER PRODUCTS COVERED BY THE PRODUCT AGREEMENT(S).

4. Transfer of Software Products. In consideration of and to secure Customer's full and timely payment of its obligations hereunder, Customer hereby irrevocably transfers and assigns to Payee all of Customer's rights and interests (but not any of Customer's obligations) in, to and under the Product Agreement(s), including all of Customer's rights to use and/or receive the Software Products, and to suspend, cancel and/or terminate Customer's license for any software, goods or other products and rights to receive any services included in such Software Products. This is a present grant to Payee, but may be acted upon by Payee only after an Event of Default. Customer and Payee each acknowledge that Payee's rights to use and receive the Software Products may be subject to the provisions of the related Product Agreement and rights of the Supplier thereunder, but, as between Customer and Payee, after an Event of Default and upon Payee's written exercise of its rights hereunder, there shall be a total relinquishment of Customer's rights in the Software Products to Payee. Payee's rights under this Section 4 shall be referred to as the "Transfer of Rights".

5. Events of Default. Each of the following shall constitute a default (each an "Event of Default") hereunder: (a) the Customer's failure to make any payment or other amount due hereunder when due; (b) the occurrence of an event of default as defined in any other note or agreement now existing or hereafter entered into between Customer and Payee; (c) Customer or any guarantor or surety of Customer's obligations under this IPA (each, a "Guarantor") shall cease doing business as a going concern or become insolvent or make an assignment for the benefit of creditors, or a trustee or receiver is appointed for Customer or any Guarantor or for a substantial part of Customer's or any Guarantor's assets, or bankruptcy, reorganization or insolvency proceedings are instituted by or against Customer or any Guarantor; (d) any representation or warranty made by Customer or any Guarantor proves to be false or misleading in any material respect when made, (e) Customer consolidates with or merges into or with any other entity, or sells, transfers leases or otherwise disposes of all or substantially all of Customer's assets to any person or entity without Payee's prior written consent, and/or (f) Customer's license to use any software component of the Software Products is canceled, terminated, suspended or materially restricted or limited.

6. Payee Remedies. Upon the occurrence of an Event of Default, Payee may do any one or more of the following as it may elect: (A) require Customer to pay to Payee, on demand, an amount equal to the sum of (i) all Periodic Payments and other fees and charges then due and past due, if any, (ii) all Periodic Payments to become due in the future through the remainder of the Term, discounted (if applicable) to present value calculated using the simple interest method and a per annum rate equal to 3% (or the lowest rate permitted by law, if higher), and (iii) interest on the amounts specified in clauses "i" and "ii" at the rate of 1.5% per month (or the maximum amount permitted by law if less) from the date of demand to the date paid, (B) cancel, terminate, suspend or cause the cancellation, termination and/or suspension of all licenses for Software Products granted to Customer, and cancel, terminate, suspend or withhold or cause the cancellation, termination, suspension or withholding of Software Products, (C) exercise any rights under any Product Agreement which have been granted to Payee by a Supplier, (D) exercise the Transfer of Rights in Software Products as provided in Section 4 above, (E) render the Software unusable by requiring Customer to remove the Software from any computer or other equipment, (F) exercise any other remedy available to Payee under any security agreement securing this IPA, and/or (G) exercise any other remedy available to Payee at law or in equity. Upon Payee's instructions after an Event of Default, Customer agrees to immediately cease using the Software Products, to deinstall and delete all copies of licensed Software Products from any computer systems owned or controlled by Customer or used for Customer's benefit, destroy all written manuals and materials provided with the Software Products, and provide Payee with a certificate signed by a Customer officer who is responsible for Customer's information systems, attesting to such cessation of use and maintenance, deinstallation, deletion, delivery and destruction. Payee or its designees will have full and unrestricted access to Customer's records, computer systems, service provider systems (if any) and facilities to verify Customer's cessation of use, deinstallation, deletion and destruction. Payee's remedies hereunder are cumulative and non-exclusive, may be exercised concurrently or successively, and may be specifically enforced. Customer agrees to pay all costs of collection and enforcement of this IPA, including, without limitation, reasonable attorneys' fees, court costs and other reasonable expenses relating directly or indirectly to collection and enforcement. No delay or omission by Payee in its exercise of any right hereunder shall operate as a waiver thereof.

7. Assignment. Customer shall not assign or delegate its obligations under this IPA, and any such assignment or delegation shall be invalid and of no effect. Payee may, without notice to Customer, sell, assign or otherwise transfer its interests in this IPA, in whole or in part, to a third party (a "New Owner"), in which case the New Owner will, to the extent of such sale, assignment or transfer, have all of Payee's rights and benefits hereunder but will not have to perform any of Payee's obligations (if any). If Payee assigns this IPA, Customer further acknowledges and agrees that (i) Customer will not assert against the New Owner any claim, defense or offset that Customer may have against Payee or any predecessor in interest, (ii) neither the Payee nor any Supplier are agents of the New Owner, (iii) the New Owner shall not be responsible for the obligations of any Supplier under a Product Agreement, (iv) no statement, representation or warranty by the Payee or any Supplier is binding on the New Owner; and (v) neither the Payee nor any Supplier has any authority to waive or alter any term of this IPA.

8. Enforcement. This IPA shall be governed by, enforced and construed in accordance with the laws of the state of Our principal place of business or, if We assign this IPA to an Assignee, the laws of the state of the Assignee's principal place of business, and any dispute concerning this IPA shall be adjudicated in a federal or state court in such state or in any other court or courts having jurisdiction over You or Your assets, all at the sole election of Us or Our Assignee. You hereby irrevocably submit generally and unconditionally to the jurisdiction of any such court so elected by Us or an Assignee in relation to such matters and irrevocably waive any defense of an inconvenient forum to the maintenance of any such action or proceeding. **YOU AND WE EACH HEREBY WAIVE YOUR AND OUR RESPECTIVE RIGHTS TO A TRIAL BY JURY IN ANY LEGAL ACTION ARISING FROM OR RELATED TO THIS IPA.** If any amount charged or collected under this IPA is greater than the amount allowed by law, then any excess amount charged but not yet paid, will be waived by Us and any such excess amount collected will be refunded to You or applied to any other amount then due hereunder. Each provision hereof shall be interpreted to the maximum extent possible to be enforceable under applicable law. If any provision is construed to be unenforceable, such provision shall be ineffective only to the extent of such unenforceability without invalidating the remainder hereof.

9. Miscellaneous. Time is of the essence in the payment of the Periodic Payments due hereunder. The parties agree that this IPA constitutes the complete and exclusive agreement between Customer and Payee regarding the financing described herein and shall supersede any inconsistent terms set forth in any other agreement and all prior oral and written understandings. No term of this IPA may be amended, waived, discharged or terminated except by a written instrument signed by Customer and Payee. Customer shall furnish Payee with current financial statements upon request from Payee. This IPA may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute the same document; provided, however, only the counterpart which is marked "Original" and is in Our possession shall constitute chattel paper under the UCC. You acknowledge that You have received a copy of this IPA and agree that a facsimile or other copy containing Your faxed, copied or electronically transmitted signature may be treated as an original and will be admissible as evidence of this IPA. You waive notice of receipt of a copy of this IPA with Our original signature.

Customer: <u>City of Wilmington</u>	Payee: VAR Technology Finance
By: <input checked="" type="checkbox"/> _____	By: <input checked="" type="checkbox"/> _____
Date: ____ / ____ / ____	_____
Print name: _____	Print name: _____
Title: _____	_____
_____	Date: ____ / ____ / ____



Schedule A

City of Wilmington

City Of Wilmington - 800 N French St, Wilmington, DE 19801-3590

Quantity	Manufacturer	Description
1	NetApp	FAS8020-R6
1	NetApp	FAS8020 HIGH AVAILABILITY SYSTEM ; Model: FAS8020A
1		CHASSIS,FAS8020,AC PS,-C ; Model: FAS8020A
2		CABLE,CNTRLR-SHELF/SWITCH,2M,LC/LC,OP,-C ; Model: FAS8020A
2		CABLE,DIRECT ATTACH CU SFP+ 10G,0.5M,-C ; Model: FAS8020A
2	NetApp	HBA,4-PORT SAS 3/6/12GBPS QSFP PCIE,-C ; Model: FAS8020A
1		RACKMOUNT KIT,4N2,DS14-MIDDLE,-C,R6 ; Model: FAS8020A
2	NetApp	SFP+ OPTICAL,10GB SHORTWAVE,-C ; Model: FAS8020A
1		DOCUMENTS,8020,-C ; Model: FAS8020A
1		POWER CABLE,IN-CABINET,C13-C14,-C ; Model: FAS8020A
1	NetApp	FAS8040-R6
1	NetApp	FAS8040 HIGH AVAILABILITY SYSTEM ; Model: FAS8040A
1		CHASSIS,FAS8040/60/80 W/CNTRL SLOTS,AC PS,-C ; Model: FAS8040A
4		CABLE,CNTRLR-SHELF/SWITCH,5M,LC/LC,OP,-C ; Model: FAS8040A
2		CABLE,DIRECT ATTACH CU SFP+ 10G,0.5M,-C ; Model: FAS8040A
2	NetApp	HBA,4-PORT SAS 3/6/12GBPS QSFP PCIE,-C ; Model: FAS8040A
1		RACKMOUNT KIT,4N2,DS14-MIDDLE,-C,R6 ; Model: FAS8040A
4	NetApp	SFP+ OPTICAL,10GB SHORTWAVE,-C ; Model: FAS8040A
1		DOCUMENTS,80XX,-C ; Model: FAS8040A
1	NetApp	FLASH CACHE 512GB PCIE MODULE 2,-C ; Model: FAS8040A
1		POWER CABLE,IN-CABINET,C13-C14,-C ; Model: FAS8040A
1	NetApp	DSK SHLF,24X3.0TB,7.2K,6G,QS
1	NetApp	DS424X-R6
1		RAIL KIT III,CABINET
1		HARDWARE KIT,ADD-ON PERIPHERAL,CABINET,R6
2		POWER CABLE,IN-CABINET,C13-C14
4		CABLE,SAS CNTRLR-SHELF/SHELF-SHELF/HA,2M
1		CABLE,ETHERNET,0.5M RJ45 CAT6
2		CABLE,ETHERNET,2M RJ45 CAT6
1	NetApp	DSK SHLF,24X3.0TB,7.2K,6G,QS
1	NetApp	DS424X-R6
1		RAIL KIT III,CABINET
1		HARDWARE KIT,ADD-ON PERIPHERAL,CABINET,R6
2		POWER CABLE,IN-CABINET,C13-C14
4		CABLE,SAS CNTRLR-SHELF/SHELF-SHELF/HA,2M
1		CABLE,ETHERNET,0.5M RJ45 CAT6
2		CABLE,ETHERNET,2M RJ45 CAT6
1440	NetApp	OS ENABLE,PER-0.1TB,ONTAP,CAP-STOR,0P,-C ; Model: FAS8020A
2	NetApp	SW-2,PREMIUM BNDL,8020A,-C ; Model: FAS8020A
1440	NetApp	OS ENABLE,PER-0.1TB,ONTAP,CAP-STOR,0P,-C ; Model: FAS8040A

2	NetApp	SW-2,PREMIUM BNDL,8040A,-C ; Model: FAS8040A
1	NetApp	SW-2,BASE,CL,NODE ; Model: FAS8020A
1	NetApp	SW-2,BASE,CL,NODE ; Model: FAS8040A
720	NetApp	OS ENABLE,PER-0.1TB,ONTAP,CAP-STOR,0P,QS
720	NetApp	OS ENABLE,PER-0.1TB,ONTAP,CAP-STOR,0P,QS
1		SUPPORTEDEDGE PREMIUM 4HR ONSITE,VA Service Months: 60.0; Model: FAS8020A
1		SUPPORTEDEDGE PREMIUM 4HR ONSITE,VA Service Months: 60.0; Model: FAS8040A
1		SUPPORTEDEDGE PREMIUM 4HR ONSITE,VA Service Months: 36.0
1		SUPPORTEDEDGE PREMIUM 4HR ONSITE,VA Service Months: 36.0
1		SUPPORTEDEDGE PREMIUM 4HR ONSITE,VA Service Months: 36.0; Serial #: 7.00001E+11; Model: Shelf Only
1		SUPPORTEDEDGE PREMIUM 4HR ONSITE,VA Service Months: 36.0; Serial #: 7.00001E+11; Model: Shelf Only
1		SUPPORTEDEDGE PREMIUM 4HR ONSITE,VA Service Months: 21.0; Serial #: 7.00001E+11; Model: Shelf Only
1		SUPPORTEDEDGE PREMIUM 4HR ONSITE,VA Service Months: 21.0; Serial #: 7.00001E+11; Model: Shelf Only
9776		CMODE READY CUSTOM
2		PS STD DAILY CONSULTANT, ZA
16		PS STD DAILY CONSULTANT, ZA
120		TRAINING UNITS,1,ZA
37		EX4300, 48-port 10/100/1000BaseT PoE-plus (includes 1 PSU JPSU-1100-AC-AFO that provides 950W PoE+ power; 40GE QSFP+ to be ordered separately for virtual chassis connections; optics sold separately)
37		Power Cord, AC, US/Canada, C15M, 13A/125V, 2.5m, Straight Nema N5-15 to straight high temp C15M
37		EX4300 4-port 1GbE/10GbE SFP+ Uplink Module for EX4300-24T, EX4300-48T, EX4300-48T-AFI, EX4300-24P, EX4300-48P, EX4300-48T-DC and EX4300-48T-DC-AFI
37		EX 4300 1,100W AC Power Supply; Front-to-Back Airflow(power cord needs to be ordered separately)
37		Juniper Care Core Support for EX4300-48P
4		QFX5100, 48 100M/1G/10G RJ-45 ports, 6 QSFP+ ports, dual SFP/RJ45 mgmt, redundant fans, 2 AC power supplies, front to back airflow
4		Juniper Care Core Support for QFX5100-48T
2		EX4600, 24 SFP+/SFP ports, 4 QSFP+ ports, 2 expansion slots, redundant fans, 2 AC power supplies, front to back airflow
2		4 QSFP+ ports expansion module for QFX5100-24Q, QFX5100-24Q-AA, EX4600
2		4 QSFP+ ports expansion module for QFX5100-24Q, QFX5100-24Q-AA, EX4600
2		Juniper Care Core Support for EX4600-40F
3		EX4300, 48-port 10/100/1000BaseT (includes 1 PSU JPSU-350-AC-AFO; 40GE QSFP+ to be ordered separately for virtual chassis connections; optics sold separately)
3		AC Power Cable, US (13A/125V, 2.5meter)
3		EX4300 4-port 1GbE/10GbE SFP+ Uplink Module for EX4300-24T, EX4300-48T, EX4300-48T-AFI, EX4300-24P, EX4300-48P, EX4300-48T-DC and EX4300-48T-DC-AFI
3		EX 4300 350W AC Power Supply, Front-to-Back Airflow(power cord needs to be ordered separately)

3		Juniper Care Core Support for EX4300-48T
7		SFP+ 10 Gigabit Ethernet Direct Attach Copper (twinax copper cable) 7m
3		SFP+ 10 Gigabit Ethernet Direct Attach Copper (twinax copper cable) 3m
6		QSFP+ to QSFP+ Ethernet Direct Attach Copper (twinax copper cable) 3m Passive
1		EX4300, 48-port 10/100/1000BaseT PoE-plus (includes 1 PSU JPSU-1100-AC-AFO that provides 950W PoE+ power; 40GE QSFP+ to be ordered separately for virtual chassis connections; optics sold separately)
1		Juniper Care Core Support for EX4300-48P
125		CITRIX EASY XENDT ENT ED CONC 1UElectronic distribution - NO MEDIA
125		CITRIX EASY XENDT ENT ED CONC 1UElectronic distribution - NO MEDIA
1		CITRIX NETSCALER ENT VPX 200 MBPSElectronic distribution - NO MEDIA
1		CITRIX NETSCALER ENT VPX 200 MNT 1YElectronic distribution - NO MEDIA
1		Citrix Maintenance Agreement

Hosting.com, Inc. - 350 Pencader Dr Ste B, Newark, DE 19702-3325

Quantity	Manufacturer	Description
1	NetApp	FAS8020 HIGH AVAILABILITY SYSTEM ; Model: FAS8020A
2		CABLE,CNTLR-SHELF/SWITCH,2M,LC/LC,OP,-C ; Model: FAS8020A
2	NetApp	SFP+ OPTICAL,10GB SHORTWAVE,-C ; Model: FAS8020A
1		POWER CABLE,IN-CABINET,C13-C14,-C ; Model: FAS8020A
1	NetApp	FAS8040 HIGH AVAILABILITY SYSTEM ; Model: FAS8040A
4		CABLE,CNTLR-SHELF/SWITCH,5M,LC/LC,OP,-C ; Model: FAS8040A
4	NetApp	SFP+ OPTICAL,10GB SHORTWAVE,-C ; Model: FAS8040A
1	NetApp	FLASH CACHE 512GB PCIE MODULE 2,-C ; Model: FAS8040A
1		POWER CABLE,IN-CABINET,C13-C14,-C ; Model: FAS8040A

Customer: City of Wilmington

Signature: _____

Title: _____

Security Agreement



Agreement Number: _____

Debtor's Name: City of Wilmington

Dated: January 15, 2016

Debtor's Address: 800 North French Street, Wilmington, DE 19801

This Security Agreement (the "Agreement") is entered into by and between the Debtor identified above (the "Debtor") and VAR Technology Finance ("Secured Party"). In consideration of the mutual promises and undertakings of the parties, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, Debtor and Secured Party hereby agree as follows:

1. Security Interest and Collateral. To secure the payment and performance of each and every debt, liability and obligation of every type and description that Debtor may now or at any time hereafter owe to Secured Party, its successors and/or assigns, whether or not such debt, liability or obligation refers to this Agreement (all such debts, liabilities and obligations being herein collectively referred to as the "Obligations"), Debtor hereby grants Secured Party a security interest (hereinafter called the "Security Interest") in the following property (hereinafter called the "Collateral"), together with all proceeds, accessories, attachments, parts, repairs, substitutions, replacements and products of, for or with respect to the Collateral:

NetApp solution, Juniper 60 months

Debtor hereby authorizes Secured Party to file one or more Uniform Commercial Code financing statements to perfect the Security Interest, and Debtor agrees to reimburse Secured Party, promptly upon demand, for the cost of filing, amending and terminating such financing statements.

2. Representations, Warranties and Covenants of Debtor. Debtor represents, warrants and covenants to Secured Party that:

- (a) Debtor is a (check one): corporation limited liability company limited partnership general partnership, and is duly "registered" (as that term is used in Section 9-307(e) of the applicable UCC), organized, validly existing and in good standing under the laws of the State of Delaware; or, if none of the foregoing is the case, then Debtor is an unregistered business organization or a proprietorship with its sole place of business or its "chief executive office" (as that term is used in Section 9-307(b) of the applicable UCC) at the location stated at the top of page one of this Agreement.
- (b) Debtor will not change the location of its chief executive office or its state of organization without first giving Secured Party at least 10 days prior written notice of the new location(s).
- (c) If Debtor is a corporation, partnership, limited liability company or other organization, the execution, delivery and performance of this Agreement has been duly authorized by all necessary action on the part of the Debtor and will not violate any provision of the Debtor's articles of incorporation, partnership agreement, management agreement or other organizational documents, as the case may be.
- (d) The Collateral will be used primarily for business purposes and not for personal, family or household purposes.
- (e) Debtor has (or will have at the time Debtor acquires rights in the Collateral hereafter arising) absolute title to each item of Collateral, free and clear of all security interests, liens and encumbrances, except the Security Interest, and will defend the Collateral against all claims or demands of all persons other than Secured Party. Debtor will not sell or otherwise dispose of the Collateral or any interest therein without the prior written consent of Secured Party.
- (f) Debtor will: (i) keep all Collateral in good repair and working order, normal wear and tear excepted, and will, from time to time, replace any worn, broken or defective parts thereof; (ii) promptly pay all taxes and other governmental charges levied or assessed upon any of the Collateral; (iii) keep all Collateral free and clear of all security interests, liens and other encumbrances except the Security Interest; (iv) at all reasonable times, permit Secured Party or its representatives to inspect any Collateral, wherever located, and to examine and copy Debtor's records pertaining to the Collateral; (v) promptly notify Secured Party of any loss of or damage to any of the Collateral; (vi) at all times keep all Collateral insured against risks of damage or loss in such amounts as Secured Party may reasonably request (but in no event less than the full replacement cost thereof), with Secured Party being named as the loss payee thereof and other terms as may be reasonably requested by Secured Party; (vii) pay when due or reimburse Secured Party on demand for all costs of collection of any of the Obligations and all other out-of-pocket expenses (including in each case all reasonable attorneys' fees and other legal costs) incurred by Secured Party in connection with the creation, perfection, satisfaction, protection, defense or enforcement of the Security Interest or of this Agreement or any or all of the Obligations; (viii) execute, deliver or endorse any and all instruments and other agreements and writings which Secured Party may at any time reasonably request in order to secure, protect, perfect or enforce the Security Interest and Secured Party's rights under this Agreement; (ix) not use or keep any Collateral, or permit it to be used or kept, for any unlawful purpose or in violation of any federal, state or local law, statute or ordinance; and (x) not permit any Collateral to become affixed to any real property. If Debtor at any time fails to perform or observe any covenant or agreement contained in this Section 2(f), and if such failure shall continue for a period of ten calendar days after Secured Party gives Debtor written notice thereof (or, in the case of the agreements contained in clauses (v) and (vi) of this Section 2(f), immediately upon the occurrence of such failure, without notice or lapse of time), Secured Party may (but need not) perform or observe such agreement on behalf and in the name of Debtor (or, at Secured Party's option, in Secured Party's own name) and may (but need not) take any and all other actions which Secured Party may reasonably deem necessary to cure or correct such failure (including, without limitation, the payment of taxes, the satisfaction of encumbrances, the procurement and maintenance of insurance, the endorsement of instruments, and the procurement of repairs). Except to the extent that the effect of any such payment(s) made by Secured Party would be to render any loan or forbearance of money usurious or otherwise illegal under any applicable law, Debtor shall pay Secured Party on demand the amount of all moneys expended and all costs and expenses (including reasonable attorneys' fees) incurred by Secured Party in connection with Secured Party's performing or observing such agreement or taking such actions, together with interest thereon from the date expended or incurred by Secured Party at the highest rate then applicable to any of the Obligations. **If you do not provide Secured party with proof of property insurance (as required in clause "vi" above) within 30 days after the effective date of this Agreement, or if such insurance terminates for any reason, then (a) Debtor agrees that Secured party shall have the right, but not the obligation, to obtain such insurance in such forms and amounts from an insurer of Secured Party's choosing in order to protect Secured Party's interests ("Other Insurance"), and (b) Debtor agrees that Secured party may charge Debtor a periodic charge for such Other Insurance.** This periodic charge will include reimbursement for premiums advanced by Secured Party to purchase Other Insurance, billing and tracking fees, charges for Secured Party's processing and related fees associated with the Other Insurance, and a finance charge of up to 18% per annum (or the maximum rate allowed by law, if less) on any advances Secured Party makes for premiums, (collectively, the "Insurance Charge"). Secured Party and/or one or more of its affiliates and/or agents may receive a portion of the Insurance Charge, which may include a profit. Secured Party is not obligated to obtain, and may cancel, Other Insurance at any time without notice to Debtor. Any Other Insurance need not name Debtor as an insured or protect Debtor's interests. The Insurance Charge may be higher than the amount Debtor would pay if Debtor obtained such insurance on its own. To facilitate the performance or observance by Secured Party of such agreements of Debtor, Debtor hereby irrevocably appoints (which appointment is coupled with an interest) Secured Party, or its delegate, as the attorney-in-fact of Debtor with the right (but not the duty) from time to time to prepare, execute, deliver, endorse and/or file, in the name and on behalf of Debtor, any and all instruments, documents, financing statements, applications for insurance, checks and other instruments for the payment of insurance proceeds and other agreements and writings required to be obtained, executed, delivered, endorsed or filed by Debtor under this Section 2.

3. Assignment of Insurance. Debtor hereby assigns to Secured Party, as additional security for the payment of the Obligations, any and all moneys (including but not limited to proceeds of insurance and refunds of unearned premiums) due or to become due under, and all other rights of Debtor under or with respect to, any and all policies of insurance covering the Collateral, and Debtor hereby directs the issuer of any such policy to pay any such moneys directly to Secured Party. Both before and after the occurrence of an Event of Default, Secured Party may (but need not), in its own name or in Debtor's name, execute and deliver proofs of claim, receive all such moneys, endorse checks and other instruments representing payment of such moneys, and adjust, litigate, compromise or release any claim against the issuer of any such policy.

4. Events of Default. Each of the following occurrences shall constitute an event of default under this Agreement (herein called "Event of Default"): (i) Debtor shall fail to pay any or all of the Obligations when due or (if payable on demand) on demand, or shall fail to observe or perform any covenant or agreement made by Debtor herein; (ii) any representation or warranty by Debtor set forth in this Agreement or made to Secured Party in any other document, agreement, financial statement or report submitted to Secured Party by or on behalf of Debtor shall prove materially false or misleading; (iii) a garnishment, summons or a writ of attachment shall be issued against or served upon the Debtor or the Secured Party for the attachment of any of the Collateral; (iv) Debtor or any guarantor of any Obligation shall (A) be or become insolvent (however defined); or (B) voluntarily file, or have filed against it involuntarily, a petition under the United States Bankruptcy Code; or (C) if Debtor is a corporation, partnership, limited liability company or other organization, Debtor shall be dissolved or liquidated or, if a partnership, suffer the death of a partner or, if an individual, die; or (D) go out of business; (v) an event of default shall occur under any indebtedness Debtor may now or hereafter owe to any affiliate of Secured Party; (vi) if Debtor is a corporation, more than 50% of the shares of voting stock of Debtor shall become owned by a shareholder or shareholders who were not owners of voting stock of Debtor on the date of this Agreement or, if Debtor is a partnership, more than 50% of the partnership interests in the Debtor shall become owned by a partner or partners who were not partners of Debtor on the date of this Agreement; or (vii) Debtor shall consolidate with or merge into, or sell all or substantially all of its assets to, any individual, corporation, or other entity.

5. Remedies upon Event of Default. Upon the occurrence of an Event of Default under Section 4 and at any time thereafter, Secured Party may exercise any one or more of the following rights and remedies: (i) declare all unmatured Obligations to be immediately due and payable, and the same shall thereupon be immediately due and payable, without presentment or other notice or demand; (ii) exercise and enforce any or all rights and remedies available upon default to a secured party under the Uniform Commercial Code, including but not limited to the right to take possession of any or all Collateral, proceeding without judicial process or by judicial process (without a prior hearing or notice thereof; which Debtor hereby expressly waives), and the right to sell, lease or otherwise dispose of any or all of the Collateral, and in connection therewith, Secured Party may require Debtor, at Debtor's sole cost, to make the Collateral available to Secured Party at a place to be designated by Secured Party which is reasonably convenient to both parties, and if notice to Debtor of any intended disposition of Collateral or any other intended action is required by law in a particular instance, such notice shall be deemed commercially reasonable if given (in the manner specified in Section 6) at least 10 calendar days prior to the date of intended disposition or other action; (iii) exercise or enforce any or all other rights or remedies available to Secured Party by law or agreement against the Collateral, against Debtor or against any other person or property. Debtor hereby grants Secured Party the right of full access to any and all real estate owned by Debtor upon which the Collateral is located for the purpose of enforcing Secured Party's rights with respect to the Collateral (including, without limitation, repossessing the same), and Debtor covenants and agrees not to interfere with Secured Party's exercise of such rights. Upon the occurrence of the Event of Default described in Section 4(iv)(B), all Obligations shall be immediately due and payable without demand or notice thereof. In the event Secured Party is able to sell, lease or otherwise dispose of the Collateral, the proceeds thereof, less all of Secured Party's costs associated with the repossession, refurbishing, sale, lease or other disposition, will be applied to the balance of the Obligations then owed by Debtor to Secured Party, and Debtor shall be liable to Secured Party for any deficiency balance remaining.

6. Miscellaneous. *This Agreement can be waived, modified, amended, terminated or discharged, and the Security Interest can be released, only explicitly in a writing signed by Secured Party. Mere delay or failure to act by Secured Party shall not preclude the exercise or enforcement of any of Secured Party's rights or remedies. All rights and remedies of Secured Party shall be cumulative and may be exercised singularly or concurrently, at Secured Party's option, and the exercise or enforcement of any one such right or remedy shall neither be a condition to nor bar the exercise or enforcement of any other. All notices to be given to Debtor shall be deemed sufficiently given if delivered or mailed by registered or certified mail, postage prepaid, to Debtor at its address set forth above or at the most recent address shown on Secured Party's records. This Agreement shall be binding upon and inure to the benefit of Debtor and Secured Party and their respective heirs, representatives, successors and assigns and shall take effect when signed by Debtor and delivered to Secured Party, and Debtor waves notice of Secured Party's acceptance hereof. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications that can be given effect, and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein. All representations and warranties contained in this Agreement shall survive the execution, delivery, performance and termination of this Agreement and the creation and payment of the Obligations. If this Agreement is signed by more than one person as Debtor, the term "Debtor" shall refer to each of them individually and separately and to both or all of them jointly and severally; all such persons shall be bound both severally and jointly with the other(s). Debtor agrees that the fees and other amounts payable under this Agreement may include a profit to Secured Party. This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of Iowa without regard to the State of Iowa's conflicts-of-law rules. If Secured Party or its assignee shall bring any judicial proceeding in relation to any matter arising under this Agreement, Debtor hereby irrevocably agrees that any such matter may be adjudged or determined in any court or courts in the state of Iowa or the state of Secured Party's or its assignee's principal place of business, or in any other court or courts having jurisdiction over Debtor or Debtor's assets, all at the sole election of Secured Party or its assignee. Debtor hereby irrevocably submits generally and unconditionally to the jurisdiction of any such court so elected by Secured Party or its assignee in relation to such matters and irrevocably waives any defense of an inconvenient forum to the maintenance of any such action or proceeding. Debtor hereby waives its right to a trial by jury in any legal action arising from or related to this Agreement. **The parties hereto agree that a photocopy, carbon copy, facsimile or other reproduction of this document with their reproduced signatures thereon shall be as valid and binding as the original-signature document and shall be treated as genuine and authentic as the original for all purposes. This Agreement may be signed in two counterparts, both of which, together, shall constitute but one and the same agreement; and to the extent that this Agreement constitutes "chattel paper" as defined in the Uniform Commercial Code, the counterpart in Secured Party's possession shall be deemed to be the sole "original" of this Agreement.***

Accepted on: _____	Debtor: <u>City of Wilmington</u>
VAR Technology Finance (Secured Party):	By: X _____
By: _____	Print Name / Title: