

# Office DEPOT

Company Address 6600 North Military Trail  
Boca Raton, FL 33496  
US

Created Date 7/19/2021

Expiration Date 8/31/2021

Quotes/Self Service  
ID

Prepared By James Howard  
Email james.howard@officedepot.com

Bill To Name WILLIAMSON CNTY  
Notes To Customer Region 4 Contract# R160204

Ship To Name WILLIAMSON CNTY

Product	Manufacturer Part Number	Sales Price	Quantity	Total Price	Note
GUARDIAN SHREDDING ITAD HARD D	pbCC ITAD	\$6.00	768.00	\$4,608.00	Complete project in August

Subtotal \$4,608.00

Total Price \$4,608.00

Grand Total \$4,608.00

**\*Estimation only. Real tax calculated at time of order placement.**

## Terms & Conditions

May 24, 2019

## **DEFINITIONS**

"Office Depot" and "We" mean Office Depot, Inc., a Delaware corporation, including its subsidiaries, parent companies, or affiliates. "Customer," "You," or "Your" means the party purchasing from Office Depot any goods or services through the Internet, telephone, fax, catalog, mail, or hand-delivery.

## **PAYMENT TERMS**

Payment terms shall be net twenty (20) days from date of invoice or date of purchase if no invoice is provided.

## **CREDIT TERMS**

Customer's credit limit shall be established by Office Depot. Office Depot reserves the right to lower Customer's credit limit or refuse to ship any orders.

## **DISCLAIMER OF WARRANTIES**

Office Depot disclaims any and all warranties to the fullest extent permitted by law, including any implied warranties, the warranty of fitness for a particular purpose, and the warranty of merchantability.

## **LIMITATION OF LIABILITY**

Customer agrees that:

IN NO EVENT SHALL OFFICE DEPOT BE LIABLE FOR CONSEQUENTIAL, SPECIAL, INDIRECT OR INCIDENTAL DAMAGES (COLLECTIVELY "DAMAGES"), INCLUDING, BUT NOT LIMITED TO, ANY DAMAGES RESULTING FROM LOSS OF USE OR PROFITS ARISING OUT OF OR IN CONNECTION WITH THESE TERMS AND CONDITIONS, WHETHER IN AN ACTION BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL THEORY, EVEN IF OFFICE DEPOT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR EXCLUSION OF LIABILITY FOR CERTAIN TYPES OF DAMAGES; AS A RESULT, THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU IN WHOLE OR IN PART AND THE FOREGOING PARAGRAPH SHALL NOT APPLY TO A RESIDENT OF NEW JERSEY TO THE EXTENT DAMAGES TO SUCH NEW JERSEY RESIDENT ARE THE RESULT OF OFFICE DEPOT'S NEGLIGENT, FRAUDULENT, OR RECKLESS ACT(S) OR INTENTIONAL MISCONDUCT.

## **PRICING**

With respect to pricing, Office Depot's cost of goods is calculated without deduction or otherwise giving effect to program, purchase incentives, rebates and other benefits potentially provided to Office Depot, and may include an additional allocation for certain costs and expenses incurred by Office Depot in connection with such products. Office Depot reserves the right to impose margin-based pricing to ensure minimum profitability thresholds. Office Depot updates pricing and product and service assortments on a regular basis as a result of a variety of factors, including, but not limited to, market and competitive forces, and reserves the right to change Customer's pricing and product assortment at any time without notice. Manufacturer list prices are set by the manufacturer and are provided by either wholesale distributors or the manufacturer directly, as applicable. Promotion pricing, including, but not limited to, Instant Savings, Coupon Savings, Mail-In Savings, and Bundled Savings that is available on [www.officedepot.com](http://www.officedepot.com), is not available for orders placed on [www.business.officedepot.com](http://www.business.officedepot.com).

Office Depot shall have the right to withhold the sale and/or delivery of any products or services in its sole discretion, including, but not limited to, for reasons arising from industry constraints and/or market conditions. If tariffs or other similar charges are levied on products being purchased by You, then Office Depot may impose a surcharge or other fee for such products. Office Depot also reserves the right to substitute private-brand or other equivalent products as part of Your order.

For compliance with select California and Texas laws and for financial reporting purposes, all sales shipped to California and Texas customers are made by eDepot, LLC, a wholly-owned subsidiary of Office Depot, Inc. California sales are F.O.B. destination point. Texas sales tax is based on the location where the order was received.

## **DELIVERY**

- Place a qualifying order of \$50 or more, and if you're in one of our many local delivery areas, your delivery will be FREE. Minimum purchase is calculated after discounts and before taxes are applied. Certain exceptions may apply.

- Most furniture and oversized items, special orders, custom printing orders, bulk items, cases of bottled water and other beverages, and certain technology items are excluded.

- Orders less than \$50 and orders outside Office Depot's local delivery areas will incur delivery fees as follows:

# Office DEPOT

o Order values of \$49.99 and Below: \$9.99 Delivery Fee

o Order values of \$50.00 or more: FREE delivery

- Additional fees may apply for orders outside our local delivery areas, including areas outside of the continental United States.
- Delivery fees, if any, will be noted at checkout. Delivery fees are non-refundable if the order or part of the order is returned unless the product is damaged or defective. Delivery fees are subject to change without notice.
- Many items are available for next business-day delivery. We will notify you of your estimated delivery date when you place your order (subject to credit approval and product availability).
- Deliveries are made between 8 a.m. and 5 p.m., Monday through Friday. Residential deliveries are made until 7 p.m., Monday through Friday. Delivery times outside of the continental United States may vary based upon the delivery address.
- Call 1-888-263-3423 for delivery information to determine local delivery areas. Special orders not available in Alaska or Hawaii.
- If any delivery is prevented or delayed by any act or condition beyond our reasonable control, Office Depot shall give prompt notice to buyer of such condition and shall make all reasonable efforts to ensure delivery is made as soon thereafter as possible.
- Based on inventory location, items may arrive in more than one shipment and will be shown as separate charges on your credit card statement.
- Office Depot reserves the right to determine the delivery method used to fulfill your order.

## **DELIVERY (cont'd)**

- Expedited Delivery Service is available for certain technology items, and certain technology items may require additional time in transit. Free standard delivery for such technology items is 3-10 business days. Should You require faster service for these technology items, Next Business Day and Next Business Day AM delivery are available for an additional cost. Orders placed by 4:00 p.m. Eastern time on a business day will be delivered the next business day.
- For example, orders placed prior to 4:00 p.m. Eastern time on Monday will be delivered on Tuesday, while orders placed after 4:00 p.m. Eastern Time on Monday will be delivered on Wednesday.
- Orders placed on Friday after 4:00 p.m. Eastern time, Saturday or Sunday will be delivered on Tuesday. Business days do not include holidays.
- Expedited Delivery fees will be noted at checkout.
- Certain custom printing orders may require additional time in transit. Free standard delivery for such custom items is 7-9 business days. "Priority Shipping", delivered in 5-6 business days, and "Rush Shipping", delivered in 3-4 business days, are available for additional cost. Fees will be noted at checkout.
- Office Depot's delivery rates and policy are subject to change without notice.
- Any orders subject to customer workflow processes will be released for fulfillment if such orders are not canceled within ten (10) days of the initial placement date.
- Please call customer service or Your account representative for additional details.

## **FURNITURE DELIVERY RATES AND POLICIES (Excluding Special Orders)**

- Delivery Service on orders of furniture and oversized items is based on the product dimensions, weight and delivery zip code of the order.
- Most items are delivered to your door.
- For some orders, we provide Enhanced Delivery Service, which includes delivery by a 1 or 2-person team, placement in your office or residence and removal of packaging (upon request).
- Enhanced Delivery Service is not available in all areas, and you will be notified at checkout if your order qualifies for Enhanced Delivery Service.
- Most orders should be received within 7 business days of placing the order, but some orders may qualify for next business-day delivery. The anticipated delivery date will be noted on your order confirmation.
- If your order does not qualify for next business-day delivery, you will receive a call one (1) business day prior to the delivery date on your order confirmation advising you of your delivery window. At that time, you can request a new delivery date to fit your schedule, including Saturday.

## **FURNITURE DELIVERY FEES**

Due to location and shipping distances, delivery fees may vary and will be noted at checkout. Delivery fees are subject to change without notice.

## **FURNITURE ASSEMBLY**

- Office Depot offers assembly services for an additional fee upon request.
- This service can be arranged for all items requiring assembly by calling our assembly partners at 1-800-978-2669.
- This service is usually performed within 2-3 business days after the merchandise is delivered.

## **SPECIAL ORDER DELIVERY RATES AND POLICIES (Manufacturer Direct)**

- Certain Office Depot items will be shipped directly from carefully selected vendors and manufacturers.
- These special order (manufacturer direct) items are shipped via standard delivery and are delivered to a ground floor location in the manufacturer's shipping carton.
- Your delivery date and delivery fee will be calculated at checkout.
- Premium delivery is available for manufacturer direct furniture items for an additional fee. Premium delivery provides shipping directly from the manufacturer and includes full assembly and installation within 10 business days of placing the order (for local delivery areas) and within 21 business days (for remote locations). Contact the Furniture Help-Line at 800-999-9933 for details.
- Premium delivery service is also available for security and fire safe files for an additional fee and must be arranged at 888.2.OFFICE at the time of purchase. This service includes delivery, unpacking, setup and removal of debris. (Deliveries requiring multiple flights of stairs may require additional charges and should be noted when placing the order).
- The details of these deliveries are determined by the policies and practices of the associated vendors and manufacturers.

## **LARGE TECHNOLOGY ITEM**

### **Freight Delivery:**

- Standard Delivery Service is available for large technology items (greater than 70 lbs.). In most instances, there is no fee for Standard Delivery. These items are delivered by freight trucks that are approximately 56 inches above the ground. These trucks are designed to load and unload items at a loading dock. Most items require a fork-lift.
- Liftgate Delivery Service is available at an additional fee.
- What is liftgate service? A liftgate is a device used to lower items from the tractor trailer level to the ground. It is ideal for deliveries to residential areas or commercial areas that do not have a loading dock.
- How do I determine if I need liftgate delivery? If Your delivery location does not have a loading dock and/or a forklift to remove heavy items from the truck, You need a liftgate.
- If Your delivery location has a loading dock, but the items in Your shipment are too heavy for You to remove from the truck, and you do not have a forklift, You need a liftgate.
- If there is not a carrier terminal in your area and/or You cannot drive to the closest carrier terminal to pick up the freight from the carrier, You need a liftgate.
- If You need liftgate service, You should select the "Freight with Liftgate" option at checkout.

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- Liftgate delivery fees are based on the carrier, delivery location and delivery service You request. Fees will be noted at checkout.
- If You do not select Freight Delivery at checkout but You require liftgate service, Your delivery may be delayed and additional charges will apply.

## **REFUNDS AND EXCHANGES**

**Your complete satisfaction is our primary concern.**

At Office Depot, we want to be sure that every purchase is the right one for You. If You are dissatisfied with Your purchase for any reason, You may return most items in their original packaging within 30 days of purchase for a replacement or full refund.

### **Exceptions:**

- Furniture, Computers and Business Machines with accessories in original packaging can be returned within 14 days after purchase for a full refund.
- Opened Computers, Business Machines and Software (with accessories and original packaging) can be exchanged for the same item within 14 days of purchase.
- Special Order Products may not be returned or exchanged. This includes items that are not stocked in one of our warehouses and/or are indicated as SPECIAL ORDER.

## **DISCONTINUED PRODUCTS**

In the event an item that was initially offered is discontinued by Office Depot or its supplier, Office Depot will use commercially reasonable efforts to replace such discontinued with an alternative item that is available within Office Depot's stocked inventory. Items may be discontinued at any time, without notice to Customer.

## **EXPORT**

Customer acknowledges and agrees that regarding Harmonized Tariff Schedule of the United States, U.S. Census Schedule B Export Codes, and/or country of origin information (collectively, "Export Information"), Office Depot: (a) is not the manufacturer of the goods that Office Depot sells to Customer; (b) is not required to provide any Export Information to Customer; (c) does not independently verify any Export Information that Office Depot receives from its suppliers; (d) does not represent or warrant the accuracy of any Export Information; and (f) provides Export Information only as of the date Office Depot received it from Office Depot's suppliers.

Customer agrees to comply with all applicable U.S. and non-U.S. export and import laws and regulations. Customer shall obtain any required export or import authorizations to support deliveries under this Agreement. Customer shall immediately notify Office Depot's representative if Customer is or becomes listed in any U.S. or non-U.S. government denied-parties list or if Customer's export privileges are otherwise denied, suspended or revoked in whole or in part by any U.S. or non-U.S. government entity or agency.

Office Depot shall not be liable for increased costs, duties or any penalties or damages incurred by Customer as a result of deficient or erroneous documentation supplied by Customer for purposes of establishing the status of goods under any trade preference programs. Customer shall indemnify and hold harmless Office Depot from and against any claim, proceeding, action, fine, loss, cost and damages arising out of or relating to any noncompliance with export control regulations by Customer.

## **NOTICES**

All notices to Office Depot must be given in writing. Such notices shall be deemed to have been given when delivered in person, or three (3) days after being sent by certified mail, return receipt requested, postage pre-paid, or upon delivery by reputable overnight courier, all delivery charges pre-paid. Notices shall be sent to the following address: Office Depot, Inc., 6600 North Military Trail, Boca Raton, FL 33496, Attn: Office of the General Counsel.

## **MODIFICATION**

Office Depot reserves the right to modify these Term and Conditions at any time and at its sole discretion.

## **SEVERABILITY**

Any legal determination that any of the provisions contained in these Terms and Conditions are void, invalid or unenforceable shall not affect the validity of any other provisions of these Terms and Conditions.

## **CHOICE OF LAW FORUM**

These Terms and Conditions shall be construed and governed in accordance with the laws of the State of Florida without regard to conflict of laws principles, and any disputes or litigation arising from these Terms and Conditions shall be conducted in the state or federal courts of the State of Florida.

## **FORCE MAJEURE**

Office Depot shall not be considered in default in the performance of its obligations to the extent that the performance of any such obligation is prevented or delayed by any cause that is beyond its reasonable control.

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## Project Specific Statement of Work for Services

This Statement of Work for Williamson County ("Statement of Work" or "SOW"), dated July 23, 2021 defines the scope of the Services and deliverables between Office Depot, LLC located at 6600 N. Military Trail, Boca Raton, Florida 33496 ("Office Depot") and Williamson County, 301 SE Inner Loop, Ste 105 Georgetown, TX 78626 ("Client") and incorporates by reference the terms and conditions attached hereto as Exhibit B. The SOW and its Exhibits (collectively, the "Agreement"), constitute the entire and sole written description of the Services to be provided by Office Depot and supersedes all prior agreements, representations, or similar documents and any understandings with respect thereto, both written and oral.

**Description of Services:** The Services being provided by Office Depot, its wholly-owned subsidiary CompuCom, and/or their respective contractors are identified in the Proposal attached as Exhibit A.



**Pricing:** Pricing for the Services are identified in the Proposal attached as Exhibit A, and the Client agrees to pay all sums, both one-time charges and reoccurring monthly charges, identified therein.

**Invoicing:** Office Depot will provide electronic invoices and documentation to Client:

Accounts Payable Contact:	Tammy McCulley
Telephone Number:	512-943-1455
Address:	301 SE Inner Loop, Ste 105 Georgetown, TX 78626
Email Address:	tmcculley@wilco.org
Account Number:	40771085

Note that in order for certain Services to be provided, Client may be required to enter into third-party agreements, including the Microsoft End User License Agreement (<https://www.microsoft.com/licensing/docs/customeragreement>).

This Agreement shall be considered fully executed and binding when authorized representatives of both parties have signed and dated below.

Williamson County		Office Depot, LLC	
By:	 Bill Gravell (Aug 4, 2021 08:38 CDT)	By:	
Name:	Bill Gravell	Name:	Glenn Brower
Title:	County Judge	Title:	Vice President
Date:	Aug 4, 2021	Date:	7/23/2021





## Project Specific Statement of Work for Services

### EXHIBIT A

#### 1. Overview:

Office Depot has been engaged by Client to provide IT Asset Disposition ("ITAD") Services for designated hard drives via on-site shredding.

#### 2. Project Term:

- Start Date: On or about August 1, 2021
- End Date: On or about August 30, 2021

#### 3. Solution Overview:

- Hard drives will be physically destroyed.
- Loose hard drives will be destroyed on site.
- Record of successful wipe is recorded.
- Certificate of destruction for all hard drives to confirm all data was destroyed.

#### 4. Pricing:

Type	QTY of Devices	Price Per Unit	Estimated Total
Onsite Hard Drive Shredding	768	\$6.00	\$4,608.00

Assumptions: Services pricing is valid during Normal Business Hours defined as 9:00 am through 5:00 pm local time, Monday through Friday excluding Client observed holidays. Any hours worked outside of Normal Business Hours will be invoiced at one and one half (1-1/2) times the hourly rate. Sundays' and holidays will require pre-notification, planning and pricing. Overtime and after-hours support will be tracked separately and will incur a bill rate of one and half times the hourly rate. This time is classified as any time spent on a weekend or where the total weekly hours expended exceed forty (40) working hours during one Monday through Friday period.



## Project Specific Statement of Work for Services

### EXHIBIT B

#### Terms and Conditions: IT Solutions for Small Business

These Terms and Conditions ("**Terms**") govern the purchase of IT Solutions for Small Business installation, repair, maintenance, and support services ("**Services**") and certain sales of (a) computer hardware products, (b) computer software products, and (c) third party computer hardware/software services (collectively, the "**Products**") from Office Depot, LLC, and its affiliates, subsidiaries, and contractors ("**Office Depot**" or "**us**" or "**we**" or "**our**"). All third parties referenced above include manufacturers, distributors, and suppliers and shall be hereinafter referred to as a "**Supplier**". Descriptions of the Services and applicable Fees are available in a written work order or statement of work between you and Office Depot (each a "**Service Description**"). The Service Description(s) for the Services that you purchase are part of these Terms. These Terms, the IT Solutions for Small Business Agreement, and other referenced documents together constitute a binding legal agreement (the "**Agreement**") between you and Office Depot. Different or additional terms apply to other products and services that we sell. References to "you" in these Terms means the individual or company receiving Services under the Agreement.

#### SETTING UP A CUSTOMER ACCOUNT; RELIANCE ON CUSTOMER INFORMATION

1. You may be required to hold a customer account (an "**Account**") in order to purchase Services. By establishing an Account, you confirm that (a) you are the age of majority in your state; (b) you have the legal capacity and authority to enter into this Agreement; and (c) you or your company agree to be bound by this Agreement.
2. Your Account is specific to you. You are responsible for all use of your Account, even if such use is without your permission. You are responsible for maintaining the confidentiality of your Account log-in information and monitoring your Account for unauthorized use. Promptly report any unauthorized use to Office Depot.
3. You agree that we may record, store, and monitor communications between you and Office Depot. You grant Office Depot a perpetual, irrevocable, worldwide, royalty free license to use comments, feedback, materials, or information submitted by you to provide the Services and for any other purpose permitted by our Privacy Policy.

#### LIMITATIONS ON USE AND AVAILABILITY OF SERVICES AND PRODUCTS

4. Your use of our Services is solely for your internal personal or business purposes. You may not resell or transfer the Services to other persons or entities, or use the Services to compete with us. You may not sell, lease, subcontract, sublicense or rent access to the Services.
5. Services are subject to the availability of equipment, parts, software licenses, and other materials. Services include only the services, software, hardware, and peripherals specified in the Service Description. Services, including, features, software, hardware, and peripherals, may change from time-to-time without prior notice. If there is a material change to the Services, you have 15 days from the date of the material change to cancel your Service.
6. Office Depot may, at any time and without notice or liability, restrict the use of Services or limit their availability. Circumstances beyond our control may impact our ability to deliver Services and we will not be liable for delays, damages or failures in performance due to such causes, including an inability to obtain necessary equipment. In cases when Office Depot is dependent upon Supplier's availability of Services or Products, Office Depot cannot guarantee any particular delivery date and shall not be liable for delay or any inability to provide Services or ship Products due to availability or allocation, labor disputes or other causes beyond its reasonable control. If Office Depot is unable to deliver the Services or Products on the delivery date requested in the Agreement, Office Depot will attempt to notify you by telephone or electronic communication. Unless you elect to cancel the Service or Product order within one (1) business day of receipt of such notice, such estimated delivery date shall become the new delivery date.

#### ONSITE SERVICES

7. Services subject to this Agreement are provided at your residence or office. Office Depot will use reasonable efforts to schedule a mutually convenient time. You release Office Depot from any and all liability for any direct or indirect damages resulting from delays in the provision of onsite Services. If connection to an in-home or office network is required, access to the network configuration (i.e. TCP/IP address, etc.), user IDs, addresses, passwords, and authority will be required. You must provide an accessible work area for the technician and a suitable working area for the assembly of any equipment. If required by the work



## Project Specific Statement of Work for Services

### EXHIBIT B

order, the location must have working high-speed broadband (DSL, cable modem, satellite) internet access and power. You or an authorized representative, age eighteen (18) or older, must be present the entire time work is being performed at your premises.

#### REMOTE SERVICES

8. Consult the Service Description for details on when remote Services are available and how to access them. If your use of or access to the Services requires internet access, you must ensure that you have internet connectivity and that your computer environment is otherwise suitable to receive the Services. Prior to providing a Service to you, we may qualify your internet connection using our standard qualification procedures to determine whether you have the minimum required speed; however, some computers and other devices may not be able to receive Services even if testing shows that your connection is qualified.

#### PRODUCT ORDERS

9. Office Depot Product orders are placed through the IT Solutions for Small Business, or any amendment to it, between you and Office Depot. Title to the Products, free and clear of all third party liens and security interests, shall pass to you when the Products are delivered to the carrier used to ship the Products to you. If Office Depot's carrier is used to ship the Products, shipping charges shall be invoiced to you and Office Depot will assume risk of loss of the Products until the Products are delivered to the location designated by you, at which time risk of loss shall pass to you. If you designate a carrier to ship the Products, risk of loss to the Products shall pass to you when the Products are delivered to the carrier.
10. After termination of this Agreement, Products may no longer be ordered under this Agreement. Product orders received and accepted prior to termination of this Agreement shall continue to be binding orders, and such Product orders will remain subject to the terms of this Agreement until completion. Product orders are only cancelable if a party (a) ceases to conduct business in the normal course, (b) becomes insolvent, (c) makes a general assignment for the benefit of creditors, (d) avails itself of, or becomes subject to, any proceeding under any bankruptcy laws relating to insolvency or protection from creditors, or (e) fails to cure any material breach of any of its other obligations under this Agreement within thirty (30) days of receiving written notice specifying the basis for the breach. Each party shall retain all remedies for breach it may have against the other party if at any time either party becomes bankrupt, insolvent, or makes an assignment for the benefit of creditors.
11. If a Product is damaged upon receipt by you, you must call customer service and arrange to return it in order to accept a replacement.

#### ACCESS TO EQUIPMENT AND USE OF SOFTWARE

12. You hereby authorize us to connect to, access and control your equipment as necessary to receive the Services. This includes the right to inspect and open the equipment, to access and remove internal components or perform repairs, depending on the applicable Services.
13. In connection with the Services, we may recommend that you acquire, install, and use software that is owned or licensed by Office Depot ("Office Depot Software") or software from third-party licensors, providers and suppliers ("Third-Party Software" and, together with the Office Depot Software, the "Software"). The Software may be provided as part of the applicable Fees for the Services or for an additional Fee, depending on the Software. Office Depot hereby grants you a revocable, non-exclusive, non-transferable license to use the Office Depot Software in connection with the Services subject to the terms of any accompanying end user license agreement and this Agreement until the end of the Services or until Office Depot terminates the license. Third Party Software is licensed to you by its owners or licensors.
14. We provide technical assistance and support for the Software in accordance with our policies. If we provide technical assistance and support to you for Third Party Software, you must ensure that you comply with the terms and conditions under which you licensed such Third-Party Software. **YOU ACKNOWLEDGE THAT SUPPORT OF THIRD PARTY SOFTWARE BY AN UNAUTHORIZED SERVICE PROVIDER MAY VOID ANY WARRANTY MADE BY THE SUPPLIER OF SUCH THIRD-PARTY SOFTWARE.**

#### PROPRIETARY MATERIALS; BACKUP OF YOUR DATA; AND OUR USE OF SERVICE DATA

15. Each of us owns our own respective data and proprietary materials and the respective developments and works we create in connection with the Services, provided that any improvements to software shall be owned by the owner of the software. You hereby assign all intellectual property rights in Office Depot Software, including patent, copyright and trademark rights therein





## Project Specific Statement of Work for Services

### EXHIBIT B

to Office Depot and agree to cooperate with us to take such actions and execute such documents as necessary to transfer such rights. We will not provide backup copies or support installation of unlicensed software. You represent and warrant that all software and data installed or accessible on your equipment is properly licensed to, or owned by, you.

16. UNLESS WE ARE PROVIDING DATA BACKUP AS PART OF THE SERVICES, YOU ACKNOWLEDGE AND AGREE THAT YOU ARE SOLELY RESPONSIBLE FOR MAINTAINING AND PERFORMING A COMPLETE AND COMPREHENSIVE BACKUP OF ALL DATA AND SOFTWARE STORED ON ANY EQUIPMENT OR DEVICE BEFORE PROVIDING ACCESS TO SUCH EQUIPMENT OR DEVICE TO US AND ALLOWING US TO PERFORM ANY SERVICE. YOU FURTHER ACKNOWLEDGE AND AGREE THAT WE HAVE NO RESPONSIBILITY OR LIABILITY WHATSOEVER UNDER ANY CIRCUMSTANCE FOR ANY LOSS, DAMAGE, DESTRUCTION, HARM OR CORRUPTION THAT MAY ARISE FROM OR BE RELATED IN ANY WAY TO THIS AGREEMENT, THE SERVICES, THE EQUIPMENT OR DEVICE, OR DATA THEREON.

#### **TERM AND TERMINATION; AUTOMATIC RENEWAL**

17. This Agreement begins upon our acceptance of this Agreement and shall continue until terminated by you or Office Depot. Services may be provided on a one-off ("Project") basis or on a renewing subscription basis ("Subscription Services"). Subscription Services are subject to an initial contractual term (the "Initial Term") as set forth in the Service Description. At the end of the Initial Term, your Services will automatically renew for periods of the same length as the initial Term unless either party gives the other written notice of termination at least thirty (30) days prior to expiration of the then-current Term. In the event a Services contract is terminated, you are still responsible for paying for any Products ordered.
18. If, during the Initial Term of a Subscription Service, you terminate the Agreement or Office Depot terminates your Agreement for cause, you will be responsible for payment of an early termination fee ("ETF") equal to 50% of the balance due for the remaining period of the Initial Term. You may change your Subscription Services plan by contacting our customer service department. If you upgrade to a higher tier Subscription Services plan, you will not be charged an ETF. If you downgrade your Subscription Services plan, you will be assessed an ETF equal to 25% of the balance due for the remaining period of the Initial Term of your original Subscription Services plan. Changes to your Subscription Services plan will result in a new Initial Term. You are responsible for returning any equipment, hardware, software, or product provided as part of the Services to Office Depot within 30 days of termination. Equipment, hardware, software, and product must be returned in good, serviceable condition, normal wear and tear excepted. If equipment, hardware, software, or product is not received by Office Depot within 30 days of termination, you will be charged full list price for the item.
19. In the event you are in breach of any of the terms of this Agreement, Office Depot will attempt to give you notice and allow you 30 days to cure. If you fail to cure or there are extenuating circumstances, Office Depot may suspend or terminate this Agreement without prior notice if (a) you are in breach of any of the terms of this Agreement; (b) your use of a Service is prohibited by law or is disruptive to, adversely impacts, or causes a malfunction to the Service, Office Depot's network, or the use and enjoyment of other users; (c) Office Depot receives an order from a court; (d) Office Depot ceases to offer the Services; (e) we determine that you are abusing a Service or using it excessively; (f) you fail to pay the Fees when due; (g) your bank or debit or credit card provider denies or discontinues your payment method for any reason; or (h) your debit or credit card expires and you fail to update your payment information.

#### **FEES AND PAYMENT**

20. You agree to pay the charges applicable to the Services and Products that you purchase, as well as any other applicable charges including but not limited to taxes, shipping and handling fees, activation fees, set-up fees, minimum service fees, no-show fees, failure to cancel fees, termination fees, and insufficient credit or insufficient funds fees (each a "Fee" and collectively the "Fees"). You authorize Office Depot to charge your debit or credit card or other accepted payment method for payment of the Fees.
21. Fees may be charged (a) in advance of us providing the Service and/or (b) on a periodic basis. Set-up fees, activation fees, installation fees and other non-recurring charges will typically be included in your first invoice or Account statement. Recurring Fees and pre-purchased plans for Services will be billed in advance.
22. **BY PURCHASING A SUBSCRIPTION PLAN, YOU AGREE THAT WE MAY CHARGE THE PAYMENT METHOD ASSOCIATED WITH YOUR ACCOUNT AUTOMATICALLY ON A RECURRING MONTHLY BASIS UNTIL YOU OR WE TERMINATE YOUR SERVICE IN ACCORDANCE WITH THIS AGREEMENT.** Fees for services provided before the date of termination will not be refunded.
23. If any portion of your bill is not paid by the due date, Office Depot may charge you a late fee in a fixed amount as set forth in the Service Description. If Office Depot utilizes a collection agency or resorts to legal action to recover monies due, you agree to





## Project Specific Statement of Work for Services

### **EXHIBIT B**

reimburse us for all expenses incurred to recover such monies, including attorneys' fees. You agree that Office Depot may charge your debit or credit card or other accepted payment method until all amounts due to Office Depot are paid in full.

24. Office Depot reserves the right to conduct quarterly billing audits, based on a standard calendar year, to ensure accuracy in billing and make billing adjustments as needed.

#### **LIMITED WARRANTY, DISCLAIMERS, AND LIMITATION OF LIABILITY**

25. We will use commercially reasonable efforts to provide the Services. You acknowledge and agree that the Services may not provide the results you desire. The Services may not detect or identify all issues or problems with your covered equipment, including hardware and software, and our Services may not remedy, repair or alleviate such issues or problems. Certain issues and problems may be beyond our ability to resolve. If any portion of the Services fails to conform to the foregoing warranty, and written notice of such nonconformity is provided to us promptly after discovery and within 30 days from completion of the Service, we will re-perform the nonconforming Services. **THE REMEDIES EXPRESSLY SET FORTH ABOVE ARE YOUR SOLE AND EXCLUSIVE REMEDIES AND OUR ENTIRE LIABILITY FOR ANY BREACH OF WARRANTY.**
26. For Products, to the extent permitted by the Suppliers and applicable law, Office Depot passes through to you any and all end-user warranties and intellectual property indemnities provided by the Suppliers.
27. The limited warranty in Paragraphs 25 and 26 do not cover any issues or interruptions caused by problems with a third-party service such as internet service providers, wireless service providers, DSL or cable companies. While we use reasonable security measures to deliver the Services, you acknowledge and agree that no data transmission over the internet is 100% secure and we cannot guarantee that your personal information or other data will be free from unauthorized intrusion.
28. OFFICE DEPOT WILL MAKE COMMERCIALY REASONABLE ATTEMPTS TO DELIVER THE SERVICE, HOWEVER, EXCEPT AS SET FORTH IN PARAGRAPHS 25 AND 26 ABOVE, THE SERVICES (INCLUDING, WITHOUT LIMITATION, ALL ADVICE, CONTENT, AND SOFTWARE) ARE PROVIDED "AS IS," WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES CONCERNING THE AVAILABILITY, ACCURACY, COMPLETENESS OR USEFULNESS OF THE SERVICE, AND ANY WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. WE DO NOT WARRANT THAT THE SERVICES WILL BE TIMELY, SECURE, UNINTERRUPTED, ERROR FREE, OR SUCCESSFUL IN RESOLVING YOUR TECHNOLOGY QUESTIONS OR EQUIPMENT PROBLEMS. WE MAKE NO WARRANTY THAT THE SERVICES WILL MEET YOUR EXPECTATIONS OR REQUIREMENTS. NO ADVICE, RESULTS OR MATERIALS, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM THE SERVICES SHALL CREATE ANY WARRANTY.
29. IN NO EVENT SHALL OFFICE DEPOT (OR ITS OFFICERS, EMPLOYEES, PARENT, SUBSIDIARIES, OR AFFILIATES), OR ITS THIRD-PARTY LICENSORS, PROVIDERS, OR SUPPLIERS, BE LIABLE FOR: (A) ANY INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST PROFITS OR LOSS OF REVENUE OR DAMAGE TO OR LOSS OF DATA ARISING OUT OF THE USE, PARTIAL USE OR INABILITY TO USE THE SERVICES, OR COSTS OF RECOVERING, REPROGRAMMING, OR REPRODUCING ANY PROGRAM OR DATA, REGARDLESS OF THE TYPE OF CLAIM OR THE NATURE OF THE CAUSE OF ACTION, INCLUDING WITHOUT LIMITATION, THOSE ARISING UNDER CONTRACT, TORT, NEGLIGENCE OR STRICT LIABILITY, EVEN IF OFFICE DEPOT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH CLAIM OR DAMAGES, OR (B) ANY CLAIMS AGAINST YOU BY ANY OTHER PARTY.
30. IN NO EVENT SHALL OUR TOTAL LIABILITY FOR ANY AND ALL DAMAGES, LOSSES, AND CAUSES OF ACTION (WHETHER IN CONTRACT OR TORT, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE OR OTHERWISE) ARISING FROM THIS AGREEMENT OR YOUR USE OF THE SERVICES EXCEED THE AMOUNT PAID BY YOU FOR THE SERVICES IN ANY TWELVE (12) MONTH PERIOD IN THE CASE OF SUBSCRIPTION SERVICES, THE AMOUNT PAID BY YOU TO US FOR A PROJECT SERVICE, OR THE FEES PAID FOR THE APPLICABLE PRODUCT(S).
31. YOU MAY HAVE ADDITIONAL RIGHTS UNDER CERTAIN LAWS (SUCH AS CONSUMER LAWS), WHICH DO NOT ALLOW OR LIMIT THE EXCLUSION OF IMPLIED WARRANTIES, OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, OUR EXCLUSIONS OR LIMITATIONS APPLY TO YOU ONLY TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW. THE LIMITATIONS IN THIS AGREEMENT WILL IN ANY EVENT NOT LIMIT OR EXCLUDE LIABILITY CAUSED BY OUR GROSS NEGLIGENCE, INTENTIONAL MISCONDUCT OR FRAUD.



## Project Specific Statement of Work for Services

### **EXHIBIT B**

#### **INSURANCE**

32. During the term of this Agreement and any applicable work order or statement of work, you shall maintain insurance policies sufficient to cover the cost of any Office Depot equipment that may be damaged, destroyed, and/or lost in your facilities.

#### **INDEMNIFICATION**

33. You agree to indemnify, hold harmless, and defend Office Depot its officers, directors, employees, affiliates, agents, subcontractors, and any other third-party provider who furnishes Services to you in connection with this Agreement or the Services that you purchase from us against all claims, liabilities, damages, costs and expenses, including reasonable attorney's fees, in any way related to or arising from (i) the violation of applicable laws, regulations, or this Agreement by you; (ii) claims for infringement of any intellectual property rights arising from your use of the Services, or (iii) or any personal injury, death or property damage attributable to you. Office Depot may employ its own counsel at its own expense.

#### **ARBITRATION AGREEMENT AND WAIVERS OF CLASS ACTION AND JURY TRIAL**

34. Any controversy or claim arising out of or relating to this Agreement shall be settled by binding arbitration in Palm Beach County, Florida, in accordance with the Commercial Arbitration Rules ("AAA Rules") of the American Arbitration Association ("AAA"), and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The arbitrator shall be selected pursuant to the AAA Rules. The arbitrator shall apply Florida law consistent with the Federal Arbitration Act. If you initiate arbitration against Office Depot, you must pay any AAA filing fee in effect at the time you initiate. **THE ARBITRATION OF DISPUTES PURSUANT TO THIS PARAGRAPH SHALL BE IN YOUR INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. THE ARBITRATOR MAY NOT CONSOLIDATE OR JOIN THE CLAIMS OF OTHER PERSONS OR PARTIES WHO MAY BE SIMILARLY SITUATED. BY AGREEING TO ARBITRATION, YOU AGREE THAT YOU ARE WAIVING YOUR RIGHT TO A JURY TRIAL AND LIMITING YOUR RIGHT TO APPEAL.**
35. **CLASS ACTION WAIVER.** If any claim proceeds in court rather than through arbitration, for any reason, **YOU AND OFFICE DEPOT AGREE THAT YOU AND OFFICE DEPOT MAY BRING CLAIMS AGAINST THE OTHER ONLY IN AN INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.**

#### **GENERAL PROVISIONS**

36. This Agreement is governed by the law of Florida and the arbitration provisions of this Agreement are governed by the Federal Arbitration Act. Court proceedings must be brought in Palm Beach County, Florida, provided that if you bring a small claims action you may do so in the jurisdiction of your billing address. Any claim under the Agreement must be filed within two (2) years after the claim or cause of action arises. Office Depot shall be entitled to recover its reasonable attorneys' fees and costs if it prevails in an action.
37. Office Depot's failure to insist upon strict compliance with any of the provisions of this Agreement shall not be construed to be waiver of such terms. If any provision is held invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired thereby.
38. These Terms and any Service Description constitute the entire Agreement between you and Office Depot regarding the subject matter of this Agreement. Any changes by you to this Agreement are void. Service Description controls in conflict between these Terms and a Service Description.
39. You and Office Depot are entering into this Agreement as independent contractors and nothing in this Agreement shall be construed to create an employment relationship and, except as set forth in this Agreement, neither has the authority to bind the other to any third party or otherwise to act in any way as the representative of the other.
40. Any Agreement entered into shall be binding upon and inure to the benefit of the parties and the respective successors and assigns.
41. Send any notice under these Terms or any Agreement in writing, addressed to Office Depot at 6600 N. Military Trail, Boca Raton, FL 33496. We will send notice to you by email, phone, text, posting or at your Account address.