

Modern Fleet Management Software

Apex, North Carolina: Partnership Overview

Proposal Expires December 31, 2019

Fleetio
1900 2nd Avenue North
Suite 300
Birmingham, Alabama 35203
1.800.975.5304
www.fleetio.com

Town of Apex and Fleetio

Fleetio is a web-based software platform that is changing how teams manage a fleet through three guiding principles:

1. **Mobility** - Access the platform from anywhere using our Fleetio Go app.
2. **Collaboration** - Work better together with unlimited users accessing the system.
3. **Automation** - Integrate with GPS, fuel card, and other services through our open API.

We understand you have a lot of choices when it comes to your partnerships, and we appreciate the opportunity to present Fleetio as a solution for managing the complex fleet operations for the Town of Apex.

The Fleetio Difference

We have a fresh philosophy for managing a fleet and we built Fleetio based on our unique mindset.

- Software should make fleet management easier, not harder. Many of the tools we saw on the market were complex, antiquated and didn't seem to help fleet managers - but instead made their jobs harder in a lot of ways.
- Fleet management should be more collaborative. Fleetio comes with unlimited users, so many different stakeholders can access the system. With everyone on the same page, fleets last longer, remain safer and run smoother. Fleetio allows unlimited users at no additional cost.
- Fleet information should be accessible anywhere. Fleets are mobile by nature, so fleet information needs to be accessible on the go. Fleetio can be used on any device with an internet connection. You can use smartphones, tablets and anything else that comes in the future. Plus, Fleetio will automate communications so you can cut down on email and get back to more important things.
- Updates and enhancements - **ALWAYS INCLUDED**. Our business model is subscription-based, allowing us to continue delivering maximum value to our customers through frequent releases, upgrades, and enhancements that make our system even better. You are never charged for upgrades and our pricing is all-inclusive. As long as we partner together, we will continue to improve, together.
- Customer service - Our customer support is unrivaled in our space. We invest highly in our customers and their success and deploy a variety of tools and resources to ensure high adoption and utilization. Our "customer happiness score" is measured on every customer interaction and is rated nearly 100%.

Updated Enterprise Pricing

The investment includes full software documentation, ongoing maintenance, customer support, continuous updates, and product development. The proposal below includes all requirements necessary for the full implementation of Fleetio.

Pricing below offered if Agreement is signed before Tuesday, December 31st, 2019

Asset Tier	Annual Cost
501 - 600	\$33,320
Additional Costs/Services: One-Time Implementation Fee: \$3,000	

*Fleetio is an all-inclusive software system. All upgrades, enhancements, maintenance, and support are included in the price.

Full list of features listed at www.fleetio.com/manage/features

- Fully integrated, native mobile applications for iOS and Android.
- Premier support (phone, email, customer portal, ongoing webinars, adoption services).
- Open, agnostic system that allows for tight integration with other systems via open API.
- Sandbox Environment, SAML Connection, and Custom Branding

Fleetio Fast Track (\$3,000 one-time)

Quickly launch Fleetio at your organization with the help of our Customer Success Team. You can learn more about this offering at the end of this proposal and it is a planned implementation organized by the customer and Fleetio. These sessions provide instruction and consultation to configure your Fleetio account to best meet your fleet's specific needs.

Billing and Rollout Plan

For the Town of Apex to smoothly roll out Fleetio without being charged simultaneously for Fleetio and TMT, we will provide access to your Fleetio account from April 1 - June 30th. The one-time implementation fee of \$3,000 will be due upon execution of the agreement, and the annual payment of \$33,320 will be due on July 1, 2020.

Onboarding and Post-Launch Activities

Enterprise customers are assigned a dedicated Customer Success Manager (CSM). The CSM is responsible for onboarding and implementation, which includes product training and consultation. Your Customer Success Manager will review your existing data with you, to ensure it's ready to import. They will assist with all of the admin configuration and any GPS and fuel card integrations. They'll consult with you on the setup and configuration of each feature, and provide train-the-trainer education to make sure that you're ready to onboard your team.

To us, a strong partnership involves collaboration, and after initial implementation, your CSM will be proactively reaching out to you to ensure we are collaborating on four key areas:

- **Delivering product functionality** that meets your needs, as identified during the sales process.
- **Collecting and understanding customer feedback.** This is significant to the evolution of our products. We want to hear product suggestions that customers feel will increase efficiency and help meet ROI goals. Chances are, other customers will benefit from these ideas as well. Product improvements help the industry, overall.
- **Ensuring the product helps you reach ROI/KPI goals.** We'd like to understand the goals our customers plan to achieve using Fleetio and work closely with them to ensure we are meeting those needs.
- **Best Practices by Industry.** In addition to white papers on our website, we share best practices from Fleetio and other industry experts, on processes and workflows to streamline usage by industry.

Customer Success Managers assist with the growth of the fleet, feature requests, consulting, performance on the system, etc. They monitor each customer's account and reach out with suggestions for how to see more value from the Fleetio investment. They also conduct regular system reviews with their customers.

Support Services and Maintenance Includes:

1. **Online self-help tools** - Detailed documentation, videos, user guides.
2. **Live customer support** - Phone & email, customer portal for ticket tracking (average response time ~30 minutes).
3. **Ongoing development, upgrades, and maintenance** - Feature enhancements, bug fixes, functional additions, system maintenance all included at no additional cost.



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Fleetio Manage - Enterprise Software Subscription Agreement

Customer

Account Legal Name:	Town of Apex	Billing Address:	105 Upchurch St
Contact Name:	Andrew L. Havens, Town Manager		Apex NC 27502 United States Of America
Email Address:	drew.havens@apexnc.or g	Phone:	919-249-3400

Company

Rarestep, Inc. d/b/a Fleetio
Attn: Legal Department
1900 2nd Avenue North, Suite 300
Birmingham, AL 35203
legal@fleetio.com

Effective Date: _____ Date of last signature by Customer or Company

This agreement (the "Agreement") is entered into by and between Rarestep, Inc., d/b/a Fleetio (the "Company") and Town of Apex (the "Customer") as of the Effective Date set forth above. In consideration of the mutual promises made herein and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Company and Customer agree as follows:



1. Services provided to customer

Company will provide the following services (collectively, "Services"):

a. License: Company shall grant Customer a nonexclusive, nontransferable license for an unlimited number of users during the term of this Agreement for the use of Fleetio Manage, a fleet management platform for managing Customer's assets. Fleetio Manage shall be configured as described below:

- **Enterprise** (specific modules are listed in the attached Schedule A)

b. Configuration and Training: Customer and Company agree the **Launch Date** shall be **July 1, 2020** unless mutually agreed to be an earlier date. Company shall grant Customer access to a Fleetio Manage trial account 90 days prior to the Launch Date to complete configuration and training. Company shall provide data conversion services necessary to convert Customer's vehicle information from a CSV file. Company shall supply Customer with a template format to which the data must adhere. Further, Company shall provide **(6) six hours** of web-based training on using the Services.

c. Hosting and Support: Company shall be responsible for the hosting, maintenance, and support of all Company-hosted software and Company-hosted equipment used to provide the Services. Company shall provide Customer with ongoing technical support for the Services by providing Customer with the support services listed below during the term of this Agreement:

- Phone, online chat, and email support provided to Customer during normal business hours (7 a.m. to 8 p.m. EST Monday to Friday, exclusive of holidays).
- Access to documentation of the Services.

d. Service Usage: All services shall be provided by Company to Customer pursuant to the Terms of Service, attached hereto as Schedule B ("Terms of Service"), which are incorporated as part of this Agreement. In the event of any conflict between this Agreement and the Terms of Service, this Agreement shall override the conflicting provisions of the Terms of Service.



2. Prices and payments for services

a. Configuration and Training Fees: Customer shall pay a one-time fee in the amount of **\$3,000** for configuration and training services as listed in Section 1 with payment due in full upon execution of this Agreement. If Company provides Customer with on-site training or consulting, Company shall invoice Customer for reimbursement of the reasonable travel and per day expenses of each trainer or consultant following the performance of any such on-site services. Customer shall pay such invoice within fifteen (30) days.

b. Service Fees: Customer shall pay Company the recurring Service Fees listed below beginning on July 1, 2020 for the license, hosting, and support services listed in Section 1, plus applicable sales or value added tax (based on Customer's address). Payment will be invoiced on July 1, 2020 and will apply to the next 12 months of service. Payment will be due within 30 days of invoice being issued.

Initial Tier	Initial Pricing
Enterprise 600 (Manage up to 600 assets)	List price: \$33,320 per year

Payment Frequency	Payment Method
Annual payments	Invoice

The amount of the recurring Service Fees listed in the table above is applicable until Customer upgrades to a higher asset count tier or the end of the Initial Term, whichever occurs first. If Customer desires to upgrade to a higher asset count tier, Customer shall be presented with the pricing for the next applicable tier and be able to upgrade within the product interface. For each Renewal Term, Customer shall be charged the then current list pricing applicable for Customer's then current asset count tier at the beginning of such Renewal Term.

c. Past Due Payments: Company shall be entitled to block Customer's access to the Services without terminating this Agreement or affecting Customer's obligation to make payments under this Agreement if Customer is more than thirty (30) days delinquent on any undisputed fees.



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3. Term and termination

The Initial Term of this Agreement shall commence on the Effective Date and shall continue for **12 Months** from the Launch Date unless earlier terminated as provided herein. After the expiration of the Initial Term, this Agreement will be automatically renewed for successive one-year Renewal Terms unless either party gives written notice to the other party of its intent not to renew at least ninety (90) days prior to the expiration of the then current term.

In the event either party has failed to substantially cure any material default or failure of performance under this Agreement within thirty (30) days after the breaching party's receipt of a written notice describing with reasonable specificity such alleged material default or failure of performance, then the non-breaching party may terminate this Agreement for cause by giving the breaching party a written notice of termination within fifteen (15) days after the expiration of the said thirty (30) day period.

If i) Customer terminates this Agreement before the end of the then-current term without cause, or ii) Company terminates this Agreement for cause (which includes a failure to pay any undisputed fees when due), then Customer will pay to Company and Company agrees to accept from Customer, as mutually negotiated liquidated damages and not as a penalty, seventy-five percent (75%) of the total service fees that would have accrued over the remainder of the then-current term of the Agreement, if such early termination had not occurred. The parties have bargained for and agreed to this provision, deeming it adequate and reasonable compensation for the damages and injuries suffered by Company because of such termination and giving consideration that calculating the actual damages from an early termination is impractical given the nature of a fast-growing software business. The liquidated damages agreed to by the parties are the best reasonable estimate of actual losses which would be suffered by Company based on its ability to adjust staffing and capital outlays, the length of the term of the Agreement, the evolving nature of the Services and other factors. Customer shall pay such sum to Company within thirty (30) days of such early termination and failure to timely pay such sum shall constitute a breach of this Agreement and such sum shall be recoverable, along with attorney's fees and costs, in any court of competent jurisdiction.

4. General

Customer consents to Company's use of Customer's name in Company's marketing and other materials and to announcing the execution of this Agreement.



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The services ordered with this Agreement may be in addition to other subscriptions and services previously ordered by Customer. This Agreement, all schedules and attachments, including the Terms of Service incorporated by reference, collectively represent the complete agreement and understanding between Company and Customer with respect to the subject matter herein and supersede any other written or oral agreement. This Agreement may only be modified in writing and must be signed by Company and Customer. This Agreement may be executed with facsimile signatures and in multiple counterparts, and each of such counterparts shall constitute one and the same original agreement.


Customer acknowledges that 1) the pricing and terms contained in this Agreement are confidential information, 2) such information should not be shared with any third party other than Customer's employees, Customer's agents, or governmental authorities who have a reasonable need for this information, and 3) any disclosure not permitted by this Agreement shall be considered a breach of this Agreement by Customer.

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Customer



Signature

12/15/2019

Date


Debra Meyers

Name

Town Manager

Title

Company



Signature

Date

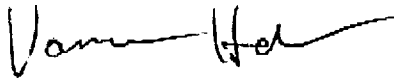
Will Yarbrough

Name

Sales Director

Title

"this instrument has been
preaudited in the manner required
by the Local Government Budget
and Fiscal Control Act."





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Schedule A

Fleetio Manage - Enterprise

Fleetio Manage Enterprise includes the following features*:

- Asset Profiles
- Service Entries
- Fuel Entries
- Vendors
- Issues & Defects Management
- User Permissions
- Fuel Card Integrations
- Import Data
- Work Orders
- Inventory Management
- Inspections Module
- SAML
- Service Reminders
- VIN Lookups
- Contacts
- Renewal Reminders
- Custom Fields
- Group Management
- Standard & Advanced GPS Integrations
- API Access
- Parts
- Purchase Orders
- Maintenance Shop Network Integration
- Custom Branding

** Customer acknowledges that modules listed above may be appended, modified, or replaced by the Company throughout the term of this Agreement as necessary to continue the never-ending evolution of the product. However, in no case, will such changes materially reduce the level of functionality available to Customer.*



Schedule B

Terms of Service

Last updated on May 9, 2018

THESE TERMS OF SERVICE ARE THE LEGALLY BINDING CONTRACT BETWEEN YOU AND RARESTEP, INC., AND GOVERN YOUR ACCESS TO ANY SERVICES WE PROVIDE TO YOU. PLEASE READ THESE TERMS CAREFULLY BEFORE SIGNING UP FOR OR USING THE SERVICES.

Rarestep, Inc. ("we", "us", or "our") provide services ("Service") to you ("you" or "your") through our websites and through our mobile apps. By using the Service, you are agreeing to be bound by these terms and conditions ("Terms of Service").

You represent and warrant that you have the full right and power to enter into and fully perform this agreement in accordance with these Terms of Service. If you are using the Service on behalf of a company or other legal entity, you represent and warrant that you have the authority to bind that company or other legal entity to these Terms of Service and, in such event, "You" will refer and apply to that company or other legal entity.

ACCOUNT TERMS

- You must be 13 years or older to use this Service.
- If you are between the ages of 13 and 18 then you must have a parent assist in registering for an account for the Service.
- You must be a human. Accounts registered by "bots" or other automated methods are not permitted.
- You must provide your full legal name, the legal name of your business (where applicable), a valid e-mail address, and any other information requested in order to complete the sign-up process. This information will be kept secure. You reserve the right to store and/or remove any personally identifiable information from your account.
- You are responsible for maintaining the security of your password. We cannot and will not be liable for any loss or damage from your failure to comply with this security obligation.



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You will be solely responsible and liable for any activity that occurs within your account. In the event of any dispute between two or more parties about account ownership, you agree that we will be the sole arbiter of such dispute in our sole discretion and that our decision is final and binding.

- You can create multiple logins for a single account. However, your login may only be used by one person. A single login shared by multiple people is not permitted.
- You must not use the Service for any abusive or illegal purposes. You must not violate any laws, rules or regulations in your jurisdiction (including but not limited to copyright laws). You expressly agree and acknowledge that you will not submit information that would be a violation of your (or your employer's, as the case may be) policies, including without limitation, any data protection, privacy or security policies or any data privacy laws, rules or regulations.
- You may not attempt to modify, translate, adapt, edit, copy, decompile, disassemble, or reverse engineer any software used or provided by us in connection with the Service.
- The Service is always evolving and the form and nature of the Service may change from time to time. We reserve the right to modify the Service from time to time at any time, including adding or removing features.
- We reserve the right to access, read, preserve, and disclose any information as we reasonably believe is necessary to (i) satisfy any applicable law, regulation, legal process or governmental request, (ii) enforce the Terms of Service, including investigation of potential violations, (iii) detect, prevent, or otherwise address fraud, security or technical issues, (iv) respond to user support requests, or (v) protect our rights, property or safety as well as those of our users, customers, and the public.
- You may not do any of the following while accessing or using the Service: (i) access, tamper with, or use non-public areas of the Service, our computer systems, or the technical delivery systems of our providers; (ii) probe, scan, or test the vulnerability of any system or network or breach or circumvent any security measures; (iii) access or search or attempt to access or search the Service by any means (automated or otherwise) other than through our currently available, published interfaces; (iv) in any way use the Service to send altered, deceptive or false information; or (v) otherwise interfere with, or disrupt, (or attempt to do so), the access of any user, host or network, including, without limitation, sending a virus, overloading, flooding, spamming, mail-bombing the Service, or by scripting the creation of content in such a manner as to interfere with or create an undue burden on the Service.

TERM, BILLING AND PAYMENT



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- We may grant you a limited trial period during which you will receive the Service free of charge. Thereafter, you will be charged a recurring service fee in advance of the applicable Service Period.
- Your account will be renewed automatically at the end of each Service Period until either you or we explicitly cancel the Service.
- You will be billed a non-refundable fee in advance of your applicable Service Period. There will be no refunds or credits for partial use of service, upgrade/downgrade refunds, account cancellations, or refunds for months unused with an open account. If you have any questions about charges made to your account, please contact us immediately. If the charges were made in error, we will credit your account for the appropriate amount. We have a zero tolerance policy for chargebacks. Any customer who disputes a credit card payment through a card issuer that is found to be valid will be permanently banned from the use of the Service.
- For any change in your recurring service fee, we will automatically charge your credit card or bank account that you provided or bill you via other payment methods for the new rate on your next billing cycle.
- You must provide us with accurate billing information and keep this information up to date.
- By subscribing to the Service you give us the right to charge your credit card, or bill you via other payment methods, for fees connected with the Service such as renewal fees or fees for extra services.
- We reserve the right to change prices for the Service and any connected extra services at any time upon a 30-day notice from us. Such notice may be provided at any time by posting the changes to the Service itself.
- You will pay any and all applicable international, federal, state, and local sales, use, value-added, excise, duty, and any other taxes, fees, or duties, not based on our net income, that are assessed on or as a result of the Service. Any such taxes, fees, and duties collected by us from you on behalf of a governmental agency shall not be considered a part of, a deduction from, or an offset against, payments due to us for the Service.

CANCELLATION AND TERMINATION

- You are solely responsible for properly canceling your account. You can cancel your account at any time through the Account Settings screen.



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- All of your information will be immediately deleted from the Service (including our secure servers used to store your information) upon cancellation. If you want to preserve your information, you must export your information before canceling your account. Your information cannot be recovered once your account is canceled.
- Any abuse of the Service will lead to termination of your account. We reserve the right to decide what is considered abuse of the Service. If your account is terminated, your rights to use the Service will cease immediately. Termination is without prejudice to all other remedies available to us by law or under these Terms.
- All provisions of these Terms of Service relating to disclaimers of warranties, limitation of liability and remedies and damages shall survive termination.

PRIVACY

See our Privacy Policy at <https://www.fleetio.com/privacy> for information about our collection and use of your personally identifiable information (including Cookies). This Privacy Policy is expressly incorporated into these Terms of Service. For non-U.S. users, European Union General Data Protection Regulation (GDPR) compliance and Privacy Shield certification information can also be found in our [Privacy Policy](#).

NO WARRANTIES OR REPRESENTATIONS

You understand and agree that the Service is provided "AS IS" and "AS AVAILABLE" and we expressly disclaim warranties of any kind, express or implied, including without limitation any warranty of accuracy, merchantability, fitness for a particular purpose, or non-infringement. We make no warranty or representation and disclaim all liability regarding the results that may be obtained from the use of the Service, the correctness or completeness of the data, the security, reliability or availability of the Service, or that the Service will meet any user's requirements. Use of the Service is at your sole risk. Even though we use secure third party vendors and hosting partners (as detailed in our [Privacy Policy](#)) to provide the necessary hardware, software, networking, storage, and related technology required to run the Service, you understand and agree that you will be solely responsible for any damage to you (including loss of data) resulting from the use of the Service. The entire risk arising out of use, security, or performance of the Service remains with you. Without limiting the foregoing, the Service is not designed or licensed for use in hazardous environments requiring fail-safe controls.



The above disclaimer applies to any damages, liability or injuries caused by any failure of the performance, error, omission, interruption, deletion, defect, delay in operation or transmission, computer virus, communication line failure, theft or destruction of or unauthorized access to, alteration of, or use the Service, whether for breach of contract, tort, negligence or any other cause of action.

LIMITATIONS OF LIABILITY

IN NO EVENT WILL WE OR OUR SUBSIDIARIES, AFFILIATES, SHAREHOLDERS, OFFICERS, EMPLOYEES, AGENTS, PARTNERS AND LICENSORS BE LIABLE FOR LOST PROFITS OR ANY OTHER DAMAGES, INCLUDING WITHOUT LIMITATION ANY DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL, EXEMPLARY, INCIDENTAL, OR PUNITIVE DAMAGES ARISING OUT OF, BASED ON, OR RESULTING FROM THIS CONTRACT OR ARISING FROM OR CONNECTED IN ANY WAY WITH YOUR USE OF OR INABILITY TO USE THE SERVICE, OR FOR ANY CLAIM BY ANY OTHER PARTY, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

THE EXCLUSION OF DAMAGES UNDER THIS SECTION IS INDEPENDENT OF YOUR EXCLUSIVE REMEDY AND SURVIVES IN THE EVENT SUCH REMEDY FAILS OF ITS ESSENTIAL PURPOSE OR IS OTHERWISE DEEMED UNENFORCEABLE. THESE LIMITATIONS AND EXCLUSIONS APPLY WITHOUT REGARD TO WHETHER THE DAMAGES ARISE FROM (1) BREACH OF CONTRACT, (2) BREACH OF WARRANTY, (3) NEGLIGENCE, OR (4) ANY OTHER CAUSE OF ACTION, TO THE EXTENT SUCH EXCLUSION AND LIMITATIONS ARE NOT PROHIBITED BY APPLICABLE LAW.

IF YOU ARE DISSATISFIED WITH THE SERVICE, YOU DO NOT AGREE WITH ANY PART OF THIS CONTRACT, OR YOU HAVE ANY OTHER DISPUTE OR CLAIM WITH OR AGAINST US WITH RESPECT TO THIS CONTRACT OR THE SERVICE, THEN YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE SERVICE. THIS LIMITATION OF RELIEF IS A PART OF THE BARGAIN BETWEEN THE PARTIES.

In the event that, notwithstanding the foregoing disclaimers and indemnification, we are found responsible to you for any reason whatsoever, our responsibility shall be limited to the amounts actually paid by you for the Service during the twelve (12) months immediately preceding such event, and shall not include punitive damages or consequential or resulting damages of any nature.



INTELLECTUAL PROPERTY

All information that you post to the Service must comply with applicable copyright laws. We claim no intellectual property rights over the material you provide to the Service when such material is tagged with personally identifiable information. We may share aggregated information that does not include personally identifiable information and we may otherwise disclose non-identifying information with third parties for industry analysis, demographic profiling, and other purposes. Any aggregated information shared in these contexts will not contain your personally identifiable information.

We give you a personal, worldwide, royalty-free, non-assignable, non-transferable, revocable, limited and non-exclusive license to use the Service. This license is for the sole purpose of enabling you to use and enjoy the benefit of the Service as provided by us, in the manner permitted by these Terms of Service.

You shall not copy, sell, transfer, distribute, publish, or assign your license to our Service in any format to any third party. In addition, you may not use the Service in any way that violates applicable federal, state, or international law, or for any unlawful purpose.

All right, title, and interest in and to the Service are and will remain the exclusive property of us (and our licensors, if applicable). The Service is protected by copyright, trademark, and other laws of both the United States of America and foreign countries.

All of the content generated by us for the Service and the software used for the Service is the property of us, our affiliates, or our suppliers, and is protected by United States of America and international copyright laws.

Nothing should be construed as granting, by implication, estoppels, or otherwise, any license or right to use any of the copyrighted works displayed or contained in the Service without our express, written consent. Nothing in these Terms of Service gives you a right to use any of our, our affiliates', or our suppliers' trade names, trademarks, service marks, logos, domain names, and other distinctive brand features.

Any feedback, comments, or suggestions you may provide regarding the Services is entirely voluntary and we will be free to use such feedback, comments or suggestions as we see fit and



without any obligation to you.

INDEMNIFICATION

You agree to indemnify, defend, and hold harmless, us and our respective officers, directors, employees, agents, licensors, representatives, and third party providers, to and from and against all claims, losses, expenses, judgment, damages and costs, and consequences of whatever nature, including reasonable attorneys' fees, from any violation of this agreement by you or your violation of any rights of a third party. We reserve the right to assume, at our sole expense, the exclusive defense and control of any matter subject to indemnification by you, in which event you will fully cooperate with us in asserting any available defenses.

CHOICE OF LAW AND LOCATION FOR RESOLVING DISPUTES

These Terms of Service shall be governed and construed in accordance with the laws of the State of Alabama, without giving effect to its conflicts of law principles and without reference to the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. You agree that any disputes arising with us or our affiliates, subsidiaries, employees, contractors, officers, directors, or third party providers from or related to these Terms of Service or your access to or use of the Service shall be resolved exclusively by binding arbitration conducted under the auspices of the American Arbitration Association in Birmingham, Alabama. You shall be responsible for initial payment of one-half of any arbitration fees, but upon final resolution, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs. However, each party retains the right to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation or violation of a party's copyrights, trademarks, trade secrets, patents or other intellectual property rights.

NON-U.S. USERS

If you are located outside the United States of America then by using the Service, you understand and consent to the processing of personally identifiable information on secure servers within the United States of America. For non-U.S. users, European Union General Data Protection Regulation (GDPR) compliance and Privacy Shield certification information can also be found in our [Privacy Policy](#).



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NOTICES

Any notices or other communications permitted or required of us under these Terms of Service, including those regarding modifications to these Terms of Service, will be in writing and given to you: i) by us via e-mail (to the address that you provide) or ii) by posting to the Service. For notices made by e-mail, the date of receipt will be deemed the date on which such notice is transmitted.

By registering with us, you understand that we may send you communications or data from us regarding the Service, including but not limited to i) notices about your use of the Service, including any notices concerning violations of use, ii) updates, and iii) promotional information and materials regarding our products and services, via email and in-app message. We give you the opportunity to opt-out of receiving messaging from us at any time by following the opt-out instructions provided in the message.

GENERAL

If any part of these Terms of Service are determined to be invalid or unenforceable pursuant to applicable law including, but not limited to, the warranty disclaimers and liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid enforceable provision that most closely matches the intent of the original provision, and the remainder of this agreement shall continue in effect. A printed version of these Terms of Service and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to these Terms of Service to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. All rights not expressly granted herein are reserved.

No failure to exercise or enforce any right or provision of these Terms of Service shall constitute a waiver of such right or provision.

The section titles in these Terms of Service are for convenience only and have no legal or contractual effect.



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You may not assign or transfer these Terms of Service, by operation of law or otherwise, without our prior written consent, which shall not be unreasonably withheld. Any attempt by you to assign or transfer these Terms of Service, without such consent, will be null and of no effect. We may assign or transfer these Terms of Service, at our sole discretion, without restriction. Subject to the foregoing, these Terms of Service will bind and inure to the benefit of the parties, their successors and permitted assigns.

Any claim related to this contract or the Service must be brought within one year. The one-year period begins on the date when the claim first could be filed. If it is not, then that claim is permanently barred. This applies to you and your successors. It also applies to us and our successors and assigns.

Neither party shall be responsible for any failure to perform or delay in performing any of its respective obligations under these Terms of Service, except for payment obligations, where and to the extent that such a failure or delay results from causes beyond the control of such party. Such causes shall include, without limitation, delays caused by the other party, failures caused by a third-party service, acts of God or of the public enemy, acts of the government in its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, freight embargoes, strikes, civil commotion, or the like.

These Terms of Service are the entire and exclusive understanding and agreement between you and us regarding the Service and these Terms of Service supersede and replace any and all prior oral or written understandings or agreements between you and us regarding the Service.

QUESTIONS

If you have any questions about these Terms of Service, please [contact us](#).



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Schedule C

STATE OF NORTH CAROLINA ADDENDUM TO SOFTWARE SUBSCRIPTION AGREEMENT
COUNTY OF WAKE

This Addendum to Software Subscription Agreement (the or this "Addendum") is made and entered into this 12th day of December, 2019 by and between the Town of Apex, a municipal corporation of the State of North Carolina, ("hereinafter Customer") and Rarestep, Inc., d/b/a Fleetio, an Alabama company with its principal offices located at 1900 2nd Avenue North, Suite 300, Birmingham, AL 35203 (hereinafter "Company"). Customer and Company are sometimes hereinafter referred to collectively as the "Parties."

WITNESSETH

WHEREAS, the Parties entered into an agreement entitled, "Fleetio Manage-Enterprise Software Subscription Agreement" (the "Agreement") which incorporated certain "Terms of Service" through a web based link; and

WHEREAS, the Parties desire to modify certain provisions of the Agreement and Terms of Service; and

NOW, THEREFORE, in consideration of the foregoing, the Parties do hereby agree to amend the Agreement and Terms of Service as follows:

AGREEMENT:

1. **Term and Termination.** Section 3 is hereby modified to appear as follows:

The Initial Term of this Agreement shall commence on the Effective Date and shall continue for **12 Months** from the Launch Date unless earlier terminated as provided herein. After the expiration of the Initial Term, this Agreement may be renewed for optional one-year Renewal Terms upon agreement of the parties. If either party does not wish to extend the agreement at the end of the Initial Term or an applicable Renewal Term, such party shall provide written notice to the other party of its intent not to renew at least ninety (90) days prior to the expiration of the then current term.

In the event either party has failed to substantially cure any material default or failure of performance under this Agreement within thirty (30) days after the breaching party's receipt of a written notice describing with reasonable specificity such alleged material default or failure of performance, then the non-breaching party may terminate this Agreement for cause by giving the breaching party a



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written notice of termination within fifteen (15) days after the expiration of the said thirty (30) day period.

2. **General.** The first sentence of Section 4 is hereby modified as follows:

Customer does not consent to Company's use of Customer's name in Company's marketing and other materials but does consent to use of Customer's name in announcing the execution of this Agreement.

The following sentence is hereby added to the last paragraph in Section 4:

Notwithstanding anything to the contrary in this paragraph or this Agreement, Chapter 132 of the North Carolina General Statutes governs the release of any information determined to be a public record and shall control in this Agreement without penalty or liability to either party, provided Company receives prompt notice of the request and Customer works in good faith to minimize disclosure permitted by the statute. Release, retention or copying of any document or information consistent with North Carolina law shall not be a breach of this Agreement.

3. **Miscellaneous.** The following Section is added to the Agreement as follows:

5. Miscellaneous

E-Verify. Company shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes (E-Verify). Company shall require all of its subcontractors for this Agreement to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes (E-Verify).

Anti-Human Trafficking. Company warrants and agrees that no labor supplied by the Company or, to the best of Company's knowledge, the Company's subcontractors, in the performance of this Agreement shall be obtained by means of deception, coercion, intimidation or force, or otherwise in violation of North Carolina law, specifically Article 10A, Subchapter 3 of Chapter 14 of the North Carolina General Statutes, Human Trafficking.

Non-Appropriation. Company acknowledges that Customer is a governmental entity, and the contract validity is based upon the availability of public funding under the authority of its statutory mandate. In the event that public funds are unavailable and not appropriated for the performance of Customer's obligations under this contract, then this contract shall automatically expire without penalty to the Customer upon written notice to Company advising of the unavailability and non-appropriation of public funds. It is expressly agreed that the Customer shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this contract but only as a necessary fiscal measure.



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Constitutional Limitation on Town Indemnification. The parties acknowledge and understand that an unlimited indemnification by the Town (Customer) constitutes a violation of the North Carolina Constitution, and is void and unenforceable by operation of law. Any indemnifications given by the Customer to any party under the Agreement shall be deemed to be given only to the fullest extent allowed by law.

Data. Company and Customer agree that all data submitted, entered, or otherwise provided by Customer in use of the Software is owned and possessed in whole by Customer. Notwithstanding the foregoing, Company may share aggregated information that does not include personally identifiable information and Company may otherwise disclose non-identifying information with third parties for industry analysis, demographic profiling, and other purposes. However, any aggregated information shared in these contexts will not contain your personally identifiable information.

TERMS OF SERVICE:

The Terms of Service, as linked to in the Agreement, are modified as follows. Any sections not noted below will remain in full force and effect:

TERM, BILLING AND PAYMENT

2. This account will not be renewed automatically.
4. Deleted.
7. We reserve the right to change prices for the Service and any connected extra services before the beginning of any Renewal Term. If you choose to renew the Service, we will invoice you at the then current pricing.

NO WARRANTIES OR REPRESENTATIONS

The second paragraph of this Section is modified as follows:

To the extent permitted by law, the above disclaimer applies to any damages, liability or injuries caused by any failure of the performance, error, omission, interruption, deletion, defect, delay in operation or transmission, computer virus, communication line failure, theft or destruction of or unauthorized access to, alteration of, or use the Service, whether for breach of contract, tort, negligence or any other cause of action.

INDEMNIFICATION

This Paragraph is Intentionally Deleted.



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CHOICE OF LAW AND LOCATION FOR RESOLVING DISPUTES

All matters relating to these Terms of Service shall be governed by the laws of the State of North Carolina, without regard to its choice of law provisions, and venue for any action relating to these Terms of Service shall be Wake County Civil Superior Court or the United States District Court for the Eastern District of North Carolina.

GENERAL

The fifth paragraph in this Section is deleted in its entirety.

Notwithstanding anything to the contrary in the Agreement or the Terms of Service and in the event of any conflict between the terms of the Agreement or the Terms of Service and this Addendum, this Addendum shall control.

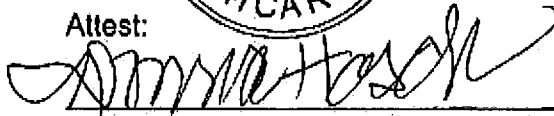
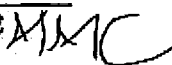
IN WITNESS WHEREOF, the Parties have entered into this Addendum effective the date written above.

TOWN OF APEX (CUSTOMER)



By: 
Andrew L. Havens, Town Manager

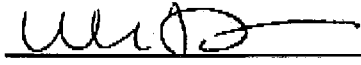
Attest:


Donna B. Hosch, Town Clerk, GMC 

"this instrument has been
preaudited in the manner
by the Local Government
and Fiscal Control Act."



RARESTEP, INC. D/B/A FLEETIO (COMPANY)

By: 
Name: Will Yarbrough
Title: Sales Director
Date: _____