



Township of White Lake and White Lake Police, MI

# **VC3 Manage - On Premises + Projects**

## **Order**

## Table of Contents

Order Governed by the Master Agreement.....	3
Summary of Scope of Services & Fees .....	3
Deliverables & Services.....	6
Invoicing .....	11
Addendum A – Service Desk Priorities .....	13
Addendum B – Maintenance Windows .....	15

# Order Governed by the Master Agreement

This Order is subject to and governed by Company's Master Agreement in effect on the date this Order is entered into between Company and Client. The Master Agreement is available at <https://www.vc3.com/terms-of-service/> and is incorporated in full into and made a part of this Order by this reference. The Client may also request a copy of the Master Agreement by submitting an email request to [betterit@vc3.com](mailto:betterit@vc3.com) identifying the Client and the applicable Orders. Company's entering into this Order is conditioned on Client's agreement to the Master Agreement, and by entering into this Order with Company, Client accepts and agrees to the Master Agreement.

## Summary of Scope of Services & Fees

Company will provide the following services listed in Tables A and B. Recurring services, if included, shall be provided for 60 Months, starting from the date of the first recurring invoice (Effective Services Start Date), unless terminated in accordance with the terms of this Order or the Master Agreement.

Company will audit the Client's usage of units on a monthly basis. At the end of each calendar year the Parties will review the usage units for the year. If the changes for the year result in an increase in units from the amount listed in Table A, Company will invoice Client for the increase and adjust the monthly fee for the next calendar year by the corresponding amount indicated in Table A. If the changes for the year result in a reduction in Units below the usage indicated in Table A, Client shall receive a credit on the monthly invoice for the next calendar year and the reduction will be reflected on the invoice for the start of the next calendar year. Additional services may be added at any time during the life of this contract at the unit rates listed below.

*(See tables on next page)*

**Table A: Services & Fees**

Description	Units	Unit Price	Monthly Fee	One-Time Fee	Annual Fee
<b>On Premises Server Support - TWP</b>  <i>Physical or virtual server that is running a server operating system. 24x7x365 Support - Servers, Proactive Monitoring, Maintenance &amp; Patching - Servers, Strategic IT Planning, Endpoint Detection &amp; Response + 24x7x365 SOC, IT Asset Lifecycle Management,</i>	6.00	\$48.21	\$289.26	\$0.00	\$0.00
<b>On Premises Workstation Support - TWP</b>  <i>24x7x365 Support - Workstations, Proactive Monitoring, Maintenance &amp; Patching, Strategic IT Planning, Endpoint Detection &amp; Response + 24x7x365 SOC, Microsoft 365 Protection and Backups - Cloud Protect &amp; Cloud Data Recovery, IT Asset Lifecycle Management,</i>	76.00	\$48.21	\$3,663.96	\$0.00	\$0.00
<b>On Premises Server Support - Police</b>  <i>Physical or virtual server that is running a server operating system. 24x7x365 Support - Servers, Proactive Monitoring, Maintenance &amp; Patching - Servers, Strategic IT Planning, Endpoint Detection &amp; Response + 24x7x365 SOC, IT Asset Lifecycle Management,</i>	4.00	\$48.21	\$192.84	\$0.00	\$0.00
<b>On Premises Workstation Support - Police</b>  <i>24x7x365 Support - Workstations, Proactive Monitoring, Maintenance &amp; Patching, Strategic IT Planning, Endpoint Detection &amp; Response + 24x7x365 SOC, Microsoft 365 Protection and Backups - Cloud Protect &amp; Cloud Data Recovery, IT Asset Lifecycle Management,</i>	17.00	\$48.21	\$819.57	\$0.00	\$0.00
<b>Total Services Monthly:</b>			<b>\$4,965.63 + 20% Projects = \$5,958.55</b>		

**Notes:**

- 20% increase to cover all Projects for the length of the Agreement . All network and computer related installs or projects are covered in full.
- ALL Project labor is covered.
- Company shall continue to provide all previous services rendered to the Client. .
- Unlimited onsite and remote support for the Township and Police Department.
- Full patch management and system monitoring, 24x7x365 EDR support monitored by SOC.
- Full onsite and off-site monitored Backup and Recovery of all Servers included.
- Strategic Alignment and Strategic Advisor included. Budgetary assistance and planning with a Strategic Timeline and regular meetings with your Advisor.
- Pricing in Work Order reflects 2024 initial staggered pricing... see below for 5-year staggered breakdown...
- 2024: \$59,587.56 +20% Projects = \$71,502.60 (or Monthly fee of \$5958.55)... **Twp \$4743.70 / PD \$1214.85**
- 2025: \$76,881 + 20% Projects = \$92,257.08 (or Monthly fee of \$7688.09)... **Twp \$6120.62 / PD \$1567.47**
- 2026: \$88,992 +20% Projects = \$106,790.40 (or Monthly fee of \$8899.20)... **Twp \$7084.80 / PD \$1814.40**
- 2027: \$98,880 +20% Projects = \$118,656 (or Monthly fee of \$9888.00)... **Twp \$7872.00 / PD \$2016.00**
- 2028: Company will hold pricing on the 5<sup>th</sup> year.
- Client may choose to discontinue the 20% Projects option after year 5.
- 4% or CPI Index cost of living thereafter.

**Table B: Summary of Fees**

One-Time Fees*	Monthly Fees	Annual Fees
\$0.00	\$5,958.55	\$0.00

\* One-Time fees may include implementation if required.

# Deliverables & Services

## VC3 Manage - On Premises

Company will supply the necessary qualified resources to manage the IT Services of the client as defined below.

Included Devices: 'Included Devices' will be defined as applicable devices associated with the unit quantities stated in Table A.

Company will provide the following functions and services as part of this Order:

### A. Discovery & Deployment

1. Setup the Client System for management and provide training to help the Client get the most out of the services. This includes:
  - i. Deployment of the Company monitoring and management platform.
  - ii. Deployment of the Company Endpoint Protection software.
  - iii. Full documentation and inventory of your network
  - iv. Best-practice configuration of the network for monitoring and management
  - v. Orientation and training for your staff
  - vi. MacOS Note: If Client is utilizing Mac OS, Company will provide documentation to end users on how to install Company's monitoring and management platform. Company will provide on-site assistance if needed. MacOS does not allow remote deployment of standard Company tools.
2. Implement performance monitoring of client's network prior to and during implementation.

### B. 24x7 Monitoring and Incident Response Services

1. Provide 24X7 Incident response services for all included user, server, and network devices.
2. Provide phone, remote and onsite support to authorized users for all included devices from service centers located in the United States.
3. Track all incidents through an ITIL (Information Technology Infrastructure Library) based Service Desk system. All requests will be prioritized and processed per the 'Priority' guidelines listed in Addendum A.

4. Provide 24x7 collection of performance data for the client's included server and network devices per Company's best practices.
5. Utilize industry best practices for remote access, control, and management of all devices.
6. Patching: Deploy, manage, and monitor the installation of approved service packs, security updates and firmware updates as deemed necessary on all applicable devices. Some devices such as tablets and cell phones may not be compatible with included patching methodologies.
7. Resolution of monitoring alerts.
8. Resolution of performance issues.
9. Resolution of availability issues.
10. Resolution of end-user reported problems.
11. Routine additions, deletions, and changes to included devices and users.

#### C. Application Support

1. Provide support for client licensed 3<sup>rd</sup> party applications. If it is determined from the initial discovery and/or from third-party application vendors that an application requires additional servers, licensing or support resources, additional monthly costs may be required before the application can be supported.
2. Microsoft Applications
  - i. Includes Microsoft Office and Office 365 core applications. This is limited to Microsoft Access, Excel, OneDrive for Business, OneNote, Outlook, PowerPoint, SharePoint, Teams and Word.
  - ii. Application installs, synchronization issues, permission management and general troubleshooting are all within scope for these applications.

#### D. Strategic IT Planning

Provide the client with a named Strategic resource to assist Client with the following:

- 1. Budgeting:** Work with the client to develop an annual technology budget for recurring expense items and new capital requirements in alignment with organizational goals.
- 2. Strategic Planning:** Recommend technology solutions as well as provide roadmaps that support key business processes in order to help the client leverage technology appropriately. The Company will work with the client as part of the annual planning process to understand the current business drivers and goals and make recommendations targeted toward maximizing the effectiveness of the client's technology investment.
- 3. Analyze IT Health data:** Perform a periodic analysis of the data collected by Company's monitoring systems to proactively resolve issues and assess potential

risks within the environment. The Company will make this analysis available to key stakeholders and provide direction on business decisions regarding the level of investment.

#### **E. Endpoint Detection and Response**

1. Deployment of Company Endpoint Detection and Response (EDR) agents to all applicable included devices.
2. Monitoring of EDR agents by 24x7x365 Partner Security Operations Center (SOC).
3. Provide 24x7 Incident response services for all security events and incidents generated by the EDR tool for applicable devices. All events and incidents will be prioritized and processed per the 'Priority' guidelines listed in Addendum A.
4. Notify Client no later than 24 hours after the discovery of suspected unauthorized access, acquisition, disclosure or theft of Client data. Company shall take all reasonable measures to promptly cure the deficiencies relating to the unauthorized access or breach and assist Client in complying with all applicable laws and regulations pertaining to unauthorized access, including assisting with any required notices of the breach or access and law enforcement investigations.

#### **F. IT Asset Administration**

1. Hardware and software asset and warranty expiration tracking
2. Domain name expiration tracking
3. Hardware and software purchase specification
4. Web portal access for ticket creation and management
5. Maintaining network documentation and secure password storage
6. Interfacing with vendors such as internet service providers (ISPs)

#### **G. Procurement**

1. Server, Networking, and Power equipment.
2. Desktops, laptops, tablets.
3. Peripherals, including Printers.
4. Software, including subscription-based services.
5. Domain names and security certificates.

**H. Storage of Client Data.** Company shall only store, process and access Client data at and from data centers or workstations in the United States.

**I. Response to Requests for Client Data.** If the Client receives a Court Order, a Freedom of Information Act request, or other legal request to provide Client data maintained by VC3, then VC3 shall provide the Client data in a format directed by Client in the timeframe required by law.

**J. Compliance with CJIS Addendum:** Company shall ensure that the services for the Client's Police server and workstation support shall be done in compliance with the Federal Bureau of Investigation Criminal Justice Information Services (CJIS) Security Addendum, which is incorporated into this Agreement. Company shall provide a copy of a signed CJIS Security Addendum from each of its employees assigned to perform services for the Client's Police server and/or workstation.



**K. PCI Data:** VC3 is in compliance with the PCI Data Security standard and shall provide a copy of its Certificate of Compliance with PCI Data Security Standard upon request.

**L. Obligations upon Expiration or Termination of Agreement:** Upon expiration or termination of the agreement, VC3 shall cooperate in a smooth and orderly transition to a new service provider.

## **EXCLUSIONS**

Items other than those included above are expressly excluded from the Services provided within this Order. The following exclusions and clarifications are intended to clarify the scope of services for this order:

- A. Hardware and software purchases such as Microsoft Office suite are excluded. However, installation of new software and hardware are included services.
- B. Software development
- C. Software and licensing purchased by the Client directly from a third-party vendor are not included as a part of services to be supported.
- D. Architectural changes, data visualization and business process automation / troubleshooting are considered excluded from this Order.
- E. Cybersecurity event or incident response activities or remediation efforts exceeding sixteen (16) hours of technician, engineer or project management time.

## **CLIENT RESPONSIBILITIES**

- A. Client will provide a primary point of contact for Company to work with on all services provided in this Order.
- B. Client is responsible for authorizing access for Company to sites that are owned / controlled by third parties.
- C. Client will make its best effort to maintain the minimum infrastructure requirements as defined by Company.
- D. Client will maintain both hardware and software maintenance agreements with the source Vendor whenever possible to allow for ongoing access to security updates and to provide quick replacement of non-functioning components.
- E. Client must assign Company as their Microsoft Partner of record.
- F. Client is responsible for procurement and ownership of all licenses, maintenance, and vendor support agreements required for support of their third-party applications, excluding the Microsoft licensing explicitly included in the per seat packages identified in Table A.

- G. Third party tool licensing may be required for additional cost.
- H. Client will be financially responsible for any remaining or ongoing charges from Microsoft. Microsoft subscriptions can each have their own terms and renewal dates. It is the client's responsibility to engage Company to adjust Microsoft subscription counts and terminations prior to 12 months from the original work order or subsequent change order purchase date.

## ASSUMPTIONS

- A. The Order will not become effective unless and until it is agreed upon and signed by the Client and Company as part of the Agreement.
- B. If Company is providing or managing Client 's Microsoft Licenses, then Client agrees to the Microsoft terms and conditions as stated in the Microsoft Customer Agreement found here: <https://www.microsoft.com/licensing/docs/customeragreement>
- C. Company reserves the right, at its discretion, to pass onto the Client any changes to obligations, such as terms or pricing imposed on Company by a given vendor, for an offering that is currently resold to the client at any time during the current agreement term.
- D. Company will make reasonable efforts to resolve all issues remotely prior to dispatching an engineer onsite.
- E. Microsoft NCE licenses and subscriptions run on an annual basis and cannot be terminated nor altered mid-term.
- F. If client Microsoft licenses are under a current annual NCE subscription, Company assumes they will migrate to become under Company's management at the point of renewal.
- G. The items defined in this Order are designed to enhance the security of the customer environment. There is no guarantee that any security measure will prevent a data breach, infection, or other cyber security incident.

# Invoicing

Company will invoice Client per Table C. Company will invoice the Client a pro-rated monthly fee based on any partial month of service plus the first full month of service on the effective services start date. All subsequent service months will be invoiced at the start of the month in which services are to be rendered. Services activated after the first of month may be invoiced on a pro rata basis the following month. Any taxes related to services purchased or licensed pursuant to this Order shall be paid by Client or Client shall present an exemption certificate acceptable to the taxing authorities. Applicable taxes and freight charges shall be billed as a separate item on the invoice.

If Client chooses to renew, after the 5 years, Unit rates will automatically increase annually on the anniversary of the Effective Services Start Date equivalent to the CPI change for All Urban Consumers or by 4.00%, whichever is higher.

**Table C**

Milestone Billing	Milestone Description / Date	Invoice Amount
One-Time Fees	Invoiced at signing of the Order.	\$0.00
Monthly Fees (1 <sup>st</sup> Year) April 1 <sup>st</sup> 2024 – March 31st 2025	Invoicing to begin when recurring services begin.	\$5958.55
Monthly Fee (2 <sup>nd</sup> Year) April 1 <sup>st</sup> 2025 – March 31st 2026	Invoiced at annual renewal.	\$7688.09
Monthly Fees (3 <sup>rd</sup> Year) April 1 <sup>st</sup> 2026 – March 31st 2027	Invoiced at annual renewal.	\$8899.20
Monthly Fees (4 <sup>th</sup> and 5th Years) April 1 <sup>st</sup> 2027 – March 31st 2029	Invoiced at annual renewal.  *Price will be held at year 5.  **4% or CPI Index cost of living thereafter	\$9888.00

*\*Refer to Table B for implementation fee and monthly fee amounts.*

**VC3, Inc**

**Township of White Lake, MI**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name:

Name:

Title:

Title:

Date:

Date:

# Addendum A – Service Desk Priorities

Incidents and Service Requests are triaged and prioritized to effectively resolve the most important issues in a timely manner. Company utilizes the following priorities, criteria and response metrics:

**A. Priority 1:**

- System/device/application down causing work to cease and critical impact to the entire organization, a whole department, or a C-level executive or VIP user; no interim solution available; Client is in danger of or is experiencing a financial loss or the ability to make strategic business decisions is impaired.
- **24x7 Support:** Priority 1 incidents will be addressed 24 hours a day, 7 days a week basis including holidays.

**B. Priority 2:**

- System/device/application down causing work to cease and potential business impact for up to 5 users, a C-level executive, or a VIP user; no interim solution available.
- **24x7 Support:** Priority 2 incidents will be addressed 24 hours a day, 7 days a week basis including holidays.

**C. Priority 3:**

- Level of service degraded causing impact to an individual user; no interim solution available. Operational impact to the organization or a whole department though work continues as a result of implementing an interim solution or use of other system/device/service.
- **Business Hours Support:** Priority 3 incidents will be addressed during normal business hours Monday-Friday, 8:00am to 5:00pm excluding holidays.

**D. Priority 4:**

- Minor inconvenience to a department or user exists though work continues as a result of implementing an interim solution or use of another system/device/service.
- **Business Hours Support:** Priority 4 incidents will be addressed during normal business hours Monday-Friday, 8:00am to 5:00pm excluding holidays.

**E. Priority 5:**

- Maintenance tasks, audits, or alignment work that is not requested by the client.
- **Business Hours Support:** Priority 5 incidents will be addressed during normal business hours Monday-Friday, 8:00am to 5:00pm excluding holidays.

*(See tables on next page)*

<b>Call Priority</b>	<b>Initial Client Contact Guidelines</b>	<b>Initial Client Contact Percentages</b>
<b>1</b>	<b>1 Hour</b>	<b>90%</b>
<b>2</b>	<b>2 Hours</b>	<b>90%</b>
<b>3</b>	<b>4 business hours</b>	<b>90%</b>
<b>4</b>	<b>8 business hours</b>	<b>90%</b>
<b>5</b>	<b>N/A</b>	<b>N/A</b>

# Addendum B – Maintenance Windows

All work performed within Company's Hosting or Client Infrastructure is a form of maintenance. Such work may or may not result in a disruption of service depending on the scope of the activity.

- 1. Scheduled Maintenance:** All planned work performed on Company's Hosting or Client Infrastructure by Company engineers, or staff is defined as "Scheduled Maintenance". During Scheduled Maintenance, some or all of Company's Hosting or Client Infrastructure may be out of service and therefore may not be accessible to users. Regularly Scheduled Maintenance will occur between 2 AM and 6 AM in the local time zone for which the Client Infrastructure being maintained resides. Downtime to perform changes is expected during this window. If Client has a business need to avoid said downtime, they must provide their request via the Company Service Desk ten business days in advance.

  - a. Notification:** Client will be notified via email should Scheduled Maintenance be required to take place outside of the windows specified above.
- 2. Emergency Maintenance:** All work performed in response to a disruption or a threat to the availability of a component of Company's Hosting or Client Infrastructure within the control of Company is defined as "Emergency Maintenance". Emergency Maintenance will be conducted based upon the timeframe that the emergency exists. Normal business hours will see an immediate response. For issues that occur during non-business hours, the impact of the event will be evaluated as soon as possible, and appropriate measures taken to return the system to normal availability.

  - a. Notification:** Client will be notified via email should Emergency Maintenance be necessary. Commercially reasonable efforts will be made to notify Client prior to emergency maintenance. Company reserves the right to complete Emergency Maintenance without prior notification to Client if necessary to mitigate risks posed by the need for Emergency Maintenance in a timely manner.

# MASTER SERVICES AGREEMENT

This Master Services Agreement ("Agreement") is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (the "Effective Date"), between VC3, Inc., a Delaware corporation having its principal place of business at 1301 Gervais Street, Suite 1800, Columbia, SC 29201 ("Company"), and White Lake Township, having its principal place of business at 7525 Highland Rd., White Lake, MI 48383. ("Client").

WHEREAS, Client desires to receive certain professional services from Company;

Client and Company hereby agree as follows:

## **1. Definitions; Services; Third Party Products; and Orders.**

**1.1 Definitions.** For purposes of this Master Agreement, the following terms have the following meanings:

"Agreement" means an Order and the documents incorporated into the Order including without limitation this Master Agreement.

"Company" means VC3, Inc., a Delaware corporation having its principal place of business at 1301 Gervais Street, Suite 1800, Columbia, SC 29201;

"Client" means the client of Company as identified in the applicable Order;

"Master Agreement" means these VC3 Master Terms and Conditions for Services and Third-Party Products; and

"Order" means a written executed order between Company and Client that references this Master Agreement.

**1.2 Services.** Company will provide to Client computer system and network maintenance services, managed services, software services, consulting services and/or professional services, which includes the cost of all labor and all projects, including relocating computers and systems to a new building (the "Services") in each case as described in the On Premises Order Form.

**1.3 Third Party Products.** Company may sell, license or provide Third Party Products (as defined in Section 5.2) to Client as set forth in and on terms and conditions set forth in an Order.

**1.4 Change Orders.** Client may request a change in the scope or nature of the Services in an Order at any time. However, changes to the scope of the Services in an Order can be made only in writing, executed by both parties.

**1.5 Non-Exclusive.** Client understands and agrees that the Services provided under the Agreement are not exclusive to Client, and Company may provide the same or similar services to Company's other customers.



## **2. Charges for Services and Third-Party Products.**

**2.1 Fees.** Client agrees to pay Company the fees for Services and Third-Party Products as indicated in the On Premises Order Form, (collectively referred to as the "Fees"). Company reserves the right to increase the Fees once per calendar year after the initial five (5) year term of the Agreement by an amount not to exceed the greater of four (4%) percent or the Consumer Price Index. Unless otherwise expressly stated in an Order, Company's compensation for Services will be based on direct labor hours charged at fixed labor rates. The Order may call for a budget of expected charges as a way for both parties to monitor performance.

**2.2 Payment.** Unless otherwise stated in an Order, all undisputed Fees for Services shall be due and payable by Client in advance of the calendar month in which the Services are to be provided to Client. Unless otherwise stated in an Order, Fees for Third Party Products shall be due and payable in advance of delivery. Payments made using electronic transfer shall be deducted from Client's designated bank account on the first business day of the month for which the Services are to be provided or on the date of delivery of Third-Party Products. For prepaid Fees or Fees paid pursuant to a service plan, payment must be made in advance of providing Services or delivery of Third-Party Products, unless other arrangements are agreed upon in the Order. Fees invoiced to Client shall be paid on a net thirty (30) day basis. Late payment for undisputed Fees (or any other amounts owing from Client to Company) shall be subject to interest on the unpaid amount(s) until and including the date payment is received, at the lower of either 2.0% per month or the maximum allowable rate of interest permitted by applicable law. Company reserves the right, but not the obligation, to suspend part or all of the Services in the event that any portion of undisputed Fees are not timely received by Company within fifteen (15) days following the date on which such Fees are due. All disputes initiated by Client related to Fees must be received by Company within thirty (30) days after the applicable Service is rendered or the date on which Client receives an invoice, whichever is later, otherwise Client waives its right to dispute the applicable Fees thereafter. A re-connect fee may be charged to Client in the event that Company suspends the Services due to Client's nonpayment. Client shall be liable to Company for and reimburse and indemnify Company against legal fees as well as costs incurred in collection of past due balances including but not limited to collection fees, filing fees and court costs. TIME IS OF THE ESSENCE IN THE PERFORMANCE OF ALL PAYMENT OBLIGATIONS BY CLIENT.

**2.3 Taxes.** Client, unless it provides Company with evidence of its tax exempt status, shall pay directly, or reimburse Company for, all taxes and tariffs assessed or levied by any governmental entity that are now or may become applicable to the Services or Third Party Products, or are required to be collected by Company or paid by Company to tax authorities including interest assessment thereon if such assessments are due to Client's actions or inactions. This includes, but is not limited to, sales, use, excise, gross receipt and personal property taxes, or any other form of tax based on services performed, Third Party Products, equipment used by Company to perform services solely for Client, and the communication or storage of data, but does not include taxes based upon Company's net income.

## **3. Term; Termination.**

**3.1 Term.** The term of the Agreement shall continue from the effective date of the Order until the earlier of (a) expiration of the term of the Order or (b) termination of the Agreement as provided in the Agreement.

**3.2 Termination for Breach.** Either party may terminate the Agreement for material breach by the other party of the Agreement which is not cured within 30 days from the receipt by the party in breach of a written notice from the other party specifying the breach in detail. Client shall be liable for payment to Company for all Services rendered prior to the effective date of any such termination.

**3.3 Termination for Convenience.** Client may terminate this Agreement for any reason, including convenience, upon providing Company with ninety (90) days advance written notice, indicating the date termination is effective.

**3.4 Early Termination.** The Parties acknowledge that early termination of the Agreement (i) by Company pursuant to Section 3.2 (Termination for Breach) or (ii) termination of the Agreement by Client pursuant to Section 3.3 will result in Company incurring damages difficult or impossible to ascertain. In the event of such an occurrence, Company will be entitled to, and Client agrees to pay an early termination fee (not as a penalty), based on the month the termination is effective as provided in **Exhibit A**. For illustration purposes, if Client terminates in month 36, the termination fee will be \$32,446.9.

**3.5 Equipment / Software Removal.** Upon termination of the Agreement for any reason, Client shall provide Company with access, during normal business hours, to Client's premises (or any other locations at which Company-owned hardware, equipment or software is located) to enable Company to remove all Company-owned hardware, equipment, and software from the premises (if any). If Client fails to grant Company access as described herein, or if any of the Company-owned hardware or equipment is broken or damaged (normal wear and tear excepted) or any of the software is missing, Company shall have the right to invoice Client for, and Client hereby agrees to pay immediately, the full replacement value of any and all Company-owned hardware, equipment and software (as applicable) located at Client's premises.

**3.6 Survival.** Expiration or termination of the Agreement for any reason will not release either party from any liabilities or obligations set forth in the Agreement which (a) the parties have expressly agreed will survive any such expiration or termination or (b) remain to be performed or by their nature would be intended to be applicable following any such expiration or termination.

#### **4. Proprietary Protections.**

##### **4.1 Ownership Rights**

**(a) General.** Each party will retain all rights to any software, ideas, concepts, know-how, development tools, techniques or any other proprietary material or information that it owned or developed prior to the effective date of the Agreement or acquired or developed after the effective date of the Agreement without reference to or use of the intellectual property of the other party. All software that is licensed by a party from a third-party vendor will be and remain the property of such vendor. No licenses will be deemed to have been granted by either party to any of its patents, trade secrets, trademarks, or copyrights, except as otherwise expressly provided in the Agreement. Nothing in the Agreement will require Company or Client to violate the proprietary rights of any third party in any software or otherwise. Notwithstanding anything to the contrary in the Agreement, Company (i) will retain all right, title and interest in and to all software development tools, know-how,

methodologies, processes, technologies or algorithms used in performing the Services which are based on trade secrets or proprietary information of Company or are otherwise owned or licensed by Company (collectively, "tools"), (ii) will be free to use the ideas, concepts, methodologies, processes and know-how which are developed or created in the course of performing the Services and may be retained by Company's employees in intangible form, all of which constitute substantial rights on the part of Company in the technology developed as a result of the Services performed under the Agreement.

**(b) Materials Developed for or Delivered to Client.** Client agrees that all software and other materials (including, but not limited to customizations, modifications, specifications, documentation and training materials) developed for or delivered to Client pursuant to the Agreement, including without limitation all related copyrights, patent rights, trade secrets, ideas, designs, concepts, techniques, inventions, discoveries or other intellectual property rights (collectively, the "Materials"), shall be the exclusive property of Company and the Company shall own all right, title and interest therein. In this connection, Client acknowledges that all Materials which are or may be developed pursuant to the Agreement are and shall be the intellectual property and confidential proprietary information and products of Company, and Client hereby transfers and assigns any and all rights in and to the Materials to Company, its successors and assigns, including without limitation all intellectual property rights relating thereto. From time to time upon Company's request, Client shall confirm such assignment by execution and delivery of such assignments, confirmations of assignment, or other written instruments as Company may request. Company agrees that Client shall have a limited nonexclusive license to use the Materials internally to the extent necessary to carry out and fulfill the terms and conditions of the Order for which the Materials were developed and shall have the right to grant a limited nonexclusive license to the third parties specifically identified in an Order to use the Materials solely for the purposes contemplated by such Order, provided that such third parties shall first agree in a signed writing to be bound by the terms of the Agreement or such terms as may be acceptable to Company.

**(c) Specific Deliverables Owned by Client.** Notwithstanding the foregoing provisions of Section 4.1(b) but subject to any third party rights or restrictions and the provisions of Section 4.1(a) and the other provisions of this Section 4.1(c), Client will own the copyright in and to Materials that (i) are developed for and delivered by Company to Client, (ii) are paid for by Client, and (iii) are clearly and specifically identified in an Order as governed by the provisions of this Section 4.1(c) (the "Specific Client Owned Deliverables"). Notwithstanding the foregoing, Company will retain ownership of any Company-owned software or development tools that are used in producing the Specific Client Owned Deliverables and become embedded in the Specific Client Owned Deliverables. Company hereby grants to Client a perpetual (subject to compliance with this sentence), royalty-free, non-transferable, nonexclusive license to use such embedded software and tools (if any) solely in connection with Client's internal use and exploitation of the Specific Client Owned Deliverables and only so long as such software and tools (if any) remain embedded in the Specific Client Owned Deliverables and are not separated therefrom. Company will own all intellectual property rights in or related to the Specific Client Owned Deliverables other than the copyright ownership rights granted to Client pursuant to this Section 4.1(c).

**4.2 Client Information.** Company recognizes and agrees that, except as specified in Section 4.1, it has no claim of ownership to any data, materials or information submitted by Client to Company or the Services ("Client Information"), which Client Information is being provided to

Company solely for the purposes of enabling Company to render the Services, and that title and all ownership rights in and to such Client Information shall at all times remain with Client. Client shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use all Client Information.

#### **4.3 Confidentiality.**

**(a) Confidential Information.** This Section 4.3 shall apply to all confidential and proprietary information disclosed by either party ("Disclosing Party") to the other party ("Receiving Party") in connection with the Agreement, including without limitation, all Client Information, Materials of Company, and information related to the Disclosing Party's technology, software, know-how, products, potential products, that is exempt from disclosure under the Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231 et. seq. (collectively, "Confidential Information"). The terms and conditions of the Agreement shall be treated by Client as the Confidential Information of Company unless otherwise provided by law. Confidential Information shall not include any information which (i) was known to the Receiving Party prior to being disclosed by the Disclosing Party, (ii) becomes publicly known through no wrongful act of the Receiving Party, (iii) is approved for release by written authorization of the Disclosing Party, (iv) is received from a third party not in breach of any separate confidentiality obligation known to the Receiving Party, (v) is independently developed without reference to the Disclosing Party's Confidential Information or (vi) is required to be disclosed by law.

**(b) Scope of Obligation.** The Receiving Party agrees to use the Confidential Information of the Disclosing Party only as provided for in the Agreement. Each party agrees to hold the other party's Confidential Information in strict confidence and not to disclose such Confidential Information to any third parties. Notwithstanding the foregoing, each party may disclose the other party's Confidential Information only to those employees, agents, representatives and/or consultants who require such information only in connection with the Agreement. Each party agrees to instruct all such employees, agents, representatives, and consultants regarding the foregoing obligations, and ensure that such employees, agents, representatives, and consultants are aware and will follow the restrictions contained herein. Each party agrees that it will take all reasonable measures to protect the confidentiality of, and avoid the unauthorized disclosure or use of, the other party's Confidential Information in order to prevent it from being made public or in the possession of persons other than those persons authorized hereunder to have any such Confidential Information, which measures shall include at least the same degree of care that the Receiving Party utilizes to protect its own confidential information of a similar nature but in any event shall include commercially reasonable precautions designed to protect the Disclosing Party's Confidential Information from unauthorized disclosure and/or use.

**(c) Limited Disclosure Right.** Confidential Information may be disclosed to the extent required by court order or as otherwise required by law, provided that the Receiving Party, to the extent legally permissible, uses its best efforts to notify the Disclosing Party promptly upon learning of the possibility of any such requirement.

**(d) Return of Confidential Information.** Promptly upon termination of the Agreement, or at any other time upon the request by a party, the other party shall (i) return to the Disclosing Party or, at the Disclosing Party's request, destroy all Confidential

Information of such Disclosing Party, whether in paper or electronic form, provided, however that the foregoing shall not apply to Confidential Information that is stored in the Receiving Party's electronic archives, which Confidential Information will be destroyed in the ordinary course of the Receiving Party's business in accordance with its document destruction policies; and (ii) certify to the Disclosing Party in writing that it has complied with the provisions of this Section 4.3.

## **5. Limited Warranty and Disclaimers.**

**5.1 Limited Services Warranty.** Company warrants to Client that the Services, as and when delivered or rendered hereunder, will substantially conform to the description of services or specifications set forth in the applicable Order. Company's sole liability under the foregoing warranty shall be to provide the services described in Section 5.5 hereof.

**5.2 No Third-Party Products Warranty.** UNLESS OTHERWISE EXPRESSLY STATED IN AN ORDER, ANY THIRD PARTY PRODUCTS OR SERVICES SOLD TO, PROVIDED TO OR PROCURED FOR CLIENT, INCLUDING BUT NOT LIMITED TO THIRD PARTY HARDWARE, SOFTWARE, PERIPHERALS AND ACCESSORIES (COLLECTIVELY, "THIRD PARTY PRODUCTS") ARE PROVIDED TO CLIENT "AS IS" AND COMPANY EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS, IMPLIED, ARISING FROM COURSE OF DEALING OR USAGE OF TRADE OR STATUTORY WITH RESPECT TO SUCH THIRD PARTY PRODUCTS, INCLUDING BUT NOT LIMITED TO WARRANTIES OF PERFORMANCE, SECURITY, INTEGRATION, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. COMPANY SHALL USE REASONABLE EFFORTS TO ASSIGN, TRANSFER AND FACILITATE ALL WARRANTIES (IF ANY) AND SERVICE LEVEL COMMITMENTS (IF ANY) FROM THE APPLICABLE THIRD-PARTY MANUFACTURER OR VENDOR FOR THE THIRD-PARTY PRODUCTS TO CLIENT, BUT WILL HAVE NO LIABILITY WHATSOEVER FOR SUCH THIRD-PARTY PRODUCTS. COMPANY SHALL NOT BE HELD LIABLE AS AN INSURER OR GUARANTOR OF THE PERFORMANCE, UPTIME, USEFULNESS, OR QUALITY OF ANY THIRD-PARTY PRODUCTS.

**5.3 No Compliance Warranty.** COMPANY DOES NOT WARRANT THAT THE PROVISION OF THE SERVICES, OR CLIENT'S USE OF THE SERVICES, WILL SATISFY ANY PARTICULAR INDUSTRY-SPECIFIC OR REGULATORY REQUIREMENTS, OR BRING CLIENT INTO COMPLIANCE WITH ANY SUCH REQUIREMENTS.

**5.4 DISCLAIMER OF WARRANTIES.** THE WARRANTY SET FORTH IN SECTION 5.1 STATES COMPANY'S SOLE AND EXCLUSIVE WARRANTY TO CLIENT HEREUNDER. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 5.1, THE SERVICES ARE PROVIDED STRICTLY "AS IS" AND COMPANY MAKES NO ADDITIONAL WARRANTIES, EXPRESS, IMPLIED, ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, OR STATUTORY, AS TO THE SERVICES OR ANY MATTER WHATSOEVER. IN PARTICULAR, ANY AND ALL WARRANTIES OF PERFORMANCE, SECURITY, INTEGRATION, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED. COMPANY DOES NOT WARRANT, AND SPECIFICALLY DISCLAIMS THAT THE SERVICES BEING PROVIDED WILL RESULT IN COST SAVINGS, PROFIT IMPROVEMENT, OR THAT THE SERVICES WILL BE ERROR-FREE. THIS IS A LIMITED WARRANTY AND IS THE ONLY WARRANTY MADE BY COMPANY.

**5.5 Notice Obligation; Remedy Regarding Services.** Client shall notify Company in writing within thirty (30) days after completion of the Services in question when any of the Services fail to substantially conform to the description of services or specifications set forth in the applicable Order. Such notification shall include the detailed information necessary for Company to verify such nonconformity. Upon actual receipt of such notification and verification of the nonconformity, Company shall correct the nonconformity so that the Services shall substantially conform with the agreed description of services or specifications in the applicable Order.

**6. Limitation of Liability.**

**6.1 COMPANY'S LIABILITY ON ANY CLAIM, LOSS OR LIABILITY ARISING OUT OF, OR CONNECTED WITH THE AGREEMENT, THE SERVICES, OR USE OF THE PRODUCT OF ANY SERVICES FURNISHED HEREUNDER, SHALL IN ALL CASES BE LIMITED SOLELY TO CORRECTION OF NONCONFORMITIES WHICH DO NOT SUBSTANTIALLY CONFORM WITH THE AGREED DESCRIPTION OF SERVICES IN AN ORDER, OR SPECIFICATIONS IDENTIFIED IN AN ORDER.**

**6.2 IF FOR ANY REASON COMPANY IS UNABLE OR FAILS TO CORRECT NONCONFORMITIES AS PROVIDED, COMPANY'S LIABILITY FOR DAMAGES ARISING OUT OF THE AGREEMENT FOR SUCH FAILURE, WHETHER IN CONTRACT OR TORT (INCLUDING NEGLIGENCE), LAW, EQUITY OR OTHERWISE, SHALL NOT EXCEED THE AMOUNTS PAID BY CLIENT FOR THAT PORTION OF THE SERVICES WHICH FAIL TO CONFORM. IN NO EVENT SHALL COMPANY'S MAXIMUM AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THE AGREEMENT (INCLUDING FOR ANY CLAIM AND/OR SERIES OF CLAIMS WHETHER RELATED OR UNRELATED), WHETHER IN CONTRACT OR TORT (INCLUDING NEGLIGENCE), LAW, EQUITY OR OTHERWISE, EXCEED THE AMOUNTS PAID BY CLIENT TO COMPANY IN THE TWELVE MONTH (12) PERIOD PRECEDING THE EVENT(S) GIVING RISE TO THE CLAIM (OR TO THE FIRST CLAIM IN A SERIES OF CLAIMS). IT IS UNDERSTOOD AND AGREED THAT THE FEES FOR THIRD PARTY PRODUCTS (IF ANY) PROVIDED TO CLIENT SHALL NOT BE INCLUDED IN THE CALCULATION OF THE LIMITATION OF DAMAGES DESCRIBED IN THIS PARAGRAPH AND AMOUNTS PAID BY CLIENT TO COMPANY.**

**6.3 UNDER NO CIRCUMSTANCES SHALL COMPANY BE LIABLE TO CLIENT FOR ANY LOSS OF USE, INTERRUPTION OF BUSINESS, LOSS OR CORRUPTION OF DATA, LOST PROFITS, LOST REVENUE, OR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND REGARDLESS OF THE FORM OF ACTION WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), LAW, EQUITY OR OTHERWISE, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM OR DAMAGES ASSERTED BY ANY THIRD PARTY OR FOR ANY DAMAGES CAUSED BY ANY DELAY IN FURNISHING SERVICES HEREUNDER.**

**6.4 CLIENT ACKNOWLEDGES THAT COMPANY HAS SET ITS FEES AND ENTERED INTO THE AGREEMENT IN RELIANCE UPON THE LIMITATIONS OF LIABILITY AND THE DISCLAIMERS OF WARRANTIES AND DAMAGES SET FORTH IN THE AGREEMENT, AND THAT THE SAME FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES. THE FOREGOING LIMITATION OF LIABILITY IS INDEPENDENT OF ANY EXCLUSIVE REMEDIES FOR BREACH OF WARRANTY SET FORTH IN THE AGREEMENT.**

**6.5 THE PROVISIONS OF SECTIONS 5, 6 AND 7 ARE CLIENT'S EXCLUSIVE REMEDIES RELATED TO THE SERVICES, ANY FAILURE BY COMPANY TO CORRECT NONCONFORMITIES IN THE SERVICES, OR FOR BREACH BY COMPANY OF THE AGREEMENT AND SHALL APPLY REGARDLESS OF THE SUCCESS OR EFFECTIVENESS OF SUCH REMEDIES.**

**6.6** Unless otherwise expressly stated in an Order, Company assumes no liability for failure of hardware or equipment or software or any losses resulting from such failure.

**6.7** Client is responsible for adopting reasonable measures to limit Client's exposure with respect to such potential losses and damages, including without limitation examination and confirmation of results of the Services prior to use thereof, provision for identification and correction of errors and omissions, and preparation and storage of backup or duplicate data. Client is also responsible for complying with, and shall comply with, all local, state, provincial, federal, national, and international laws, rules and regulations ("Laws") pertaining to the use of the Services and use and disclosure of any Client Information.

## **7. Indemnity**

### **7.1 Infringement Claims.**

**(a) General.** Subject to Section 6 of this Master Agreement, the limitations set forth below in this Section 7.1 and the procedures set forth below in Section 7.3, Company and to the extent permitted by law, Client (each an "indemnitor") each agrees to defend the other party (each an "indemnitee") against any action to the extent that such action is based upon a claim that the Confidential Information (other than third party hardware, software, products, materials or services) provided by the indemnitor, or any part thereof, (i) infringes a copyright perfected under United States statute, or (ii) constitutes an unlawful disclosure, use or misappropriation of another party's trade secret, and the indemnitor will bear the expense of such defense and pay any damages, costs and expenses, including reasonable attorneys' fees and expenses (collectively "Damages") that are attributable to such claim finally awarded by a court of competent jurisdiction. However, this provision is not intended to, nor does it waive any governmental immunity of Client.

**(b) Exclusions.** Neither Company nor Client will be liable to the other for claims of indirect or contributory infringement. The indemnitor will have no liability to the indemnitee hereunder if (i) the claim of infringement is based upon the use of Confidential Information provided by the indemnitor hereunder in connection or in combination with equipment, devices or software not supplied by the indemnitor or used in a manner for which the Confidential Information was not designed, (ii) the indemnitee modifies any Confidential Information provided by the indemnitor hereunder and such infringement would not have occurred but for such modification, or (iii) the claim of infringement arises out of the indemnitor's compliance with specifications or requirements provided by the indemnitee and such infringement would not have occurred but for such compliance.

**(c) Additional Remedy.** If Confidential Information becomes the subject of an infringement claim under this Section 7.1, or in the indemnitor's opinion is likely to become the subject of such a claim, then, in addition to defending the claim and paying any damages and attorneys' fees as required above in this Section 7.1, the indemnitor may, at its option and in its sole discretion, (A) replace or modify the Confidential Information to make it non-

infringing or cure any claimed misuse of another's trade secret or (B) procure for the indemnitee the right to continue using the Confidential Information pursuant to the Agreement. Any costs associated with implementing either of the above alternatives will be borne by the indemnitor but will be limited to not exceed the amount paid by Client to Company in the preceding 12-month period. If neither alternative is pursued by, or (if pursued) available to, the indemnitor, (x) the indemnitee will return such Confidential Information to the indemnitor and (y) if requested by the indemnitee in good faith, the parties will negotiate, but subject to an amount not to exceed the amount paid by Client to Company in the preceding 12 month period, to reach a written agreement on what, if any, monetary damages (in addition to the indemnitor's obligation to defend the claim and pay any damages and attorneys' fees as required above in this Section 7.1) are reasonably owed by the indemnitor to the indemnitee as a result of the indemnitee no longer having use of such Confidential Information. The payment of any such monetary damages will be the indemnitee's sole and exclusive remedy for the inability of the indemnitor to implement either of the above alternatives.

**7.2 Services from Company.** Without limiting Company's liability to Client under the Agreement, each of the parties acknowledge that Company would not enter into the Agreement, and by Company entering into and performing its obligations under the Agreement, Company will not assume and should not be exposed to the operational risks associated with Client's governmental functions,

**7.3 Procedures.** Except as otherwise provided by law, the indemnification obligations set forth in this Section 7 will not apply unless the party claiming indemnification: (a) notifies the other promptly in writing of any matters in respect of which the indemnity may apply and of which the notifying party has knowledge, in order to allow the indemnitor the opportunity to investigate and defend the matter; provided, however, that the failure to so notify will only relieve the indemnitor of its obligations under this Section 7 if and to the extent that the indemnitor is prejudiced thereby; and (b) gives the other party full opportunity to control the response thereto and the defense thereof, including without limitation any agreement relating to the settlement thereof; provided, however, that the indemnitee will have the right to participate in any legal proceeding to contest and defend a claim for indemnification involving a third party and to be represented by legal counsel of its choosing, all at the indemnitee's cost and expense. However, if the indemnitor fails to promptly assume the defense of the claim, the party entitled to indemnification may assume the defense at the indemnitor's cost and expense. The indemnitor will not be responsible for any settlement or compromise made without its consent, unless the indemnitee has tendered notice, and the indemnitor has then refused to assume and defend the claim and it is later determined that the indemnitor was liable to assume and defend the claim. The indemnitee agrees to cooperate in good faith with the indemnitor at the request and expense of the indemnitor.

## **8. Additional Terms.**

**8.1 EULAs.** Portions of the Services may require Client to accept the terms of one or more third party end user license agreements ("EULAs"). EULAs may contain service levels, warranties and/or liability limitations that are different than those contained in the Agreement. Client agrees to be bound by the terms of such EULAs and shall look only to the applicable third-party provider for the enforcement of the terms of such EULAs.



**8.2 Data Backup.** Company shall be responsible for backups of the systems stated in the On Premises Order. Client understands and agrees that Company shall not be responsible for data backup, or any data lost, corrupted, or rendered unreadable due to communication and/or transmissions errors or related failures, or equipment failures (including but not limited to silent corruption-related issues). Client is strongly advised to maintain a local and offsite backup of all mission-critical or customer-critical data that are not required in the On Premises Order to be backed up by Company, and to periodically verify the integrity and availability of all backed up data not required in the On Premises Order to be backed up by Company.

**8.3 Bring Your Own Device (BYOD).** Client hereby represents and warrants that Company is authorized to provide the Services to all devices, peripherals and/or computer processing units, including without limitation mobile devices (such as personal digital assistants, notebook computers, and tablet computers) that (i) are connected to Client's systems related to the Services, and (ii) have been designated by Client to receive the Services, regardless of whether such device(s) are owned, leased or otherwise controlled by Client. Unless otherwise stated in an Order, devices will not receive or benefit from the Services while the devices are detached from or unconnected to such systems.

**8.4 Hosted Solutions.** Hosted solutions, including but not limited to hosted email and document-related applications, may require Client to accept the terms of a third-party EULA, which may contain service levels, warranties and/or liability limitations that are different than those contained in the Agreement. Client agrees to be bound by the terms of such EULAs and shall look only to the applicable third-party provider for the enforcement of the terms of such EULAs. Company reserves the right to suspend or terminate Client's access to hosted solutions in the event that Company has reason to believe that the hosted solutions are being accessed, used or otherwise manipulated in a manner that violates any Law, or poses a threat to the integrity or security of Company's computer servers or any third-party server.

**8.5 Disposal of Equipment.** Client agrees that any Client assets, equipment, hardware, or software deemed to be replaced, retired, faulty, non-functional, dead-on arrival, returned, unrecoverable, or otherwise unusable may be disposed of by Company unless Client provides a written request to keep the asset at the time of removal.

**8.6 Recording.** Calls by Client to the Company help desk for assistance may be recorded and/or monitored by Company For such help desk Services, information uploaded to or in any way passing through computer systems used to provide the help desk Services, including without limitation written, visual, or oral communications or other electronic means, may be recorded or monitored for quality assurance and diagnostic purposes. By accessing or using the help desk Services, Client consents to such recording and monitoring. Client is also solely responsible for informing anyone with whom Client interacts or otherwise communicates via the Services that information uploaded to or in any way passing through the help desk Services, including without limitation written, visual, or oral communications or other electronic means, may be recorded or monitored for quality assurance and diagnostic purposes.

## **9. General Provisions.**

**9.1 Non-Hire Provision.** Each party to the Agreement agrees that it will not hire, employ or contract with, or solicit to hire, employ or contract with, any person who is, or within the

immediately preceding one year was, an employee or subcontractor of the other party who worked directly on providing services under the Agreement, to provide the same or similar services to the other Party during the term of the Agreement, or for a period of one year after the Agreement terminates.

**9.2 Conflict.** Any purchase order or other document issued by Client is for administrative convenience only and does not govern, control, or amend the terms of the Agreement. In the event of any conflict between this Master Agreement and an Order, this Master Agreement shall prevail unless the Order expressly references amending and superseding a specific provision of this Master Agreement.

**9.3 Survival.** In the event of any expiration or termination of the Agreement, Sections 2, 3, 4, 5, 6, 7, and 9 of this Master Agreement shall survive and shall continue to bind the parties.

**9.4 Governing Law.** The Agreement shall be governed in all respects by the laws of the State of Michigan without regard to conflicts of law principles. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods is specifically excluded from application to the Agreement.

**9.5 Forum.** All disputes arising under the Agreement shall be brought in the state courts located in Oakland County, Michigan, or the U.S. District Court for the Eastern District of Michigan-Southern Division, as permitted by law. The state and federal courts located in Michigan shall each have nonexclusive jurisdiction over disputes under the Agreement. Company consents to the personal jurisdiction of the above courts.

**9.6 Injunctive Relief.** It is understood and agreed that, notwithstanding any other provisions of the Agreement, breach of the provisions of the Agreement by either Party will cause the other Party irreparable damage for which recovery of money damages would be inadequate, and that either Party may request the proper Court to issue injunctive relief to protect its rights under the Agreement in addition to any and all remedies available at law.

**9.7 Notices.** All notices or reports permitted or required under the Agreement shall be in writing and shall be delivered by personal delivery or by certified or registered mail, return receipt requested, and shall be deemed given upon personal delivery or five (5) days after deposit in the mail. Notices shall be sent to Company at the addresses described on the first page of this Master Agreement in the definition of Company and to Client at the address set forth in the applicable Order or such other address as either party may designate for itself in writing. All notices to Company must be to its President to be effective.

**9.8 No Agency.** Nothing contained herein shall be construed as creating any agency, partnership, or other form of joint enterprise between the parties.

**9.9 Force Majeure.** Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder (except for the payment of money) on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, labor conditions, earthquakes, power failure, communications delays/outages, material shortages or any other cause which is beyond the reasonable control of such party.

**9.10 Waiver.** The failure of either party to require performance by the other party of any provision hereof shall not affect the full right to require such performance at any time thereafter; nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself.

**9.11 Severability.** In the event that any provision of the Agreement shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render the Agreement unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court decisions.

**9.12 Nondisclosure.** Client promises not to disclose the terms and conditions of the Agreement to any third party without the prior written consent of Company.

**9.13 Headings.** The section headings appearing in this Master Agreement are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or extent of such section or in any way affect this Master Agreement.

**9.14 Company Responsibility for Company Employees.**

- a. **Qualifications:** VC3 shall assign qualified employees with the necessary skills to perform the agreement.
- b. **Control and Supervision:** VC3 shall be solely responsible for and fully liable for the conduct and supervision of its employees.
- c. **Removal:** VC3 shall remove an employee at the request of the Client provided the request is based on legitimate, good-faith reasons and will assign a qualified employee replacement.
- d. **Background checks:** Company shall conduct background checks on all employees and contractors with access to the Client's servers and workstations in compliance with FBI CJIS Security requirements. Company shall provide Client with confirmation of its employees and contractors passing the required background checks.
- e. **Employee Expenses:** Company shall be responsible for all of its employees' federal and state withholdings and contributions to benefit plans, Worker's Compensation, disability pay or other insurance. Company employees shall have no expectation of receiving such benefits from the Client. Company shall indemnify and hold the Client harmless for any claims against the Client arising out of any contract for hire or employer-employee relationship between Company and its employees or contractors including but not limited to Worker's Compensation, disability pay, or other insurance of any kind.
- f. **Independent Contractor:** Nothing in this agreement is intended to establish an employer-employee relationship between Company and Client.
- g. **Damage to Employee or Contractor Property:** Company shall be solely liable for any property loss or damage resulting from fire, theft or other means to Company's employees or contractors' personal property stored at Client's facilities.

**9.15 Insurance.** Company is required to provide proof of insurance to the Client for the coverage outlined in the attached Insurance Requirements **Exhibit B**. The certificate of insurance for the amounts of insurance must name White Lake Township, its elected and appointed officials, employees, and agents as additional insureds.

**9.16 Entire Agreement.** The Agreement completely and exclusively states the agreement of the parties regarding its subject matter. It supersedes, and its terms govern, all prior proposals, agreements, or other communications between the parties, oral or written, regarding such subject matter. The Agreement shall not be modified except by a subsequently dated written amendment signed on behalf of Company and Client by their duly authorized representatives.

*Last Updated APRIL 2, 2024*

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the date first above written.

**COMPANY:**

**VC3, Inc.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CLIENT:**

**White Lake Township**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A EARLY TERMINATION**

	<u>Annual Managed Services</u>	<u>Annual Unlimited Projects Fee (20%)</u>	<u>Monthly cost</u>	<u>Schedule for Unlimited Projects Cancellation Fee</u>	
Yr1	\$59,587.56	\$11,917.51	\$1,410.74	May-24	\$83,233.38
Yr2	\$76,881.00	\$15,376.20		Jun-24	\$81,822.64
Yr3	\$88,992.00	\$17,798.40		Jul-24	\$80,411.91
Yr4	\$98,880.00	\$19,776.00		Aug-24	\$79,001.17
Yr5	\$98,880.00	\$19,776.00		Sep-24	\$77,590.44
				Oct-24	\$76,179.70
<b><u>5 yr Total:</u></b>	\$423,220.56	\$84,644.11		Nov-24	\$74,768.97
	<b>Unlimited Project Labor for 5 Years</b>			Dec-24	\$73,358.23
			2025	Jan-25	\$71,947.50
				Feb-25	\$70,536.76
				Mar-25	\$69,126.02
				Apr-25	\$67,715.29
				May-25	\$66,304.55
				Jun-25	\$64,893.82
				Jul-25	\$63,483.08
				Aug-25	\$62,072.35
				Sep-25	\$60,661.61
				Oct-25	\$59,250.88
				Nov-25	\$57,840.14
				Dec-25	\$56,429.41
			2026	Jan-26	\$55,018.67
				Feb-26	\$53,607.94
				Mar-26	\$52,197.20
				Apr-26	\$50,786.47
				May-26	\$49,375.73
				Jun-26	\$47,965.00
				Jul-26	\$46,554.26
				Aug-26	\$45,143.53
				Sep-26	\$43,732.79
				Oct-26	\$42,322.06
				Nov-26	\$40,911.32
				Dec-26	\$39,500.59
			2027	Jan-27	\$38,089.85
				Feb-27	\$36,679.12
				Mar-27	\$35,268.38
				Apr-27	\$33,857.64
				May-27	\$32,446.91
				Jun-27	\$31,036.17
				Jul-27	\$29,625.44
				Aug-27	\$28,214.70
				Sep-27	\$26,803.97
				Oct-27	\$25,393.23

**EXHIBIT A EARLY TERMINATION**  
PAGE 2

**Schedule for Unlimited Projects**  
**Cancellation Fee**

	Nov-27	\$23,982.50
	Dec-27	\$22,571.76
2028	Jan-28	\$21,161.03
	Feb-28	\$19,750.29
	Mar-28	\$18,339.56
	Apr-28	\$16,928.82
	May-28	\$15,518.09
	Jun-28	\$14,107.35
	Jul-28	\$12,696.62
	Aug-28	\$11,285.88
	Sep-28	\$9,875.15
	Oct-28	\$8,464.41
	Nov-28	\$7,053.68
	Dec-28	\$5,642.94
2029	Jan-29	\$4,232.21
	Feb-29	\$2,821.47
	Mar-29	\$1,410.74
	Apr-29	\$0.00

**Exhibit B**  
**INSURANCE REQUIREMENTS FOR VC3 AGREEMENT**

The Company shall not commence work under this contract until they have obtained the insurance required under this section and shall keep such insurance in force during the entire life of this contract. All coverage shall be with insurance companies licensed and admitted to do business in the State of Michigan and acceptable to the Client. The requirements below should not be interpreted to limit the liability of the Company. All deductibles and SIRs are the responsibility of the Company.

The Company shall procure and maintain the following insurance coverage:

1. **Worker's Compensation Insurance**, including Employers' Liability Coverage, in accordance with all applicable statutes of the State of Michigan, or the State in which work is to be performed.
2. **Commercial General Liability Insurance** on an "Occurrence Basis" with limits of liability not less than \$1,000,000 per occurrence and aggregate. Policy shall include an endorsement stating the following shall be ***Additional Insureds***: The Client, all elected and appointed officials, all employees and volunteers, agents, all boards, commissions, and/or authorities and board members, including employees and volunteers thereof. It is understood and agreed by naming the Client as additional insured, coverage afforded is considered to be primary and any other insurance the Client may have in effect shall be considered secondary and/or excess.
3. **Technology Professional Liability (Errors and Omissions)** with limits not less than \$1,000,000 per occurrence and aggregate. If this policy is claims made form, then the Company shall be required to keep the policy in force, or purchase "tail" coverage, for a minimum of 3 years after the termination of this contract.
4. **Cancellation Notice**: Policies, as described above, shall be endorsed to state the following: It is understood and agreed Thirty (30) days, Ten (10) days for non-payment of premium, Advance Written Notice of Cancellation, Non-Renewal, Reduction, and/or Material Change shall be sent to: White Lake Township, Attention: Patricia Pergament.
5. **Proof of Insurance Coverage**: The Company shall provide the Client at the time the contracts are returned by him/her for execution a Certificate of Insurance as well as the required endorsements. In lieu of required endorsements, if applicable, a copy of the policy sections where coverage is provided for additional insured and cancellation notice would be acceptable. Copies or certified copies of all policies mentioned above shall be furnished, if so requested.

If any of the above coverages expire during the term of this contract, the Company shall deliver renewal certificates, endorsements, and/or policies to Client at least ten (10) days prior to the expiration date.