

EMERGENCY RESOLUTION NO. 27-2019

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT BY AND BETWEEN THE CITY OF MONROE AND VELECOR SERVICES FOR INFORMATION TECHNOLOGY SERVICES AND DECLARING AN EMERGENCY.

WHEREAS, the existing agreement for information technology services expires June 30, 2019;
and

WHEREAS, after review of proposals the Technology Committee of Council recommends that Council authorize an agreement for information technology services with Veleanor Services.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MONROE, STATE OF OHIO, THAT:

SECTION 1: The City Manager is hereby authorized to enter into an agreement by and between the City of Monroe and Veleanor Services for information technology services pursuant to the terms and conditions set forth on Exhibit "1" attached hereto and made a part hereof.

SECTION 2: This measure is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, welfare and safety and further for the reason that the existing agreement for information technology services expires June 30, 2019. Therefore, this measure shall take effect and be in full force from and after its passage.

PASSED: June 25, 2019

ATTEST:

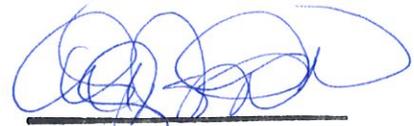
APPROVED:


Clerk of Council


Mayor

This legislation was enacted in an open meeting pursuant to the terms and provisions of the Sunshine Law, Section 121.22 of the Ohio Revised Code.

"I, the undersigned Clerk of Council of the city of Monroe, Ohio, hereby certify the foregoing (ordinance or resolution) was published as required by Section 7.16 of the Charter of the City of Monroe.


Clerk of Council
City of Monroe, Ohio



VELECOR

We have prepared a quote for you

City of Monroe: TotalCare

Quote # 000208
Version 1

Prepared for:

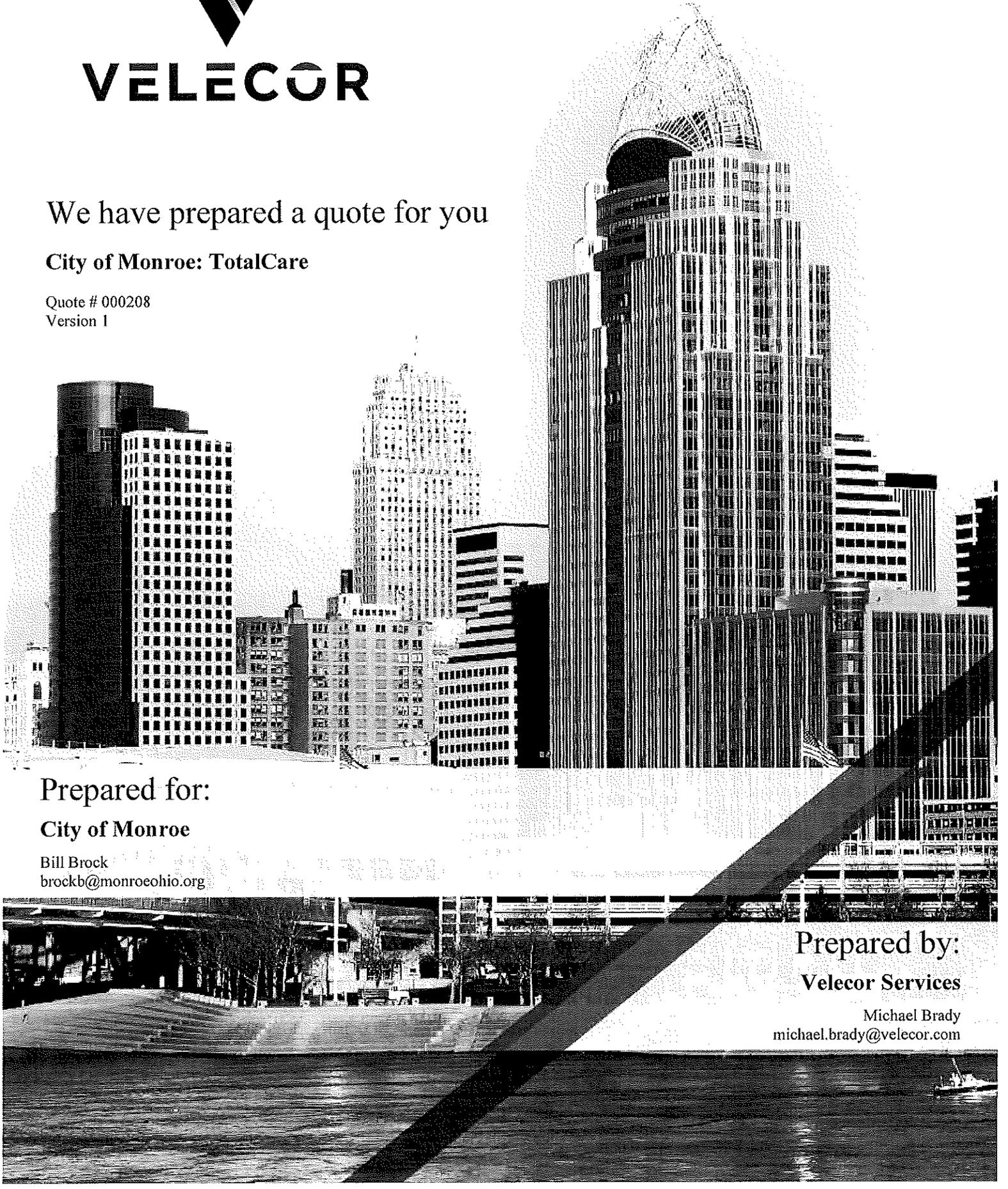
City of Monroe

Bill Brock
brockb@monroehio.org

Prepared by:

VelecOR Services

Michael Brady
michael.brady@velecOR.com



Tuesday, June 11, 2019

City of Monroe
Bill Brock
233 S Main Street
P. O. Box 330
Monroe, OH 45050
brockb@monroeohio.org

Dear Bill,

I want to thank you for the opportunity for VelecOR to provide services to the City of Monroe. We are excited that you have chosen us to be your future IT partner. Attached is our contract that includes the scope of work and the Terms and Conditions (T&C). If you have any questions please let me know.

In Summary, our TotalCare agreement will include the following:

Support for all Office Infrastructure

- Firewalls
- Network Switches
- Fax
- Wireless
- Printers/Scanners
- Workstations/Laptops
- Mobile Devices
- ESET (Virus Protection) for all Workstations/Laptops (Includes Deployment and Upgrades)

Unlimited Support Hours

- Includes building out new PCs
- Includes most project work (Upgrades to Software, Deployment of new OS on Workstations and Servers)
- Includes 24 x 365 x 7 Support

Training and Mentoring

- Includes Annual road-map and environment assessment meetings
- One Lunch-and-Learn or Training Session per quarter to train and educate on tools for help with productivity
- Support for IT questions on demand
- Includes VelecOR providing guidance and specification for any new hardware purchases

What is NOT included

- Hardware purchases
- Software other than what is mentioned above
- Natural Disaster acts outside of our control (Fire, Storm, Flood)

Michael E. Brady

Michael Brady
President
VelecOR Services

TotalCare-Annual

Description		Recurring	Qty	Ext. Recurring
TotalCare - (Level II) Full-Time Resource		\$93,600.00	1	\$93,600.00
TotalCare - Full-Time technician for 12 Months				
TotalCare - (Level III) Part-Time Technician		\$26,000.00	1	\$26,000.00
TotalCare - Part-Time technician for 12 Months				
Annual Subtotal:				\$119,600.00

TotalCare-Monthly

Description		Recurring	Qty	Ext. Recurring
TotalCare - (Level II) Full-Time Resource		\$7,800.00	1	\$7,800.00
TotalCare - Full-Time technician for 40 hours per week				
TotalCare - (Level III) Part-Time Technician		\$2,166.67	1	\$2,166.67
Part-Time technician for 21 hours per month				

Pricing Assumptions:

- This includes one Level III technician's 5 hours/week = 20 hours Monthly
- Any project work needing additional resources will be billed at a discounted rate of \$100.00/hour.
- Pricing locked in for 2 years, then 5% Increase each year following
- No service initiation fees
- No fees for connectivity to support site

Monthly Subtotal: \$9,966.67



4355 Ferguson Drive
 Suite 250
 Cincinnati, OH 45245
 www.velecor.com
 (513) 984-3900

City of Monroe: TotalCare

Quote Information:

Quote #: 000208
 Version: 1
 Delivery Date: 06/11/2019
 Expiration Date: 07/09/2019

Prepared for:

City of Monroe
 233 S Main Street
 P. O. Box 330
 Monroe, OH 45050
 Bill Brock
 (513) 360-2200
 brockb@monroeoio.org

Prepared by:

VELECOR Velecor Services
 Michael Brady
 (513) 984-3900
 michael.brady@velecor.com

Annual Expenses Summary

Description	Amount
TotalCare-Annual	\$119,600.00
Annual Subtotal:	\$119,600.00
Estimated Tax:	\$8,073.00
Annual Total:	\$127,673.00

Monthly Expenses Summary

Description	Amount
TotalCare-Monthly	\$9,966.67
Monthly Subtotal:	\$9,966.67
Estimated Tax:	\$672.75
Monthly Total:	\$10,639.42

Taxes, shipping, handling and other fees may apply. We reserve the right to cancel orders arising from pricing or other errors.

Velecor Services

Signature: Michael E Brady
 Name: Michael Brady
 Title: President
 Date: 06/11/2019

City of Monroe

Signature: _____
 Name: Bill Brock
 Date: _____

TotalCare Agreement

Veleanor, LLC's TotalCare offers stability and reliability of your organization's technology investment. Allow us the opportunity to continue to provide outstanding service.

Thank you again for your consideration.

TotalCare Agreement ("Agreement") made between Veleanor ("VELECOR"), and the Customer stated on the Agreement ("Customer").

Terms and Conditions: All Terms and Conditions listed in Terms and Conditions (T&C) listed below and are herein incorporated into this Agreement.

What this service covers and includes

Site Survey: At the initiation of services, VELECOR will dispatch one or more engineers or technicians to document the current configuration of the network, current support contracts with technology related vendors including contact and support information. This process allows the VELECOR Support Team to understand Customer's environment and to quickly diagnose problems.

Vendor Liaison: VELECOR will act as Customer's duly appointed representative and advocate. VELECOR Support Team will diagnose problems and dispatch or contact third parties such as Internet providers, Hardware manufacturers, etc... when deemed necessary. VELECOR Support Team is not intended to replace third party application support.

Best Interest: In the event of a failure or problem, remedial activities (up to the contracted specified level) may commence prior to notifying Customer of the problem. This will allow the VELECOR Support Team the ability to begin problem resolution, open trouble tickets with other vendors, or dispatch engineers and technicians with replacement parts when deemed necessary. In doing so, VELECOR is acting in Customer's best interest to resolve the issue as quickly as possible.

Every Effort: Customer's end users will make every effort to resolve problems with the VELECOR Support Team via remote access, telephone, or email, prior to VELECOR dispatching on-site support.

Administrative Access: It is preferable and in the case of TotalCare, mandatory that VELECOR maintain and control administrative access to Customer's network and be responsible for providing all other third parties with needed or requested access. This includes Customer's internal I.T. Designee.

Approval of Hardware and Software: To ensure compatibility, proper budgetary planning, and ease of support, Customer will allow VELECOR, at a minimum, to approve all technology related purchases that can affect performance of Customer's network or availability of support.

Covered Items (<i>service availability</i>)	Real Time Monitoring	Proactive Maintenance	Unlimited Support	Description
Windows Server(s)	Yes	Yes	Yes	
Backup Solution	Yes	Yes	Yes	Backup Exec Software or Device
Firewall	Yes	Yes	Yes	Real Time Monitor If Technically Possible
Router	Yes	Yes	Yes	Real Time Monitor If Technically Possible
Switch	Yes	Yes	Yes	Real Time Monitor If Technically Possible
Wireless Access Point(s)	Yes	Yes	Yes	Real Time Monitor If Technically Possible
Network or Shared Printers	Yes	Yes	Yes	Real Time Monitor If Technically Possible
Website Availability	Yes	-	-	Availability ONLY
Internet Availability	Yes	-	-	Availability ONLY
Exchange Server(s)	Yes	Yes	Yes	Services
SQL Server(s)	Yes	Yes	Yes	Services
Anti-Virus Software	Yes	Yes	Yes	Real Time Monitor If Technically Possible
PCs – Office Use	N/A	N/A	Yes	Includes Spyware/Virus removal
Mobile Devices	-	-	Yes	

Services Definition

In line with RFP Project Description, Velecor, will provide support to the City of Monroe's Information Technology Division.

TotalCare is Velecor's fixed cost, flat fee service offering our clients an all-inclusive turnkey Managed Service solution. Managed Services has become commonplace and is offered by virtually every IT support provider in the industry. Not so common is Velecor's client-centric, transparent pricing strategy designed to eliminate confusion and management's budgetary concerns.

Velecor's TotalCare allows us to directly align our service offerings with our clients' specific needs and budgetary considerations. Our unique pricing model for TotalCare promotes an equitable value exchange with our client partners. The monthly fee covers ALL associated service costs based on an agreed upon and highly detailed scope of services. This all-inclusive pricing structure gives our clients the confidence of both operational efficiency and predictive budgetary control.

SERVICES DEFINITION

VELECOR is pleased to offer a complete package of services for Customer. While several components are combined with TotalCare, several services are exclusively offered with the package. In addition to bonus services included with TotalCare, an overall discount is built in to the package.

TotalCare is designed to thoroughly handle all of Customer's technology related needs. VELECOR looks forward to a long-term relationship with these customers.

As a TotalCare client, all Physical and Virtual server(s) and related equipment such as Switch(s), Router(s), Firewall(s), and UPS are considered covered items.

What this service covers (In Scope)

- Real Time Monitoring 24x7 Service of all technologically possible covered items
- Proactive Maintenance of all covered items
- Unlimited Support & Administration of all covered items
- Help Desk for all Customer's staff support issues
- Outsourced I.T. Department (*exclusive to TotalCare clients*)
- All travel to and from Customer primary location (no travel fees)

What this service does not Cover (Out of Scope)

- Major upgrades and network modifications as notified by Velecor
- Issues that arise by negligence on behalf of Customer
- Unlicensed software
- Problems due to act of God, terrorism, sabotage, malicious intent of Customer or any staff members, or items generally out of our control.
- 3rd Party Vendors that interfere with configuration or infrastructure

Service Level Agreement (SLA)

DESCRIPTION	STATUS	SLA (RESPONSE TIME)
BUSINESS HOURS	Critical	1 Hour
	High	2 Hours
	Medium	Next Business Day
AFTER HOURS	Critical	1 Hour
	High	Start of Business Day
	Medium	Next Business Day

Critical	System Down, High Impact to Users, No Work Around
High	System Up, Some Impact to Users, Workaround Exists
Medium	System Up, Impact limited to small number of Users

Customer must follow Emergency contact procedures

INCLUDED: Support for Normal Business Hours - Monday through Friday, 8:00 AM to 6:00 PM EST, non-holiday.

WORK ORDER/TROUBLE TICKETING SYSTEM

- We use ConnectWise (<http://www.connectwise.com/>) a cloud-based product for Managed Service Providers
- Provides Web Portal for Clients to review tickets
- Drives billing process

AVAILABILITY OF KEY STAFF

- Call Center 24/7 x 365
- All staff are equipped with a company phone unlimited minutes and data plan
- During Business Hours they can be reached by calling the Call Center and having them paged out.
- After hours technicians are available as the call center text and/or call them for Critical outages
- Two technicians assigned to the account so there is always coverage of a knowledgeable technician as needed

AVERAGE RESPONSE TIME FOR AFTER HOURS ISSUES

Critical Response

- Immediate response from Call Center manned 24/7 x 365
- Average Response from Technician is 22.4 Minutes today across all customers
- The City will be given our technicians cell number and able to call them directly in situations where response time is immediate.

DOWNTIME FOR ROUTINE MAINTENANCE

- Any interruption will be approved by Key staff at the City of Monroe
- Our Communication would be via Email and Phone call to key leaders
- Planned outages would provide notice five days in advance
- Unplanned outages Velecor would provide immediate notice to key leaders
- Communication will be with Department Leads who will contact each of their respective departments.

DISASTER RECOVERY

Backup and Disaster Recovery: We ensure that backups are functioning properly for data recovery as needed. Maintain a disaster recovery plan and provide redundancies where possible for client systems.

SECURITY

VELECOR takes client data security very seriously. We work with numerous local governments, the Fusion Center which has a collaborative partnership with DHS, as well as healthcare clients so we are versed with maintaining the integrity and security of data related to HIPAA, PCI, and other compliance requirements.

Backup and Disaster Recovery: We ensure that backups are functioning properly for data recovery as needed. Maintain a disaster recovery plan and provide redundancies where possible for client systems.

Access Control: We take a minimum access approach whereby access to client networks is lockdown with no inbound connectivity permitted except that which is required for operations. Patching to ensure exposed systems do not have known vulnerabilities exposed. Permissions to server data is handled with the same minimum access approach restricting data access to only those approved personnel. Encryption at rest storage solutions are available for data security.

Device management:

Using device management software machines can be tracked, managed, and wiped. Encryption options are available when needed and device management solutions for mobile devices can be deployed. USB security options available. Device segmentation between BYOD and City owned devices.

Authentication and identification:

Password policies, two-factor authentication where appropriate, and application specific security options

Audit and training: Periodic auditing and advised training options to instruct users on having a security mindset when communicating with a third-party person, website, or email.

All VELECOR staff have passed a background check prior to employment. The City is welcome to perform their own additional checks on VELECOR staff.

VELECOR requires all staff to abide by security and acceptable use policies for telephony, computer, social media, mobile devices, computer, fax, and internet.

Security is constantly evolving, and we strive to stay on top of the latest trends to offer options to our clients to help secure their data and provide responsive in the event of a breach.

MONITORING

VELECOR utilizes multiple remote monitoring solutions to manage and maintain computing environments. We deploy multiple agents to each

workstation, laptop, and server to provide redundant connectivity options and management capabilities. In addition to deployed agents we monitor devices from centralized monitoring systems from our data center and from within the client network. This additional monitoring gives access to greater visibility through traffic trending and health information on network devices.

Monitoring results can be supplied on demand, and provided during the Quarterly Business Review by the Account Manager, or a representative of the City can be given a login to some of these systems to view data at their convenience.

DOCUMENTATION AND RECORDS

VELECOR always strives to have multiple technicians with in-depth knowledge of the City environment and beyond the onsite team our service desk needs to be able to assist remotely. To accomplish this, documentation is considered a key component. We utilize a documentation solution where data is encrypted, and access is fully audited, historical records are retained, and access is restricted with two-factor authentication using 2FA software loaded on company owned phones. Documentation of the City environment would be made available and the end of contract to aide with transition.

Changes to systems are logged by technicians via ticketing system. When applicable a baseline performance analysis is performed to compare with results post-change.

Staff attend a mandatory weekly meeting where new developments at managed clients are discussed to ensure the entire VELECOR team is aware of changes to the environment.

Terms and Conditions

Veleanor Agreement ("Agreement") made between Veleanor, LLC ("VELECOR"), and the Customer stated on the Agreement ("Customer").

The terms and conditions of sale set forth below apply to all sales of services, products or materials by Veleanor, LLC (referred to as "VELECOR") to any buyer ("Customer") as set forth in any work order, purchase order, proposal or sales agreement under which such sale is being conducted or service rendered, except to the extent otherwise specifically agreed to by VELECOR in writing. Customer's delivery of an order to VELECOR, in whatever form, and whether verbally or in writing, shall constitute assent to and acceptance of these terms and conditions. Any terms in a work order, purchase order or other document of Customer which terms are either different from or additional to these terms and conditions of sale are objected to and are excluded unless specifically agreed to in writing by VELECOR. No course of dealing or performance shall be effective to change, amend or modify in any manner whatsoever VELECOR's terms and conditions of sale. Any sale or provision of services agreement shall not constitute a requirements contract with regard to the subject of any purchase order or any parts of such subject, unless VELECOR expressly agrees to enter into a requirements contract with BUYER, as evidenced by a separate writing signed by VELECOR.

1. SERVICES, WORK ORDERS.

1.1 Services. VELECOR will provide services to Customer in accordance with these terms and conditions ("Services") as the parties may from time to time agree and specify in purchase orders ("Purchase Orders") or work orders ("Work Orders") issued or signed by Customer. The definition of Work Order includes Purchase Orders unless otherwise specified. Any affiliate of Customer will have the right to enter into Work Orders with VELECOR under this Agreement, and with respect to such Work Orders, such affiliate becomes a party to this Agreement and references to Customer in this Agreement are deemed to be references to such affiliate. VELECOR will provide Customer with information for all equipment, software and supplies required to perform the Services and VELECOR will separately invoice these. Services under a particular Work Order are sometimes called a "Project." Customer makes no promises or representations whatsoever as to the amount of business VELECOR can expect at any time from Customer.

1.2 Work Orders. This Agreement of Terms and Conditions governs each Work Order, except that any conflict between the terms of this Agreement and a Work Order will be resolved in favor of the Work Order if the Work Order explicitly states that it is intended to modify the conflicting terms of this Agreement. This Agreement does not obligate VELECOR to perform any Services until both parties have signed a Work Order and then only for the Project specified in the Work Order. Both parties must sign a Work Order for it to be effective. However, a Work Order is binding on both parties if VELECOR: (a) signs and returns it to Customer; (b) begins performance; or (c) acknowledges it by email, facsimile or any other commercially reasonable means. If VELECOR commences Services for Customer in the absence of a Work Order (or a Purchase Order) and Customer accepts such Services or allows such Services to continue to be rendered, this Agreement will nevertheless apply, unless the parties otherwise mutually agree in writing. VELECOR will, at no cost to

Customer, promptly and satisfactorily correct any Services or Work Product found to be defective or not in conformity with the requirements of this Agreement and the applicable Work Order.

1.3 On-Site Services. If VELECOR provides Services on Customer premises, VELECOR will (a) abide by all Customer's rules, policies, and procedures regarding such matters as safety, security, health, environmental and hazardous material management, misconduct, physical aggression harassment and theft (collectively, "Rules"); and (b) at Customer's request, remove and promptly replace any Personnel (defined in Section 6 below) performing Services who behave in a manner that is unlawful or inconsistent with any Rule.

1.4 Payment Terms. Customer will pay VELECOR such amounts at such times as provided in the Work Order on the payment terms provided therein. Payment is to be made according to the terms stated in the Agreement. Customer agrees that this Agreement shall remain in effect for the full period stated in the Agreement and may not be terminated by Customer prior to that time, except in accordance with the terms of Provision (2 TERM). Payment terms allowing Customer to pay the costs of this Agreement in more than one payment over the course of the term of this Agreement does not alter the terms of this Agreement. If any amount owed under this Agreement is not paid when due, VELECOR may add a service charge of 1-1/2% per month on unpaid amounts. Customer agrees to pay all costs of collection, including attorney's fees, made necessary by nonpayment by Customer. VELECOR reserves the right to discontinue service, if account is not current.

1.5 Taxes. In addition to the amounts owed under a Work Order, VELECOR may charge and Customer will pay applicable federal, state or local sales or use taxes or value added taxes that VELECOR is legally obligated to charge in connection with the Services or the purchase of materials ("Taxes"). Customer may provide VELECOR an exemption certificate or equivalent information acceptable to the relevant taxing authority, in which case, VELECOR will not charge or collect the Taxes covered by such certificate. VELECOR will be responsible for all other taxes or fees (including interest and penalties) arising from transactions and the documentation of transactions under this Agreement.

2. TERM AND TERMINATION

The Initial Term of this Agreement shall commence on the date of signed acceptance and shall continue in force for a duration of four (4) years or until termination according to the terms of this Agreement listed below. Renewal Date is defined as one year following Initial Term or most recent Renewal Date. After the initial Term is completed the Agreement will automatically renew for each successive year under the same terms and conditions unless notice is given by either party within ninety (90) days of Renewal Date.

This Agreement may be terminated immediately, upon notice in writing:

- By either party if the other party is in material breach of any of its obligations hereunder and fails to remedy such breach within thirty (30) days of receipt of a written notice by the other party which specifies the material breach.
- By either party if the other party has a receiver appointed, or an assignee for the benefit of creditors, or in the event of any insolvency or inability to pay debts as they become due by the

other party, except as may be prohibited by applicable bankruptcy laws.

- Either party may terminate this Agreement for convenience upon ninety (90) days prior written notice to the other party. Any termination of this Agreement shall not relieve either party of its obligations in effect on the date of termination of this Agreement, unless otherwise mutually agreed to in writing.
- VELECOR may terminate an Agreement or any portion of the Services not then performed immediately upon written notice for Customer's material breach of the Agreement, including but not limited to, any breach of Section 7 below.
- VELECOR will provide reasonable assistance to Customer in order to enable and facilitate an orderly transition of the Services to Customer or to another vendor.

3. REPRESENTATIONS AND WARRANTIES. VELECOR represents and warrants that: (a) it will perform the Services in a competent and workmanlike manner in accordance with the level of professional care customarily observed by professionals rendering similar services; (b) the Services, Work Product and other products and materials provided by or on behalf of VELECOR will not violate, misappropriate or infringe any third party's copyrights, patents, trade secrets, trademarks or other proprietary rights; (c) all Work Product and other products and materials provided by or on behalf of VELECOR will not contain any copy protection, automatic shut-down, lockout, "time bomb" or similar mechanisms that could interfere with Customer's exercise of its business or its rights under this Agreement; (d) all Work Product and other materials provided by or on behalf of VELECOR will not contain any viruses, "Trojan horses" or other harmful code; (e) all Work Product and other products and materials provided by or on behalf of VELECOR are not subject to any license or other terms that require that other software, documentation, information or other materials incorporating or used with the Work Product or other materials provided by or on behalf VELECOR, in whole or in part, be disclosed or distributed in source code form, to be licensed for the purpose of making derivative works, or be redistributable at no charge (f) VELECOR and its Personnel will comply, at VELECOR's sole cost, with all applicable ordinances, codes, standards, laws, rules, regulations and orders of any governmental authority having jurisdiction over VELECOR's performance of the Services ("Laws"), and will hold and fully comply with all required licenses, permits and approvals; (g) it has, or will have in a timely manner, all rights necessary for (and is not subject to any restriction, penalty, agreement, commitment, law, rule, regulation or order which is violated by) its execution and delivery of this Agreement and performance of its obligations under this Agreement; (h) all personnel are authorized to lawfully perform the Services pursuant to applicable immigration and work status Laws; and (i) to the best of VELECOR's knowledge, none of the VELECOR Personnel has been convicted of a felony in the previous seven years, or, if he/she has, VELECOR has (to the extent in accordance with Laws) provided information to Customer regarding the nature, severity, and date of each such conviction.

This Agreement is limited to the services listed in the Work Order. It is the responsibility of Customer to ensure that all of its files are adequately backed up and that all necessary materials are available, including manufacturer recovery media for software and other software to be reloaded. VELECOR is not liable for defects or "bugs" in software, or for correcting errors introduced into the data, programs, or any other software due to hardware failure, or for any cost of reconstructing software or lost data. Any technical support required to restore data integrity or to make the system function, such as, but not limited to, rebuilding corrupted records, examining files, re-installation of O/S or Software, or re-indexing databases, will be billed separately on a time and materials basis, unless covered under Work Order addressing "Business Disruption Avoidance & Disaster Planning & Preparation." Customer's

system will have potential security vulnerabilities, even with the Services, including, but not limited to, the vulnerability of Customer's network or systems to (i) access by persons within Customer's organization which exceeds the authority granted to such persons; (ii) snooper attacks by persons granted access by Customer to its network to obtain and misuse access codes, passwords and other data; (iii) physical access to equipment at Customer sites; and (iv) access to passwords and similar information that is written down or otherwise not afforded an appropriate level of protection by Customer. VELECOR does not guarantee that the Services will eliminate all risk or prevent damage from network or system security breaches such as the above.

4. DEFENSE AND INDEMNITY.

VELECOR will hold harmless, and indemnify Customer, and/or its subsidiaries, affiliates, directors, officers, employees, agents, successors and assigns ("Customer Indemnified Parties"), from and against any allegation or claim based on, or any loss, damage, settlement, cost, expense and any other liability (including but not limited to reasonable attorneys' fees incurred and/or those necessary to successfully establish the right to indemnification) (collectively, "Claims"), arising from or related to (a) any negligent act or omission by VELECOR or its personnel, including, without limitation any breach of this Agreement or allegation or claim of negligence, strict liability, willful misconduct or fraud of VELECOR or its Personnel; or (b) any Claim that the Services or Work Product violate, misappropriate or infringe any third party's copyrights, patents, trade secrets, trademarks or other proprietary rights. However, the foregoing does not apply to the extent such Claim results from Customer's negligence or willful misconduct, misappropriation or infringement.

5. INSURANCE. VELECOR will obtain and maintain the following: (a) "Commercial General Liability" insurance with limits of not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate, (b) "Business Automobile Liability" insurance (including coverage for all owned, non-owned and hired autos, and no fault coverage where applicable) with limits of not less than \$1,000,000 per occurrence for bodily injury and property damage combined, unless VELECOR only uses private passenger automobiles on Customer's premises, in which case not less than \$1,000,000 per occurrence is acceptable, (c) "Workers' Compensation" insurance, including but not limited to coverage for all costs, benefits and liabilities under workers' compensation and similar laws that may accrue in favor of any person employed by VELECOR in all states where VELECOR performs Services, (d) a "Fidelity Bond" or similar policy covering employee dishonesty with limits of not less than \$1,000,000 per loss. VELECOR will also maintain "Professional Liability" or "Errors and Omissions" insurance with limits of not less than \$1,000,000 per claim. VELECOR will also obtain and maintain a Technology Professional Liability/Cyber Security with limits of not less than \$1,000,000 per occurrence and \$3,000,000 general aggregate. VELECOR may satisfy the foregoing minimum limits by any combination of primary liability and umbrella excess liability coverage that result in the same protection to VELECOR and the Customer insured parties. All of the foregoing insurance policies must have a retroactive date no later than the date that Services commenced. VELECOR will provide certificates of all insurance coverage to Customer at Customer's request.

6. PERSONNEL; INDEPENDENT CONTRACTOR. VELECOR and Customer are independent contractors. VELECOR has exclusive control over its employees, representatives, agents, VELECORs and subcontractors (collectively, "Personnel") and over its labor and employee relations and its policies relating to wages, hours, working conditions and other employment conditions. VELECOR has the exclusive right to hire, transfer, suspend, terminate, recall, promote, discipline, discharge and adjust grievances with its Personnel. VELECOR is solely responsible for all salaries and other compensation of its Personnel who provide Services and for making all deductions and withholdings from its employees' salaries and other compensation and paying all contributions, taxes and assessments. VELECOR's

Personnel are not eligible to participate in any employment benefit plans or other benefits available to Customer employees. VELECOR has no authority to bind Customer to any agreement or obligation. VELECOR will be solely responsible for all theft, damage and/or misconduct related to its Personnel.

7. CONFIDENTIALITY/PUBLICITY. VELECOR and its representatives (a) will protect and keep confidential the existence of all Work Orders, their terms and conditions and any other information obtained from Customer in connection with a Work Order or related to the Services that is identified as confidential or proprietary or that, given the nature of such information or the manner of its disclosure, reasonably should be considered confidential or proprietary (including but not limited to all information relating to Customer's technology, customers, business plans, marketing activities and finances), (b) will use such information only for the purpose(s) for which it was originally disclosed and in any case only for the purpose of fulfilling its obligations under this Agreement, and (c) will return all such information to Customer promptly upon the termination of this Agreement. All such information will remain Customer's exclusive property, and VELECOR will have no rights to use such information except as expressly provided herein. VELECOR will not use any trade name, trademark, service mark, logo or commercial symbol, or any other proprietary rights of Customer or any of its affiliates in any manner without prior written authorization of such use by Customer. VELECOR will not issue press releases or publicity relating to Customer or any Work Order or reference Customer or its affiliates in any brochures, advertisements, client lists or other promotional materials.

8. WORK FOR HIRE AND PROPRIETARY RIGHTS.

8.1 Work for Hire. The Work Product has been specially ordered and commissioned by Customer. VELECOR agrees that the Work Product is a "work made for hire" for copyright purposes, with all copyrights in the Work Product owned by Customer.

8.2 Assignment of Work Product. To the extent that the Work Product does not qualify as a work made for hire under applicable law, and to the extent that the Work Product includes material subject to copyright, patent, trade secret, or any Proprietary Rights protection, VELECOR hereby assigns to Customer (or to such of its affiliates as it may designate), its successors and assigns, all right, title and interest in and to the Work Product, including, but not limited to, all rights in and to any inventions, designs and Proprietary Rights embodied in the Work Product or developed in the course of VELECOR's creation of the Work Product. The foregoing assignment includes a license under any current and future patents owned or licensable by VELECOR to the extent necessary to combine the Work Product or any derivative works or modifications thereof with any product, service, offering, software or intellectual property of Customer. VELECOR will cooperate as may reasonably be necessary for Customer to perfect title to any Work Product, including, without limitation, executing any documents in connection with such assignment that Customer may reasonably request. VELECOR will enter into agreements with its Personnel or any other party as necessary to establish Customer's sole ownership in Work Product, and upon Customer's request, VELECOR will provide Customer with copies of such agreements. VELECOR appoints Customer as its attorney-in-fact to execute assignments of, and register all rights to, the Work Product and the Proprietary Rights in Work Product. This appointment is coupled with an interest. At any time upon request from Customer and upon termination or expiration of this Agreement, VELECOR will deliver to Customer in tangible form all materials containing Work Product, whether complete or in process.

8.3 License to Pre-Existing Work. To the extent Pre-Existing Work of VELECOR is embodied in any Work Product, deliverables or Proprietary Rights, if Customer is not in breach of this Agreement or any Work Order, VELECOR hereby grants Customer a non-exclusive, worldwide, perpetual, irrevocable, fully paid up license to (a) use, make, have made, reproduce, perform, display, and import such Pre-Existing Work, (b) adapt, modify, and create derivative works of such Pre-Existing Work. Customer will not sell or license any Pre-Existing Work without the written consent of VELECOR.

9. INSPECTION AND ACCEPTANCE.

9.1 Customer will have 10 days from Customer's receipt of any Deliverables (as defined below) from VELECOR to accept or reject any Deliverable if the Deliverable does not conform to the related Work Order under which the Deliverable was produced. Any rejection shall be in a writing delivered to VELECOR by electronic mail or an express mail service, such as FedEx or US Postal service express mail, within such 30 day period and the specific reason for such rejection. If Customer determines that any Deliverable is not acceptable, Customer may (a) may reject the item, in which case VELECOR will return any payments it has received relating to the applicable Deliverable within 10 days and Customer will have no further obligation with respect to the rejected Deliverable, or (b) direct VELECOR to correct the noncompliance or defects, in which case VELECOR (at its cost) will correct the noncompliance or defects and redeliver the Deliverable within 30 days. This process will be repeated until Customer finally rejects the Deliverable or notifies VELECOR in writing of its acceptance. Failure to reject a Deliverable within the time set forth above shall be deemed an acceptance by Customer of the Deliverable. A "Deliverable" is any service, item, products or materials, including any Work Product, delivered by VELECOR to Customer.

10. GENERAL.

10.1 Subcontract and Assignment. VELECOR may subcontract part of the duties required of it under any Work Order without Customer's prior written consent. Notwithstanding any other provision in this Agreement or a Work Order to the contrary, VELECOR may assign this Agreement and any Work Order to an affiliate of VELECOR at any time if the assignee is wholly owned by the owner of VELECOR (the "Assignee").

10.2 Governing Law/Venue. This Agreement is governed by Ohio law, excluding its conflicts of law rules. Customer irrevocably submits to venue and exclusive personal jurisdiction in the federal and state courts in the county where VELECOR or Assignee, as the case may be, has its principle office, for any dispute arising out of this Agreement, and waives all objections to jurisdiction and venue of such courts.

10.3 Notices. Notices under this Agreement are sufficient if given by nationally recognized overnight courier service, certified mail (return receipt requested), and facsimile with electronic confirmation or personal delivery to the other party at the address below the party's signature line below. If no address is listed for VELECOR, notice to VELECOR will be effective if given to the last known address. Notice is effective: (a) when delivered personally, (b) three business days after sending by certified mail, (c) on the business day after sending by a nationally recognized courier service, or (d) on the business day after sending by facsimile with

electronic confirmation to the sender. A party may change its notice address by giving notice in accordance with this section.

10.4 Severability. If any provision of this Agreement is determined by any court or governmental authority to be unenforceable, the parties intend that this Agreement be enforced as if the unenforceable provisions were not present and that any partially valid and enforceable provisions be enforced to the extent that they are enforceable.

10.5 No Waiver. A party does not waive any right under this Agreement by failing to insist on compliance with any of the terms of this Agreement or by failing to exercise any right hereunder. Any waivers granted hereunder are effective only if recorded in a writing signed by the party granting such waiver.

10.6 Cumulative Rights/Construction. The rights and remedies of the parties under this Agreement are cumulative, and either party may enforce any of its rights or remedies under this Agreement or other rights and remedies available to it at law or in equity. The section headings of this Agreement are for convenience only and have no interpretive value.

10.7 Survival. The following provisions survive termination or expiration of this Agreement: the records provision in Section 1.4; Defense and Indemnification (Section 4); Confidentiality/Publicity (Section 7); Work for Hire (Section 8) and General (Section 10), including without limitation, Limitation of Liability (Section 10.9).

10.8 Injunctive Relief. VELECOR acknowledges that any material breach of Section 7, or Section 8, by VELECOR would cause Customer irreparable harm for which Customer has no adequate remedies at law. Accordingly, Customer is entitled to specific performance or injunctive relief for any such breach.

10.9 Limitation on Liability: VELECOR's maximum liability for any breach of its obligations under this Agreement shall be the maximum insurance limit with regard to the insurance policy which pertains to such breach required to be purchased by VELECOR under section 5. VELECOR shall in no event have any liability for any special, incidental, or consequential damages including but not limited to, loss of profits or revenue, loss of use of equipment, lost data, cost of substitute equipment, services, down-time, or claims of Customer for such damages, whether the claims be in contract, tort, strict liability, negligence, indemnification or otherwise, even if VELECOR had been advised of such potential damages.

With respect to "Offsite Backup" Services, VELECOR will in no way be held responsible for data integrity or availability. "Offsite Backup" Services are resold and provided by third party vendor(s). Any warranties or liabilities may or may not be held with said vendor(s). Upon request from Customer, VELECOR will provide any known information about the vendor in use for that Customer.

With respect to "Proactive Maintenance" Services, customer acknowledges that there is no such thing as a totally secure, impenetrable network, but that VELECOR's "Proactive Maintenance" services (according to specific service(s) contracted for) provides a reasonable level of proactive protection as well as ongoing security monitoring and reporting. VELECOR will in no way be held responsible and/or liable for damages, monetary or otherwise, by customer, or any other affected party, in the event of a security breach or network security-related outages, damages, losses, etc.

WARRANTY DISCLAIMER: EXCEPT AS TO THOSE EXPRESSED WARRANTIES SET FORTH HEREIN, THERE ARE NO

WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY FOR A PARTICULAR PURPOSE, RESPECTING SERVICES PERFORMED OR EQUIPMENT AND MATERIALS FURNISHED UNDER THIS AGREEMENT. In all events not provided for in this Agreement and where permitted by law, VELECOR's liability (regardless of the form of action) will be limited to Customer's direct damages in an amount up to the cumulative annual amount of charges paid to VELECOR for the services hereunder. VELECOR's entire liability and Customer's exclusive remedies for VELECOR's liability of any kind (including liability for negligence) for performance, nonperformance or delays in performance by VELECOR under this Agreement are limited to those contained in this Agreement where permitted by law. Under "Service Level & Warranty" services, certain operability outlined in Appendix A will be remedied by VELECOR at no additional cost to Customer according to provisions also set forth in Appendix A.

10.10 Entire Agreement. This Agreement and the Work Orders, together with all associated exhibits and schedules, which are incorporated by this reference, constitute the complete and final agreement of the parties pertaining to the Services and supersede the parties' prior agreements, understandings and discussions relating to the Services. No modification of this Agreement or any Work Order is binding unless it is in writing and signed by Customer and VELECOR.

This Agreement may be executed by facsimile and in counterparts, each of which (including signature pages) will be deemed an original, but all of which together will constitute one and the same instrument. The parties may use standard business forms or other communications, but use of such forms is for convenience only and does not alter the provisions of this Agreement. *NEITHER PARTY WILL BE BOUND BY, AND EACH SPECIFICALLY OBJECTS TO, ANY PROVISION THAT IS DIFFERENT FROM OR IN ADDITION TO THIS AGREEMENT (WHETHER PROFFERED VERBALLY OR IN ANY QUOTATION, INVOICE, SHIPPING DOCUMENT, ACCEPTANCE, CONFIRMATION, CORRESPONDENCE, OR OTHERWISE), UNLESS SUCH PROVISION IS SPECIFICALLY AGREED TO IN A WRITING SIGNED BY BOTH PARTIES.*