

Standard Terms & Conditions

Your signature on the reverse page signifies your satisfaction with the services provided and your agreement to these Standard Terms and Conditions. Failure to pay any outstanding balance shall subject You to interest charges of one-and-one-half percent (1.5%) per month until said balance is paid in full. Failure to pay in full voids all Warranties and Guarantees. In the event of non-payment, all discounts on hourly rates will be revoked and the regular hourly rate for all unpaid work performed will be invoiced at the Emergency Response hourly rate of \$249.00 per hour. In the event that parts, materials, hardware, software, cables or supplies are needed, then a non-refundable full deposit is required to place the order

If for any reason any form of payment is returned or denied, METRO MANAGED IT will be entitled to a \$40.00 fee.

If collection proceedings are initiated by METRO MANAGED IT to collect delinquent amounts, METRO MANAGED IT will be entitled to reasonable attorney's fees and costs required to collect the outstanding amounts. Any controversy or claim arising out of or relating to this Agreement or the breach thereof shall be subject to the laws of the Commonwealth of Virginia and the parties hereto submit to the exclusive jurisdiction and venue of the Virginia Courts in Fairfax County. This document contains the entire Agreement of the parties and may not be altered or amended except by a written document signed by both parties. If any part and/or section of this Agreement is deemed illegal, invalid or unenforceable, all remaining parts and/or sections of this agreement remain valid.

METRO MANAGED IT will not be liable for any damages caused by circumstances beyond its control, including but not limited to acts of war, violence or terrorism, labor strikes, natural disasters including fire, flood or loss of electric power, or acts of God.

Cancellation Policy: A minimum diagnostic fee of no more than \$228.00 will apply for cancellations with less than 24 hours' notice. A minimum diagnostic fee will apply for any service call scheduled for the same day and subsequently canceled.

Parts purchased from and installed by METRO MANAGED IT are guaranteed in two ways. Should the part not perform as specified by the manufacturer, labor for repairing or replacing the parts will be at no charge for 30 days. The part itself is guaranteed by its manufacturer. METRO MANAGED IT will assist customer in obtaining a warranty replacement part. Charges for consequential damages that may have been caused by the defective part are NOT covered. All METRO MANAGED IT guarantees are void if you do not permit us to fix the problem or if anyone other than a METRO MANAGED IT certified technician works on your system.

METRO MANAGED IT DISCLAIMS ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE EXCEPT FOR THE EXPRESS GUARANTEES MADE HEREIN. SOME STATES DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES, SO THIS LIMITATION MAY NOT APPLY TO YOU. METRO MANAGED IT DOES NOT ACCEPT LIABILITY BEYOND THE REMEDIES SET FORTH IN THE METRO MANAGED IT GUARANTEES ABOVE OR LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION ANY LIABILITY FOR PRODUCTS NOT BEING AVAILABLE FOR USE OR FOR LOST DATA OR SOFTWARE. MONETARY DAMAGES ARE IN ANY EVENT LIMITED TO THE AMOUNT OF CONSIDERATION PAID TO METRO IT.

METRO MANAGED IT Off-site Backup: You are responsible for the security of the secret encryption key provided to You for use with METRO MANAGED IT's off-site backup. METRO MANAGED IT is not responsible for any damages resulting from third parties discovering Your encryption key. You agree to follow METRO MANAGED IT's instructions on processing Your data backup. You will not rely solely upon METRO IT's off-site backup. You will use it only as a supplement to your own on-site backup regimen.

These additional terms and conditions apply to Metro Managed IT's Backup service for both local and remote backup using out supplied software.

Automated Data Backup – Metro Managed IT will utilize an automated data backup program, known as ActiveWatch® Backup, which can provide off-site and on-site backup of selected files together with an automated reporting system.

Backup Monitoring – Metro Managed IT will utilize a system that will monitor the backup software and report by email to designated person the results of each backup.

Exclusions / Assumption

Suitability of Existing Environment – Minimum Standards Required for Services - In order for Client's existing environment to qualify for Service Provider's Managed Services, the following requirements must be met

- All servers with Microsoft Windows Operating Systems must be running Windows 2000 Server or later, and should have all of the latest Microsoft Service Packs and Critical Updates installed.
- All desktop PC's and Notebooks/Laptops with Microsoft Windows Operating Systems must be running Windows XP or later, and should have all of the latest Microsoft Service Packs and Critical Updates installed.
- All server and desktop operating systems and software must be genuine, licensed and vendor-supported.
- The environment should have a currently licensed, up-to-date and vendor-supported antivirus solution protecting all servers, desktops, notebooks/laptops, and email.
- For local backup, the environment must have sufficient hard disk storage space that should be monitored for disk errors or failures, located on a computer other than the one being backed up or on an external hard drive.
- The environment should have a currently licensed, vendor-supported hardware firewall between the internal network and the Internet.
- There should be either an outside static IP address assigned to the network device or other method of reaching the backup software remotely. This may mean configuring firewalls to allow access and/or installing software.
- Costs required to bring Client's environment up to these minimum standards are not included in this Agreement.

Hardware Replacement – Hardware replacement is not included in this agreement.

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Fees and Payment Schedule – Fees will be calculated each month per month in accordance with stated pricing, invoiced in advance to Client on a monthly, quarterly, semi-annual or annual basis, and will become due and payable on the first day of each invoice period. The fee is based on the number of monitored devices that are backed up and may be adjusted if the quantities of backed up devices changes. The first month will include an additional one-time setup fee of \$ 0.00. Services will be suspended if payment is not received within 15 days following invoice date.

It is understood that any and all Services requested by Client that fall outside of the terms of this Agreement will be considered Projects, and will be quoted and billed as separate, individual services.

Payments – Payment is due in advance. If paid monthly, payment is made by automatic monthly charges to a credit card. If paid quarterly, semi-annually or annually, payment may be made by either credit card or check.

Price changes – Metro Managed IT retains the right to change pricing at any time without prior notice. Agreed upon pricing will remain in effect for the length of the Agreement. Should adjustments or

modifications be required that increase the monthly storage or license fees paid for the services rendered under this Agreement, these increases will not exceed 20% of the value of the existing monthly fees due under this Agreement.

Term – This Agreement between is effective upon the date signed, shall remain in force for a period of three years, and be reviewed annually to address any necessary adjustments or modifications. The Service Agreement automatically renews for a subsequent three year term beginning on the day immediately following the end of the Initial Term, unless either party gives the other thirty (30) days prior written notice of its intent not to renew this Agreement.

Termination – After the initial 90 days, either party may terminate the agreement for any reason with thirty (30) days written notice. Metro Managed IT may cancel this agreement at any time for any reason with thirty (30) days written notice.

If either party terminates this Agreement, Service Provider will assist Client in the orderly termination of services, including timely transfer of the services to another designated provider. Client agrees to pay Metro Managed IT the actual costs of rendering such assistance. Upon termination, Client shall destroy or return to Metro Managed all copies of the Licensed Software and certify in writing that all know copies have been destroyed. All provisions relating to confidentiality, proprietary rights, non-disclosure, and limitation of liability shall survive the termination of this Agreement.

Taxes – It is understood that any Federal, State or Local taxes applicable shall be added to each invoice for services or materials rendered under this Agreement. Client shall pay any such taxes unless a valid exemption certificate is furnished to Service Provider for the state of use.

Typographical Errors – Metro Managed IT cannot be held bound or held responsible for typographical errors or omissions.

Limitations of Technology – The Client acknowledges that technologies are not universally compatible, and that there may be particular services or devices that Metro Managed IT may be unable to monitor or manage. Metro Managed IT agrees to inform the Client when such situation exists. Client agrees to correct situation if applicable, and to hold Metro Managed IT harmless in any case.

Licensed Software

Metro Managed IT / StoreGrid Software License Agreement – This License Agreement details the policy for license of StoreGrid software ("Licensed Software"). Please read the following license carefully, before either (i) completing the electronic order or download of the Licensed Software from an authorized website, or (ii) installing or allowing to be installed the Licensed Software from media that was delivered after being ordered by alternative order process, as applicable. Client acknowledges that Client has read this License Agreement, have understood it, and agree to be bound by its terms. If Client does not agree to the terms and conditions of this Agreement, either (i) exit the web site page without continuing the ordering process, or (ii) return the provided unused media and documentation within thirty (30) days from the date of shipment of the Licensed Software for a full refund of payment for this software, as applicable.

Commercial License – As part of purchasing a fee-bearing commercial license, Metro Managed IT grants Client a limited, non-exclusive, non-transferable, non-assignable, non-sub-licensable world-wide license to Use the Licensed Software, including user documentation that Client has downloaded from or received on media provided by Metro Managed IT and/or Vembu Technologies, including all updates provided through the Metro Managed IT and/or Vembu Technologies subscribed support services, where applicable, provided that such access and Use of the Licensed Software is in accordance with the Time Limited Network License Client has properly licensed and paid. "Use" means storing, loading, installing, executing the Licensed Software. Time Limited Network License means that the number of machines in a network the Licensed Software can be installed and the time period the Licensed Software

can be used. Licensed Software may not be bundled or distributed with Client's or any third party application(s), nor may it be used in a hosting or ASP environment unless a separate and unique agreement is in that explicitly grants these rights.

Third Party Products – The Licensed Software may contain software which originated with third party vendors and without limiting the general applicability of the other provisions of this Agreement, Client agrees that (a) the title to any third party software incorporated in the Licensed Software shall remain with the third party which supplied the same; and (b) will not distribute any such third party software available with the Licensed Software, in any manner, unless the license of the third party software states otherwise.

Restrictions on Use – In addition to all other terms and conditions of this Agreement, Client shall not

- 1) install the Licensed Software in more computers than the number of computers the license is granted for;
- 2) use the licensed software beyond the time period the license is granted for;
- 3) remove any copyright, trademark or other proprietary notices from the Licensed Software or its copies;
- 4) rent, lease, license, sublicense or distribute the Licensed Software or any portions of it on a standalone basis or as part of an application;
- 5) modify or enhance the Licensed Software;
- 6) use the Licensed Software in a computer-based services business or publicly display visual output of the Licensed Software or use the Licensed Software for the benefit of any other person or entity;
- 7) reverse engineer, decompile or disassemble the Licensed Software;
- 8) allow any third parties to access, use or support the Licensed Software.

Technical Support – Metro Managed IT provides support that includes email support for problems reporting, product updates, for the period of Client's remote backup subscription. Metro Managed IT specifically excludes upgrades from the support program. Upgrade to the Licensed Software will be provided upon payment of an Upgrade License Fee in accordance with Metro Managed IT's then current pricing policy.

Ownership and Intellectual Property – Vembu Technologies owns all right, title and interest in and to the Licensed Software. Vembu Technologies expressly reserves all rights not granted to Client herein, notwithstanding the right to discontinue or not to release any Licensed Software and to alter prices, features, specifications, capabilities, functions, licensing terms, release dates, general availability or characteristics of the Licensed Software. The Licensed Software is only licensed and not sold to Client by Metro Managed IT. Client shall not export the Licensed Software or Client's application containing the Licensed Software except in compliance with United States export regulations and applicable laws and regulations.

Audit – Metro Managed IT has the right to audit Client's Use of the Licensed Software by providing at least seven (7) days prior written notice of its intention to conduct such an audit at Client's facilities during normal business hours.

Encryption Key - You are responsible for the security of the secret encryption key provided to You for use with METRO MANAGED IT's off-site backup. METRO MANAGED IT is not responsible for any damages resulting from third parties discovering Your encryption key. You agree to follow METRO MANAGED IT's instructions on processing Your data backup.

Confidentiality – The Licensed Software contains proprietary information of Vembu Technologies that are protected by the laws of the United States and Client hereby agrees to take all reasonable efforts to

maintain the confidentiality of the Licensed Software, agrees to reasonably communicate the terms and conditions of this Agreement to those persons employed by Client who come into contact with or access the Licensed Software, and to use reasonable efforts to ensure their compliance with such terms and conditions, including but not limited to, not knowingly permitting such persons to use any portion of the Licensed Software for a purpose that is not allowed under this Agreement.

Warranty Disclaimer – Metro Managed IT and/or Vembu Technologies does not warrant that the Licensed Software will be error-free. Except as provided herein, the Licensed Software is furnished "as is" without warranty of any kind, including the warranties of merchantability and fitness for a particular purpose and without warranty as to the performance or results Client may obtain by using the Licensed Software. Client is solely responsible for determining the appropriateness of using the Licensed Software and assume all risks associated with the use of it, including but not limited to the risks of program errors, damage to or loss of data, programs or equipment, and unavailability or interruption of operations. Because some jurisdictions do not allow for the exclusion or limitation of implied warranties, the above exclusions or limitations may not apply to you.

Force Majeure & Malicious Acts – This agreement is designed to cover the support needs of the Client during normal operating conditions. Metro Managed IT shall not be liable for damages, delay, or default in performance if such delay or default is caused by conditions beyond its control including, but not limited to acts of God, government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections, and/or any other cause beyond the reasonable control of either party. Furthermore, damage and/or significant problems that result from anomalies and/or abnormal circumstances such as fire, flood, electrical surges, deliberate malicious acts, theft, acts of God, wars, insurrections, and/or any other cause beyond the reasonable control of either party fall outside the terms of this agreement.

Loaned / Rented Equipment – The Client agrees that any equipment utilized by Metro Managed IT in the execution of this or any service that is not explicitly purchased by Client shall remain the property of Metro Managed IT, and must be immediately returned if requested. Client further agrees to cease the use of any technology that remains the property of Metro Managed IT upon termination of this agreement.

Confidentiality – Neither party shall disclose any proprietary or confidential information obtained from the other unless so directed by a court of law or government authority. Client agrees not to disclose rate(s), term(s), or any information regarding this Agreement without the prior written consent of Metro Managed IT. For promotional purposes, Metro Managed IT shall have the right to disclose to others the identity of its clients.

Hiring of Employees – Client agrees not to hire or attempt to hire any Metro Managed IT employee, contractor, or former employee within two years of termination of employment, as full-time or part-time employee, contractor, or any other such position without the written consent of Metro Managed IT. Client understands and agrees that Metro Managed IT shall suffer such irreparable harm in such event that Client shall, if such breach should occur, immediately pay to Metro Managed IT an amount equal to the employee's annual compensation (including salary and expected bonuses) at the time of breach.

Authority – Client signatory represents and warrants that it has full corporate power and authority to execute this Agreement to bind their company. Only individuals with title of Chief Executive or Chief Financial Officer or any person designated by either of those two individuals shall have power and authority to bind Client.

Contractor Status – The relationship of Metro Managed IT to Client is that of an independent contractor and not that of an agent or employee of Client. It is expressly understood and agreed by the parties that

Client shall not have, nor exercise, any control or direction over the manner or methods by which Metro Managed IT provides services other than the right to require that the performance of such services be in accordance and consistent with the terms set forth in this agreement.

General Health & Safety – Metro Managed IT agrees to comply with all applicable health and safety protocols. The Client agrees to remedy any conditions which exist that have the potential to create a hazard.

Site Access – If appropriate, Client will be responsible for obtaining proper and adequate permission and credentials for Metro Managed IT to enter upon and operate within the lands, properties and premises designated as The Client's work area.

Equipment & Facilities – If appropriate, Client agrees that Metro Managed IT may utilize certain items of Client's equipment and may gain access to certain Client facilities. Client retains title and ownership in all of Client's equipment owned by Client and utilized by Metro Managed IT, and must grant authority for Metro Managed IT to access Client's facility. Facility access may be denied for any reason at any time, however if access to facilities is denied, Client understands that Metro Managed IT may be unable to perform its duties adequately and if such a situation should exist, Metro Managed IT will be held harmless.

Usernames and Passwords – Client acknowledges that Metro Managed IT must have access to any and all systems and resources to perform their duties under this agreement. As such, Metro Managed IT must have access to any and all usernames and passwords.

Excluded Services – Service rendered under this Agreement does not include

- Parts, equipment or software not covered by vendor/manufacture warranty or support.
- The cost of any parts, equipment, or shipping charges of any kind.
- The cost of any Software, Licensing, or Software Renewal or Upgrade Fees of any kind unless specifically included in Gold or Platinum plans.
- The cost of any Third Party Vendor or Manufacturer Support or Incident Fees of any kind.
- The cost to bring Client's environment up to minimum standards required for Services.
- Failure due to acts of God, building modifications, power failures or other adverse environmental conditions or factors.
- Service and repair made necessary by the alteration or modification of equipment other than that authorized by Service Provider, including alterations, software installations or modifications of equipment made by Client's employees or anyone other than Service Provider.
- Service and / or repair made necessary by removal or disabling of antivirus programs and / or firewalls installed on client computer.
- Consumable materials, such as printer cartridges and removable storage tapes/disks; and shipping costs.
- Service and repair made necessary by Internet or telephone service provider outages.
- Maintenance of application software packages, whether acquired from Service Provider or any other source unless as specified in Appendix B.
- Programming (modification of software code) and program (software) maintenance unless as specified in Appendix B.
- Training services of any kind.

No Third Party Beneficiary – All of the provisions of this Agreement are solely for the benefit of the parties hereto. None of the other provisions of this entire Agreement shall inure to the benefit of any person not a party to the Agreement. Third parties shall have no rights hereunder.

Consequential Damages – Neither Client nor Metro Managed IT shall be liable to the other for any consequential damages arising out of or related to the performance of this Agreement.

Indemnification – Client shall at all times indemnify and save Metro Managed IT harmless against and from all losses, liability, expenses, and other detriments of every nature and description to which Client may be subjected by reason of any act or omission of Metro Managed IT, its subcontractors, consultants, agents, officers, directors, and employees where such loss, liability, expense or other detriment arises out of or in connection with the performance of the work, including, but not limited to, personal injury (including death) and loss of or damage to property of Client or others.

Metro Managed IT and/or Vembu Technologies shall have no indemnity obligation for claims of infringement to the extent resulting or alleged to result from (i) any combination, operation, or use of the Licensed software with any programs or equipment not supplied by Vembu Technologies; (ii) any modification of the Licensed Software by a party other than Vembu Technologies; and (iii) Client's failure, within a reasonable time frame, to implement any replacement or modification of Licensed Software provided by Vembu Technologies.

Limitation of Liability – In no event will Metro Managed IT and/or Vembu Technologies be liable to Client or any third party for any special, incidental, indirect, punitive or exemplary or consequential damages, or damages for loss of business, loss of profits, business interruption, or loss of business information including but not limited to loss of profits or revenue, loss of use of equipment, lost data, costs of substitute equipment, or other costs arising out of the use or inability to use the program or for any claim by any other party even if Metro Managed IT or Vembu Technologies has been advised of the possibility of such damages. Metro Managed IT and Vembu Technologies' entire liability with respect to its obligations under this agreement or otherwise with respect to the Licensed Software shall not exceed the amount of the Time Limited Network License fee paid by Client for the Licensed Software. Because some jurisdictions do not allow the exclusion or limitation of liability for incidental or consequential damages, the above exclusions or limitations may not apply to you.

Unpaid Amounts – Failure to pay any outstanding balance shall subject You to interest charges of one-and-one-half percent (1.5%) per month until said balance is paid in full. Failure to pay in full voids all Warranties and Guarantees. In the event of non-payment, all discounts on hourly rates will be revoked and the regular hourly rate for all unpaid work performed will be invoiced at the Emergency Response hourly rate of \$249.00 per hour. If for any reason any form of payment is returned or denied, METRO MANAGED IT will be entitled to a \$40.00 fee. If collection proceedings are initiated by METRO MANAGED IT to collect delinquent amounts, METRO MANAGED IT will be entitled to reasonable attorney's fees and costs required to collect the outstanding amounts.

Entire Agreement – This Agreement is the exclusive statement of the agreement of the parties with respect to its subject matter and supersedes all prior agreements, negotiations, representations, proposals, and awards, written or oral, relating to its subject matter. Client and Metro Managed IT agree that in the event any term, covenant or condition herein contained is held to be invalid or void by any court of competent jurisdiction, the invalidity of any such term, covenant or condition shall in no way affect any other term, covenant or condition herein contained. Headings, titles and paragraph captions are inserted in the Agreement for convenience, are descriptive only and shall not be deemed to add to or detract from or otherwise modify the meaning of the paragraphs.

Jurisdiction – This Agreement shall be construed, interpreted and governed by the laws of the Commonwealth of Virginia and the parties hereto submit to the exclusive jurisdiction and venue of the Virginia Courts in Fairfax County.

These additional Terms and Conditions apply to Our ActiveWatch® Managed Services

Services Included

Performance, Availability & Predictive Failure Monitoring – Metro Managed IT will utilize a monitoring system designed to track the availability and performance of critical networking components, including designated servers, and managed networking equipment (e.g. routers, firewalls, managed switches, etc.). Optionally, with Gold and Platinum plans, the monitoring system will provide the Metro Managed IT Network Operations Center (NOC) with real time alerts that will be responded to under the terms of this agreement. The system will also allow for the periodic reports which will be made available to the Client.

Patch Monitoring & Management – Metro Managed IT will utilize a system that will monitor the operating system patch levels of known systems that run approved operating systems and are connected to the network. This includes servers, desktop workstations, and laptop / notebook computers. With Gold and Platinum plan options, this system also allows Metro Managed IT to deploy approved patches utilizing strategic timing based on best practices. Metro Managed IT is also able to monitor and manage patch levels of Microsoft Office applications, and certain critical Microsoft back office server-based applications such as Exchange and SQL Server.

Virus Definition Monitoring & Management – Metro Managed IT will utilize a system that monitors antivirus definition levels of all known systems. Our system is compatible approved antivirus software vendors. With Gold and Platinum plan options, Metro Managed IT will provide anti-virus software for each covered server or computer.

System Administration – With Gold and Platinum plan options, basic system administration is included as part of this agreement. Basic system administration tasks include such actions as resetting passwords, assisting with basic shared folder creation and the associated permissions, creating and removing users from the user directory, adding a printer to an existing workstation, minor software updates and similar routine tasks.

System Maintenance – Basic maintenance tasks are included with Gold and Platinum plans as part of this agreement. Each maintenance task is performed utilizing the most expedient and unobtrusive method available, including automatic remote, manual remote, and with Platinum plan option, manual on-site maintenance. If Client requests on-site service and no problem is found or reproduced, Client shall be billed at the current applicable rates.

Optional Help Desk & On-site Support – With Platinum plan option, system or end-user problems or issues that involve systems listed as part of this agreement, assuming Client has met all expectations and requirements contained herein, and assuming the nature of the issue is not listed as an exclusion, will be handled in the most appropriate and expedient manner and are included at no extra charge.

Response Time – By default, response to alerts and requests is covered during standard business hours, defined by Metro Managed IT as 8:00 AM – 5:00 PM, Monday through Friday (excluding state or federal holidays or when government offices are closed). Optional extended hours support, defined as standard hours coverage plus 5:00 PM – 8:00 AM, Monday through Friday and weekends is available. See Exhibit A - Service plan availability and prices for details regarding pricing.

Monthly Review Meetings – Monthly meetings can be held to review monitoring reports and service requests, discuss priorities for the following quarter, and to assess the overall satisfaction of the services being provided.

Exclusions / Assumptions

Project & Integration Work – Project & integration work is defined as any service designed to add or increase functionality or capacity; in other words, any work that is not designed to support existing systems or persons. Projects are outside the scope of this agreement and as such will be quoted and invoiced separately. Project & integration work will be identified to the Client as such before any work is performed.

Line of Business Applications – Line of business applications such as accounting packages, customer relationship management (CRM) software, enterprise resource planning (ERP) software, etc. that are not specifically mentioned herein fall outside the scope of this Agreement. Reasonable attempts will be made to correct connectivity issues to such applications; however problems specific to the application or network problems caused by the application are excluded.

Suitability of Existing Environment – Minimum Standards Required for Services - In order for Client's existing environment to qualify for Service Provider's Managed Services, the following requirements must be met:

- All servers with Microsoft Windows Operating Systems must be running Windows 2000 Server or later, and have all of the latest Microsoft Service Packs and Critical Updates installed.
- All desktop PC's and Notebooks/Laptops with Microsoft Windows Operating Systems must be running Windows XP Pro or later, and have all of the latest Microsoft Service Packs and Critical Updates installed.
- All server and desktop operating systems and software must be genuine, licensed and vendor-supported.
- The environment must have a currently licensed, up-to-date and vendor-supported server-based antivirus solution protecting all servers, desktops, notebooks/laptops, and email.
- The environment must have a currently licensed, vendor-supported server-based backup solution that can be monitored, and send notifications on job failures and successes. The

environment must have a currently licensed, vendor-supported hardware firewall between the internal network and the Internet.

- All wireless data traffic in the environment must be securely encrypted.
- There must be an external static IP address assigned to a network device, allowing RDP or VPN access.
- Costs required to bring Client's environment up to these minimum standards are not included in this Agreement.

Hardware Replacement Cost – Hardware replacement strategy is handled on a case-by-case basis and as such, the cost associated with hardware replacement falls outside the scope of this agreement. Hardware replacement can take the form of warranty, extended warranty, manufacturer's support contract, Metro Managed IT hardware support contract, on-site spare, or purchase as needed. Hardware support options may be discussed as part of an Audit to be sure an appropriate hardware replacement strategy exists for all critical equipment.

Backup Tape Rotation – If applicable, general tape changing, rotation and offsite transit and storage of tapes or other backup media is the responsibility of the Client.

Terms and Conditions

Fees and Payment Schedule – Fees will be \$XXX.XX per month, invoiced in advance to Client on a (check appropriate period) monthly, quarterly, semi-annually or annual basis, and will become due and payable on the first day of each invoice period. The fee is based on the number of devices that are monitored and may be adjusted if the quantities of monitored devices changes. The first month will include an additional one-time setup fee of \$XXX.XX. Services will be suspended if payment is not received within 15 days following invoice date. Refer to Appendix A for services covered by the monthly fee under the terms of this Agreement. *It is understood that any and all Services requested by Client that fall outside of the terms of this Agreement will be considered Projects, and will be quoted and billed as separate, individual services.*

Payments – Payment is due in advance. If not received before the fifth day of the covered month, service shall be cancelled and reinstatement will be done as soon as possible after receiving all payments due and a \$75 reinstatement fee.

Pricing – Metro Managed IT retains the right to change pricing at any time without prior notice. Agreed upon pricing will remain in effect for the length of the Agreement. Should adjustments or modifications be required that increase the monthly fees paid for the services rendered under this Agreement, these increases will not exceed 20% of the value of the existing monthly fees due under this Agreement.

Term – This Agreement between is effective upon the date signed, shall remain in force for a period of three years, and be reviewed annually to address any necessary adjustments or modifications. The Service Agreement automatically renews for a subsequent three year term beginning on the day immediately following the end of the Initial Term, unless either party gives the other thirty (30) days prior written notice of its intent not to renew this Agreement.

Termination – Client may party may terminate the agreement for any reason after 90 days with thirty (30) days written notice. Service Provider may terminate this agreement at any time. If either party terminates this Agreement, Service Provider will assist Client in the orderly termination of services, including timely transfer of the services to another designated provider. Client agrees to pay Metro Managed IT the actual costs of rendering such assistance.

Taxes – It is understood that any Federal, State or Local taxes applicable shall be added to each invoice for services or materials rendered under this Agreement. Client shall pay any such taxes unless a valid exemption certificate is furnished to Service Provider for the state of use.

Typographical Errors – Metro Managed IT cannot be held bound or held responsible for typographical errors or omissions.

Limitations of Technology – The Client acknowledges that technologies are not universally compatible, and that there may be particular services or devices that Metro Managed IT may be unable to monitor, manage, or patch. Metro Managed IT agrees to inform the Client when such situation exists. Client agrees to correct situation if applicable, and to hold Metro Managed IT harmless in any case. Because there are risks associated with applying and failing to apply patches, Metro Managed IT constantly reviews and updates our best practices based on the relative threats to patch delivery timing. Every effort is made to balance the reduction of vulnerabilities with the slight destabilization risk associated with applying new patches to otherwise stable systems. Patch definitions and antivirus definitions are distributed by their respective software vendors, and as such, Metro Managed IT has no direct control over the effectiveness or lack thereof of the software being applied. Metro Managed IT shall not be held responsible for interruptions in service due to patches released by software vendors.

Force Majeure & Malicious Acts – This agreement is designed to cover the support needs of the Client during normal operating conditions. Metro Managed IT shall not be liable for damages, delay, or default in performance if such delay or default is caused by conditions beyond its control including, but not limited to acts of God, government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections, and/or any other cause beyond the reasonable control of either party. Furthermore, damage and/or significant problems that result from anomalies and/or abnormal circumstances such as fire, flood, electrical surges, deliberate malicious acts, theft, acts of God, wars, insurrections, and/or any other cause beyond the reasonable control of either party fall outside the terms of this agreement.

Loaned/Rented Equipment – The Client agrees that any equipment utilized by Metro Managed IT in the execution of this or any service that is not explicitly purchased by Client shall remain the property of Metro Managed IT, and must be immediately returned if requested. Client further agrees to cease the use of any technology that remains the property of Metro Managed IT upon termination of this agreement.

Confidentiality – Neither party shall disclose any proprietary or confidential information obtained from the other unless so directed by a court of law or government authority. Client agrees not to disclose rate(s), term(s), or any information regarding this Agreement without the prior written consent of Metro

Managed IT. For promotional purposes, Metro Managed IT shall have the right to disclose to others the identity of its clients.

Hiring of Employees – Client agrees not to hire or attempt to hire any Metro Managed IT employee, contractor, or former employee within two years of termination of employment, as full-time or part-time employee, contractor, or any other such position without the written consent of Metro Managed IT. Client understands and agrees that Metro Managed IT shall suffer such irreparable harm in such event that Client shall, if such breach should occur, immediately pay to Metro Managed IT an amount equal to the employee's annual compensation (including salary and expected bonuses) at the time of breach.

Authority – Client signatory represents and warrants that it has full corporate power and authority to execute this Agreement to bind their company.

Contractor Status – The relationship of Metro Managed IT to Client is that of an independent contractor and not that of an agent or employee of Client. It is expressly understood and agreed by the parties that Client shall not have, nor exercise, any control or direction over the manner or methods by which Metro Managed IT provides services other than the right to require that the performance of such services be in accordance and consistent with the terms set forth in this agreement.

General Health and Safety – Metro Managed IT agrees to comply with all applicable health and safety protocols. The Client agrees to remedy any conditions which exist that have the potential to create a hazard.

Site Access – If appropriate, Client will be responsible for obtaining proper and adequate permission and credentials for Metro Managed IT to enter upon and operate within the lands, properties and premises designated as The Client's work area.

Equipment & Facilities – If appropriate, Client agrees that Metro Managed IT may utilize certain items of Client's equipment and may gain access to certain Client facilities. Client retains title and ownership in all of Client's equipment owned by Client and utilized by Metro Managed IT, and must grant authority for Metro Managed IT to access Client's facility. Facility access may be denied for any reason at any time, however if access to facilities is denied, Client understands that Metro Managed IT may be unable to perform its duties adequately and if such a situation should exist, Metro Managed IT will be held harmless.

Username and Passwords – Client acknowledges that Metro Managed IT must have access to any and all systems and resources to perform their duties under this agreement. As such, Metro Managed IT must have access to any and all usernames and passwords.

Excluded Services – Service rendered under this Agreement does not include:

- Parts, equipment or software not covered by vendor/manufacture warranty or support.
- The cost of any parts, equipment, or shipping charges of any kind.

- The cost of any Software, Licensing, or Software Renewal or Upgrade Fees of any kind unless specifically included in Gold or Platinum plans.
- The cost of any Third Party Vendor or Manufacturer Support or Incident Fees of any kind.
- The cost to bring Client's environment up to minimum standards required for Services.
- Failure due to acts of God, building modifications, power failures or other adverse environmental conditions or factors.
- Service and repair made necessary by the alteration or modification of equipment other than that authorized by Service Provider, including alterations, software installations or modifications of equipment made by Client's employees or anyone other than Service Provider.
- Service and/or repair made necessary by removal or disabling of antivirus programs and / or firewalls installed on client computer.
- Consumable materials, such as printer cartridges and removable storage tapes/disks; and shipping costs.
- Service and repair made necessary by Internet or telephone service provider outages.
- Maintenance of application software packages, whether acquired from Service Provider or any other source unless as specified in Appendix B.
- Programming (modification of software code) and program (software) maintenance unless as specified in Appendix B.
- Training services of any kind.

Warranty – Metro Managed IT warrants that the work will be performed to the best of its ability and in accordance with reasonable and customary practices prevailing at the time for its business. No other warranties exist, expressed or implied.

Default & Excusable Delays – Client reserves the right to cancel this Agreement in the event of default by Metro Managed IT. Metro Managed IT shall not, however, be liable for damages occasioned by delays due to causes beyond Metro Managed IT's control and without its fault or negligence, provided Metro Managed IT promptly notifies Client when such a delay becomes apparent.

No Third Party Beneficiary – All of the provisions of this Agreement are solely for the benefit of the parties hereto. None of the other provisions of this entire Agreement shall inure to the benefit of any person not a party to the Agreement. Third parties shall have no rights hereunder.

Consequential Damages – Neither Client nor Metro Managed IT shall be liable to the other for any consequential damages arising out of or related to the performance of this Agreement.

Indemnification – Client shall at all times indemnify and save Metro Managed IT harmless against and from all losses, liability, expenses, and other detriments of every nature and description to which Client may be subjected by reason of any act or omission of Metro Managed IT, its subcontractors, consultants, agents, officers, directors, and employees where such loss, liability, expense or other detriment arises out of or in connection with the performance of the work, including, but not limited to, personal injury (including death) and loss of or damage to property of Client or others.

Limitation of Liability – In no event shall Service Provider be held liable for indirect, special, incidental or consequential damages arising out of service provided hereunder, including but not limited to loss of profits or revenue, loss of use of equipment, lost data, costs of substitute equipment, or other costs.

Unpaid Amounts – Failure to pay any outstanding balance shall subject client to interest charges of one-and-one-half percent (1.5%) per month until said balance is paid in full. Failure to pay in full voids all Warranties and Guarantees. In the event of non-payment, all discounts on hourly rates will be revoked and the regular hourly rate for all unpaid work performed will be invoiced at the Emergency Response hourly rate of \$249.00 per hour. If for any reason any form of payment is returned or denied, METRO MANAGED IT will be entitled to a \$40.00 fee. If collection proceedings are initiated by METRO MANAGED IT to collect delinquent amounts, METRO MANAGED IT will be entitled to reasonable attorney's fees and costs required to collect the outstanding amounts.

Entire Agreement – This Agreement is the exclusive statement of the agreement of the parties with respect to its subject matter and supersedes all prior agreements, negotiations, representations, proposals, and awards, written or oral, relating to its subject matter.

Severability – Client and Metro Managed IT agree that in the event any term, covenant or condition herein contained is held to be invalid or void by any court of competent jurisdiction, the invalidity of any such term, covenant or condition shall in no way affect any other term, covenant or condition herein contained. Headings, titles and paragraph captions are inserted in the Agreement for convenience, are descriptive only and shall not be deemed to add to or detract from or otherwise modify the meaning of the paragraphs.

Jurisdiction – This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.