

AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH HUBER & ASSOCIATES FOR IT MANAGEMENT SERVICES AND HELP DESK SUPPORT.

WHEREAS, the Board of Aldermen has determined it is in the best interests of the City to authorize a contract with Huber & Associates to provide IT management services and help desk support.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF OSAGE BEACH, MISSOURI, AS FOLLOWS, TO WIT:

Section 1. The Board of Aldermen authorizes the Mayor to execute on behalf of the City a contract with Huber & Associates Technologies to provide IT management services and help desk support under substantially the same terms and conditions as set out in the attached contract ("Exhibit A").

Expenditures or liability for all basic managed services as set forth in the Service Level Agreement set forth in Addendum B Measurables, shall not exceed One Hundred Twenty Seven Thousand Two Hundred Dollars per year (\$127,200.00).

Expenditures or liability for any additional work requested by the City and paid as billable hours shall not exceed Thirty Thousand Dollars per year (\$30,000.00).

Section 2. The City Administrator is hereby authorized to take such further actions as are necessary to carry out the intent of this Ordinance and Contract.

Section 3. This Ordinance shall be in full force and effect from date of passage and approval by the Mayor.

READ FIRST TIME: November 7, 2024

READ SECOND TIME: November 21, 2024

I hereby certify that the above Ordinance No. 24.74 was duly passed on November 21, 2024 by the Board of Aldermen of the City of Osage Beach. The votes thereon were as follows:

Ayes: 6

Nays: 0

Abstentions: 0

Absent: 0

This Ordinance is hereby transmitted to the Mayor for his signature.

Nov. 21.24
Date

Tara Berreth
Tara Berreth, City Clerk

Approved as to form:

Cole Bradbury
Cole Bradbury City Attorney

I hereby approve Ordinance No. 24.74.

Nov. 21.24
Date

Michael Harrison
Michael Harrison Mayor

ATTEST:

Tara Berreth
Tara Berreth, City Clerk



CITY OF OSAGE BEACH STANDARD TERMS RIDER – LONG FORM

THIS RIDER adds the following standard terms to the attached bid, order form, estimate, or proposal (the “**Bid**”) between the City of Osage Beach, Missouri (“**City**”) and Huber and Associates (“**Contractor**”). In the event any of these terms conflict with the attached Bid, these terms shall control. The Bid together with this Rider shall constitute the parties’ “**Agreement**.”

Standard Terms

1. **Professionalism.** In addition to any warranties or specifications contained in its Bid, Contractor will exercise the care and skill ordinarily used by members of the subject profession practicing under similar circumstances (as defined by the appropriate licensing authority, professional standards, and/or relevant industry practices). Contractor understands that it will be perceived as a representative of the City and will ensure its personnel and any subcontractors will conduct themselves in a thoroughly professional and respectable manner while performing this Agreement for the City and while on-site. Contractor shall ensure its personnel and any subcontractors comply with all City policies while on-site. Contractor and its personnel and any subcontractors will comply with all reasonable instructions and requests by the City. City property and resources are to be used only in ways that are consistent with their lawful intended purpose.
2. **Licenses, Permits, Taxes.** Contractor must have or obtain a City merchant’s license. Contractor shall be responsible for applying for, obtaining, and maintaining all licenses, permits, and other approvals required for itself, including but not limited to the Work. Contractor shall be responsible for paying all sales, income, property, and other taxes required to carry on its business.
3. **Appropriations.** The continuation of this Agreement is contingent upon annual appropriation of funds by the Osage Beach Board of Aldermen. In the event the Board of Aldermen shall not budget and appropriate, specifically with respect to this Agreement, on or before January 1, subsequent years of the contract moneys sufficient to make all payments under this Agreement, the City shall not be obligated to make those payments.
4. **Pre-Contract Expense.** The City shall not be obligated to pay or liable for any cost incurred by Contractor prior to execution of this Agreement. All costs to prepare and submit a response to this and any other RFQ, RFP, or IFB shall be borne by the proposer.
5. **Assignment or Transfer.** No rights or obligations contemplated by this Agreement shall be transferred or assigned without formal written approval by the City.
6. **Discrimination Policy.** The City of Osage Beach advises the public that it does not discriminate on the basis of disability, race or color, national origin, religion, age, or sex in

employment or the provision of municipal services. Contractor shall not discriminate on any prohibited basis and shall comply with all applicable employment laws.

7. **Laws, Ordinances, and Regulations.** Contractor shall conform to all Federal, State, and local regulations, ordinances, and laws applicable to Contractor, the City, or the subject matter of this Agreement. The City shall not be responsible for any fees, charges, money, or other obligations due as result of from any service provided under this Agreement. Contractor shall conform to all changes made to this Agreement as a result of any ordinance, law and/or directive issued by the Federal, State, or local authority having jurisdiction over this Agreement, Contractor, or the City.
8. **Certifications Regarding Debarment.** Contractor certifies that, except as noted below, it and any other person associated therewith in the capacity of owner, partner, director, officer, or manager (collectively "Contractor Principals"), are not presently nor have ever been under suspension, debarment, voluntary exclusion, or determination of ineligibility by any governmental unit or agency (whether federal, state, tribal, local, or other), nor is any such action pending. Contractor further certifies that it and its Contractor Principals have not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any manner involving fraud or official misconduct, nor has Contractor or any Contractor Principal been party to any public transaction (whether federal, state, tribal, local, or other) terminated for cause or default. Contractor further certifies that any and all exceptions to these representations were disclosed with its Bid, and City relied on these certifications as a material inducement into accepting Contractor's Bid. Contractor must notify City within thirty days of being debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contract by any governmental entity so long as work remains to be performed under this Agreement.
9. **Grants.** In the event the work provided for herein is being funded, in whole or in part, by a federal, state, local, or private grant, City's obligations herein shall be contingent upon such grant being available for the term of this Agreement. City shall not be obligated to make pay any monies funded by grant funds until such funds are received by and available to the City Treasurer. Except as otherwise provided herein, if this Agreement is not funded, then both parties are relieved of all of their obligations thereunder.
10. **Prevailing Wage.** [intentionally omitted].
11. **E-Verify.** If the Bid is for an aggregate value in excess of \$5,000.00, Contractor shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the persons employed to perform the Bid. Contractor shall sign an affidavit affirming it does not knowingly employ any person who is an unauthorized alien in connection to the Work. See R.S.Mo. § 285.530.
12. **Sunshine Law.** All material submitted to the City will become public record and will be subject to the Missouri Sunshine Law, R.S.Mo. Chapter 610. Any material requested to be treated as proprietary or confidential must be clearly identified and easily separable from

other materials. Contractor must include justification for the request. The City's obligation to comply with the Sunshine Law supersedes any request by Contractor that material be treated as proprietary or confidential.

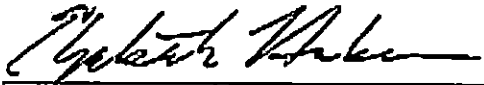
13. **Anti-Israel Discrimination.** Contractor certifies it is not currently engaged in and shall not, for the duration of this Agreement, engage in a boycott of goods or services from the State of Israel companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel. *See R.S.Mo. § 34.600.*
14. **Indemnification by Contractor.** Contractor shall indemnify, save, and hold harmless the City, its employees, and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by Contractor or its employees, agents, subcontractors, or assignees arising out of this Agreement.
15. **No Indemnification by City.** Nothing in this Agreement shall be construed to require the City to indemnify Contractor. Such indemnification is illegal under Missouri law. *See Mo. A.G. Opinion 138-87 (1987).*
16. **Ownership of Work Product.** All documents and other work product created by Contractor under this Agreement shall become the property of City once the invoice for the preparation of such document or work product has been paid.
17. **Termination.** City may terminate this Agreement upon written notice of any violation of this Agreement if such violation is not cured within 7 calendar days of such notice. City may immediately terminate this Agreement for any material violation or any violation which creates a risk to the health, safety, or welfare of any person or property.
18. **Necessary Documents.** The parties agree to execute and deliver without additional consideration such instruments and documents and to take such further actions as they may reasonably request in order to fulfill the intent of and give effect to this Agreement and the transactions contemplated thereby.
19. **Entire Agreement.** This Agreement supersedes all agreements previously made between the parties relating to its subject matter. There are no other understandings or agreements between them. Without limiting the foregoing, this Agreement expressly supersedes any click-through, browse-wrap, or any other terms related to the subject matter of this Agreement on any website or that otherwise may be presented to or required to be accepted by the City or its employees and contractors while exercising rights under this Agreement.
20. **Non-Waiver.** No delay or failure by either party to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right unless otherwise expressly provided herein.

21. **Governing Law; Disputes.** This Agreement shall be governed by the laws of the State of Missouri. Any action arising out of this Agreement or its subject matter shall be litigated in the Circuit Court for Camden County, Missouri and the parties consent and agree to the exclusive personal and subject-matter jurisdiction of that Court. Nothing in this Agreement shall require the City to consent to arbitration or other binding dispute resolution.
22. **No Third-Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to confer upon any other person any rights or remedies under or by reason of this Agreement.
23. **Severability.** If any provision in this Agreement shall be found to be void, the other provisions of this Agreement shall survive and remain enforceable.
24. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. A facsimile or electronic (such as .PDF) copy of this Agreement or a signature thereto shall have the same force and effect as an original.
25. **Binding Effect.** This Agreement, subject to the above conditions of assignment, shall be binding upon and inure to the benefit of all parties and their respective legal representatives, successors, heirs, and assigns.

Special Terms

26. **Decoupling Upon Termination.** Upon termination of this Agreement for any reason whatsoever, Contractor agrees to return, release, and/or assign as needed all data, accounts, logins, and other intellectual property (including software, services, and technology held in Contractor's name for City's benefit) to City.

Huber and Associates hereby acknowledges and agrees to the terms above.



Signature of Authorized Representative

Elizabeth Huber, CEO

Name and Title

Huber & Associates, Inc.

1400 Creek Trail Drive
Jefferson City, MO 65109
Phone: 573-634-5000
Fax: 573-634-5500
www.teamhuber.com

**Huber Advantage Managed Services**

Prepared For		Quote Information	
Name:	Mikeal Bean	Quote #:	LH-33222R1
Company:	City of Osage Beach	Date:	11/21/2024
Address:	1000 City Parkway Osage Beach, MO 65065 United States	Date Expires:	12/31/2024
		Account Manager:	Kayla Wilbers
Phone # /Fax #:	(573) 302-2000 / (573) 348-3277	Email:	kwilbers@teamhuber.com
Email	mbean@osagebeach.org	Phone:	573-634-5000

Line	Description	Item	Qty	Unit Price	Ext. Price
1	Huber Advantage Managed Services Networking VOIP Cybersecurity	HA-MANAGED-COMPL ETE	1	\$8,100.00	\$8,100.00
2	Huber Advantage Managed Products SentinelOne EDR SOC SIEM Network Monitoring Tools Security Training and User Phish Test Internal/External Vulnerability Detection Tools Dark Web Monitoring	HA-MANAGED-COMPL ETE	1	\$2,500.00	\$2,500.00
	Monthly Charges				\$10,600.00
3	Huber Installation & Implementation Services - One-Time Charge (Billed prior to Agreement start date)	SE - Onsite	1	\$7,500.00	\$7,500.00
	One-Time Charges				\$7,500.00

Taxes, shipping, handling and other fees may apply.

In the event of a partial shipment, Huber & Associates reserves the right to invoice for any portion of the order that has shipped.

Additional Services and Support. Any services not specifically set forth in the scope of this document are not included and will require a separate Order. If not specifically defined and stated, this order only includes the repair of any parts, equipment, or software covered by the manufacturer's warranty or support.



ORDER FOR HUBER ADVANTAGE MANAGED SERVICES

This ("Order") for Huber Advantage Managed Services is entered into by and between

City of Osage Beach ("Client")

and

Huber & Associates, Inc. ("Huber")

With its principal place of business at:
1000 City Parkway
Osage Beach, MO 65065
Telephone: (573) 302-2020

With its principal place of business at:
1400 Creek Trail Drive
Jefferson City, MO 65109
Telephone: (888) 634-5000

This Order is subject to and hereby incorporates the terms and conditions of the Master Agreement entered into between the parties on the Effective Date. This Order, together with the Master Agreement, constitutes the entire agreement between Client and Huber for Managed Services as outlined herein, and supersedes any previous understandings, commitments, or agreements, oral or written, with respect to the subject matter of this order. In the event of any conflict or discrepancy between the terms or provisions of the Master Agreement and this Order, the terms and provisions of the Master Agreement shall control and govern unless this Order specifically references the conflicting term in this Agreement and that such term is superseded by this Order. Any term used herein that is defined in the Master Agreement shall have the same meaning as set forth in the Master Agreement.

The Sections included in this Order are outlined below:

1. Term and Renewal
2. Fees and Payment Schedule
3. Scope of Services
4. Out of Scope Services
5. Additional Terms and Conditions

IN WITNESS WHEREOF, the parties have caused this Order to be executed as of the last date signed below:

City of Osage Beach

By: _____

Michael Harmon

(type or print)

Title: _____

Mayor, Osage Beach

Date: _____

12-12-24

Huber & Associates, Inc.

By: _____

Elizabeth Huber

(type or print)

Title: CEO

Date: _____

The start date ("Effective Date") for the HA Managed Services will be established by Huber upon receipt of signed Order from Client. Huber will fill in the Effective Date on the line below, prior to returning an executed copy to Client for file.

_____ ("Effective Date")

1. TERM AND RENEWAL

1.1. Term

The "Initial Term" of this Order shall begin on the Effective Date and remain in effect for a period of **36 months**. Client may elect to cancel this Order—with at least 30 days written notice—at any time prior to the expiration of the Initial Term, upon the condition that Client pay the amount due for the remainder of the term.

1.2. Renewal Term

- (a) Immediately following the expiration of the Initial Term or the then current Renewal Term, the Term of this Order shall be automatically renewed for additional renewal terms of 12 months each (each a "Renewal Term"), unless either party provides written notice to the other party terminating this Order at least 30 days prior to the expiration of the Initial Term or then current Renewal Term. Client may elect to cancel this Order—with at least 30 days' written notice—at any time prior to the expiration of any Renewal Term, upon the condition that Client pay the amount due for the remainder of the term.
- (b) For any Renewal Term, Huber may review the Monthly Service Fees; and if Huber desires to vary the Monthly Service Fees for the Renewal Term Huber must give Client 45 days' written notice of the new Monthly Service Fees prior to the commencement of any such Renewal Term.

2. FEES AND PAYMENT SCHEDULE

2.1. Monthly Fees

Services. Services will be invoiced to Client on a monthly basis (the "**Monthly Service Fee**") and will become due and payable upon receipt. The Monthly Service Fee is based upon the Managed Services included in the Scope of Services, Location and the Covered Devices as further described below. Any changes in the Scope of Services, Location or Covered Devices will result in a change in the Monthly Service Fee. Managed Services may be suspended at Huber's option if any payment is not received within thirty (30) days following the date due. In the event that any component of the Monthly Service Fee is based upon a third party product, service or software license, and the terms of such third party change in a manner that materially affects the price or condition of the Managed Services stated herein (e.g., unlimited storage for which storage becomes limited by the vendor or provided on an unlimited basis for additional costs), then the portion of the Monthly Service Fee associated with such materially changed third party product, service or software license will be equitably adjusted by the parties.

Products. Products will also be invoiced to Client on a monthly basis (the "**Monthly Product Fee**"), and will become due and payable upon receipt. The Monthly Product Fee is utility-based, calculated upon the actual usage in the Client environment. This Fee will be adjusted on the Client's next invoice to reflect the current number of licenses used, as well as any increased license costs by the third-party software vendor. If any new products are added to the Client environment, they will also appear in the Monthly Product Fee on the Client's next invoice. In the event of termination of this Agreement, any ongoing annual software license fees that are billed monthly shall remain the responsibility of the Client. The Client agrees to continue paying the monthly installments for the remainder of the annual license period, or until the full balance of the license fees have been paid, whichever comes first.

2.2. Covered Devices

The Monthly Service Fee is based on the quantities of Covered Devices listed in Appendix A. The Monthly Service Fee is subject to change if Client adds or subtracts Covered Devices, or should there be any changes to the Client's environment.

A 5% change (increase or decrease) in the contracted device lists that is continued for a 1-month period will result in a contract addendum. The Addendum will document the updated Covered Device list and new Monthly Service Fee.

2.3. Location

The Monthly Service Fee is based upon the Managed Services being provided for the following location(s): **City Hall, Public Works, City Park, Peanick Park, Lee C Fine Airport, and Grand Glaize Airport** (the "Location"). Any change in the Location(s) or additional Location(s) will be considered outside the scope of this Order, will require an amendment to this Order, and may result in a change in the Monthly Service Fee.

2.4. Services Implementation: Emergency and Extraordinary On-boarding and Transition Work

The terms of any implementation services, if applicable, with respect to the Managed Services are set forth a separate billable Statement of Work.

3. SCOPE OF SERVICES

3.1. **Services Included.** Huber agrees to perform Information Technology (IT) managed services as defined in the table in Appendix B (collectively the "Managed Services") for Client's Covered Devices at the Location(s) outlined in Section 2.3. For clarification, Huber is only responsible for the Managed Services designated as Huber's responsibility in the table in Appendix B; Client is responsible for the items designated as Client's responsibility.

3.2. **Service Delivery.** All Services will be provided remotely. If regularly scheduled onsite services are included within the scope of this agreement, those services will be outlined in the 'Scope Additions/Modifications' Appendix.

3.3. **Security Disclaimer.** Huber can only provide reasonable assurances that the Managed Services will endeavor to minimize the amount of exposure to security risk and better prepare the Client for a more secure networking environment and does not guarantee that intrusions, compromises, or other unauthorized activity will not occur on Client's network or systems. Additionally, Huber is neither responsible for, nor will be held liable for, any system failures due to unforeseen security, configuration, installation anomalies, or the use of recommended software during this process.

3.4. Hours of Support

(a) Managed Services, including Remote Help Desk Support, will be provided to Client by Huber through remote means between the hours of 8:00 a.m. – 5:00 p.m. Central time Monday through Friday, excluding public holidays.

(b) After-hours emergency support is included for Severity 1* issues only. Any other support issues will be addressed on the next business day during the normal help desk hours set forth above.

**A Severity 1 issue is defined as a system—or major application or component—going down and no bypass alternative being available, critically impacting Client's ability to do business.*

3.5. Support Contact Information

Email for Support Requests: help@teamhuber.com

Help Desk: 573-634-5000

3.6. Support Tiers

The following table details Huber's Support Tier Levels:

Tier	Definition
Tier 1	Tier 1 Support is responsible for filtering Remote Help Desk Support calls and managing the most basic types of service requests and troubleshooting. Tier 1 Support also performs ticket routing and escalation to Tier 2 and Tier 3 support. At maximum, a Tier 1 issue should take no more than 1 hour of support time to resolve. If it exceeds this allotted time with no expectation of resolution by Tier 1 within the next 30 minutes, the support request moves to Tier 2.
Tier 2	Tier 2 Support is responsible for managing more advanced service requests that cannot be resolved by Tier 1 support within an hour. Working off the foundation developed by Tier 1 staff, Tier 2 staff prioritize work based on severity. At maximum, a Tier 2 issue should take no more than 2 hours of support time to resolve. If it exceeds this allotted time, the support request is moved to specialized resource at the Tier 3 level. Tier 2 support maintains ownership of the ticket throughout this process to ensure appropriate Client follow-up.

Tier 3	Tier 3 support is responsible for managing highly advanced and typically specialized service requests that cannot be resolved by Tier 2 support within a 2-hour timeframe. Dependent on the size, severity, and scope of issues escalated to Tier 3 support requests at this level are resolved as promptly as possible by order of severity. If the support required is complex or will require a separate scope of work, it will result in a billable project being undertaken in accordance with Section 4 below.
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3.7. **Support Resolution.** Tier 1 Services should be defined in a Customer Operations Manual. Huber will review the Manual on a quarterly basis to define the scope and service level expected with each duty. For all tiers, the problem resolution time can depend on external parameters such as coordination with third party vendors or service providers. The issue will be escalated to the vendor/service provider where resolution will depend on the engagement of such vendor/service provider. Huber is not responsible and has no liability for the resolution of the incident or the resolution time where the third party vendor or service provider is involved or the issue relates to a third party product or tool; however, the Huber will stay engaged as needed to assist until the issue is resolved by the third party vendor or service provider.

3.8. **Ownership.** Hardware and/or software installed by Huber for the purposes of supporting and monitoring Client's Covered Devices and IT environment will be used and accessed only by Huber and Client as authorized by Huber and will be removed by Huber upon expiration or termination of the Term. Title to and/or ownership of any such hardware, software, other devices, or any other intellectual property (instructions, operation manuals, methodologies, etc.) provided to Client by Huber for sole use with respect to the Managed Services provided hereunder shall remain with Huber or the third-party manufacturer thereof, as applicable. Client agrees not to tamper with, modify, make error corrections, or otherwise alter any hardware, software, or device provided to Client under the Order, nor will Client permit third parties not authorized by Huber to do the same. All such devices must be returned to Huber immediately upon termination of this Order for any reason, and Client hereby agrees to permit Huber (or its licensors, vendors, or service providers) entry into Client's location upon termination in order to remove and retrieve all Huber-provided devices. Client must contact Huber within five (5) days of such termination to schedule pickup, or Client shall be deemed to have purchased such device(s) and shall be invoiced for the replacement cost of such device(s). Any invoice sent to Client in accordance with the prior sentence will be due upon receipt.

3.9. **Recommendations/Minimum Specifications**

- (a) Huber may from time to time give reasonable advice or recommendations to Client in connection with the Managed Services, including without limitation as to the following (collectively the "Minimum Specifications"):
 - i. Minimum Specifications for Covered Devices (which will be made available upon request)
 - ii. The acquisition of hardware, software, and new operating systems
- (b) If Client does not follow the recommendations or advice provided pursuant to clause (a) within 30 days of such being provided by Huber, Huber may, in its absolute discretion:
 - i. Take any action necessary up-to and including terminating the Order by written notice to the Client;
- (c) Costs required to bring Client's environment up to the Minimum Specifications are not included in the Managed Services under this Order and will be agreed upon in a separate Addendum hereto or separate Order, each executed by both parties.
- (d) Client agrees and accepts that Huber will not in any circumstances be liable to the Client for any damage or loss associated with any advice and recommendation provided by Huber except to the extent that the damage or loss is directly caused by Huber's willful or negligent act or omission.

3.10. **Client Obligations and Covenants**

Client must:

- (a) Ensure that its employees and other persons permitted to access the Covered Devices are appropriately trained, competent, and do not misuse or recklessly or negligently damage the Covered Devices. In the event Huber requires remote access in order to provide any of the Managed Services and Client does not provide Huber such remote access, Huber shall not be held liable to provide such Managed Services or resolve any support issues. Client represents and warrants to Huber that Client has obtained all necessary consent from any Client employees, consultants and third party manufacturers, vendors and licensors in order for Huber to access the Covered Devices and Client's IT environment and to provide the Managed Services.

- (b) Client has sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of any data, information or material of Client (collectively the "Data") which is provided to Huber or for which Huber is provided access to pursuant to this Order. By using the Cloud Services for Business Continuity and any other applicable Managed Services, Client hereby authorizes and grants Huber a license to use, reproduce, access, view, modify, reformat, translate, copy, display, disclose, distribute, and transfer Client's Data, solely and to the limited extent necessary to perform Huber's obligations hereunder, including, without limitation, the Cloud Services, and exercise Huber's rights hereunder. Client represents, warrants and agrees that Client has full authority to use, disclose, and transmit the Data to Huber and that the Data will not: (i) infringe any copyright, trademark, patent or other intellectual property or proprietary right of others; (ii) misappropriate any trade secret; (iii) be deceptive, fraudulent, defamatory, obscene, pornographic, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable; (iv) contain any viruses, worms or other malicious computer programming codes able to damage the Managed Security Services; or (v) otherwise violate any applicable laws or the rights of a third party. In the event that Huber reasonably believes any Data contains illegal content or otherwise violates any of the foregoing restrictions, Huber reserves the right to refuse or disable Client's access to, or remove or delete such Data, provided that Huber will use reasonable efforts to contact Client prior to any such restriction, removal or deletion. In the course of providing Managed Services, Huber shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store any Client Data. Client has, and shall retain, ownership of all Data, but acknowledges and agrees that Huber (and its licensors, vendors, and service providers) will have full and complete access to the Data and any other information entered into or otherwise available through the Managed Services and can use, reproduce, access, view, modify, reformat, translate, copy, display, disclose, distribute, and transfer the same in accordance with their policies and procedures.
- (c) Give Huber, its employees and consultants with necessary documentation, information, and access to the Covered Devices and Client's IT systems to enable Huber to carry out and provide the Managed Services. Client acknowledges and accepts that such access may interrupt or disrupt Client's business while such service is being conducted. Failure to provide the necessary documentation, information, and/or access will result in delayed Managed Services.
- (d) Where requested by Huber in order to provide the Managed Services, shut down or cease using in whole or part of the Covered Devices until permitted by Huber to resume use. If it is impractical for Client to shut down or cease use of the Covered Devices at the time requested by Huber, Client must notify Huber as such and the parties must reschedule such work to occur at a time appropriate for both parties. Where Client wishes to reschedule work under this clause, Huber will not in any circumstances be liable for any loss, damage or delay which occurs in connection with any delay in the work to be performed.
- (e) Ensure that all its employees, agents, and contractors cooperate with Huber at all times and provide Huber with support and assistance as reasonably required.
- (f) Maintain genuine and upgraded software licensing and be responsible for conforming to all licensing requirements
- (g) Maintain necessary third party manufacturer, vendor or licensor support agreements and provide any required approval or authorization with such third parties in order for Huber to work with such third parties in order to provide the Managed Services.
- (h) Provide a list of serial numbers of all covered devices and promptly notify Huber of any changes to Client's Covered Devices or IT environment.
- (i) Provide a Point of Contact (POC) to assist in the development, review and approval of the Customer Operations Manual.

4. OUT OF SCOPE SERVICES

4.1. General Rule

Any services not specifically set forth in Section 3.1 as included in the Managed Services provided by Huber are out of scope and not included in the Managed Services. Any such additional services, including without limitation those set forth in Section 4.2 below, will require an Addendum to this Order or a separate Order, each executed by both parties before Huber will provide any such services.

4.2. Certain Exclusions

Without limiting the generality of the foregoing statement in Section 4.1 or any other services specifically excluded from the Managed Services in this Order, below is a non-exhaustive list of items not included in the Managed Services under this Order, and which require either an Addendum to this Order or a separate Order, each executed by both parties, before Huber will provide any such items. For purposes of clarification, and without limiting the generality of Sections 4.1 and 4.2, Client acknowledges and agrees that (i) the Managed Security Services are limited to monitoring only, and (ii) if any security incident occurs with respect to Client's systems, Huber will not provide, and will not have any responsibility to provide, any assistance or services in connection with managing or responding to such incident unless the parties enter into an Addendum to this Order or a separate Order, each executed by both parties, with respect to such incident management and response services.

- (a) Purchasing of any software, hardware or any proprietary packages which are not specifically provided by Huber as required by this Order are not the responsibility of Huber, not part of this Order, and will be considered out of scope.
- (b) Maintaining applications or software packages, whether acquired from Huber or any other source.
- (c) Programming (modifications of software code) and program (software) maintenance.
- (d) Scripting/Power Shell.
- (e) Training services.
- (f) Adding new PC's to the existing environment. (Upon request, Huber can assist Client with adding new PC's; this service will be billed hourly at Huber & Associates' current hourly rate.)
- (g) Replacing a server or upgrading network hardware. (Upon request, Huber can assist Client with this service. This service is considered a project and will be quoted and billed separately.)
- (h) After-hours emergency support is included with Huber Advantage Complete for Severity 1 issues only. Any after-hours emergency support for other issues is out of scope and will be billed hourly at 1.5 times Huber's current hourly rate.
- (i) Website Support. *(Upon request, Huber can assist Client in replacing or supporting their website. This service is considered a project and will be quoted and billed separately.)*

5. ADDITIONAL TERMS AND CONDITIONS

- 5.1. Huber shall not be liable for hardware or software failure or costs associated with hardware or software failures on equipment. The manufacturer is responsible for all hardware and software support. Huber encourages Client to maintain, and Client shall be solely responsible for maintaining, warranty and maintenance coverage for all hardware and software.
- 5.2. Huber shall not be liable for any vendor-provided software/hardware support charges associated with escalating the troubleshooting of vendor-specific support issues. These issues will be identified and reported to the Client for approval.
- 5.3. Client acknowledges and agrees that (except to the extent that such fault and/or failure arises as a direct result of any configuration carried out by Huber in relation to such device), Huber shall not be liable for any failure and/or delay in the Managed Services to the extent that it is caused by, or contributed to (whether directly or indirectly), any failure of any third-party software or equipment. Further, Huber does not guarantee that any firewall or device (whether supplied by Huber or a third party) will detect, obstruct and/or prevent any viruses, trojan horses, worms or unauthorized access or intrusion to Client's network and/or computer system.
- 5.4. Notwithstanding any warranty provided in the Master Agreement, including without limitation the warranty set forth in Section 8 therein, Huber does not warrant that the provision of the Managed Services will be fault free or uninterrupted. Huber is not responsible for consequences which may derive from service interruptions arising from causes beyond Huber's control. Further, Huber will not be liable for any losses suffered by Client that could have been prevented by Client. Notwithstanding any warranty provided in the Master Agreement, including without limitation the warranty set forth in Section 8 therein, Huber provides the Managed Services as is and disclaims all representations and warranties to the fullest extent permitted by law. Without limiting the foregoing, Huber disclaims all implied warranties, including, without limitation, the implied warranty of merchantability and implied warranty of fitness for a particular purpose. For purposes of clarification, it is

understood and agreed that this provision supersedes any provision in the Master Agreement that provides for a warranty, including without limitation the warranty set forth in Section 8 therein. Client acknowledges and agrees that it is not entering into this Order in reliance upon any representations and warranties related to the Managed Security Services, and Huber will not have any liability whatsoever for any decision made or action taken (or not taken) by Client in reliance upon the Managed Services.

- 5.5. Huber may, in its sole discretion, upgrade, enhance, change and modify the Managed Services, including by discontinuing the Managed Services or any aspect or feature thereof (collectively, "**Modifications**"). Any Modifications will be subject to this Order. Huber will use reasonable efforts to provide Client with notice of adverse and material changes to the Managed Services.
- 5.6. Client's right to use the Managed Services is limited to use for Client's internal business purposes. Client may not use the Managed Services to provide security services to any third party or in any commercial manner and doing shall be deemed a material breach of this Order.
- 5.7. Client agrees to fully indemnify, defend, and hold harmless Huber and its directors, officers, shareholders, representatives, employees, and agents from and against any claims, proceedings, injuries, liabilities, losses, costs or expenses (including litigation expenses and reasonable attorneys' fees) arising out of Huber's possession of Client's Data.

Appendix A

Covered Devices

- Up-to 150 EDR devices
- Up-to 130 User Trainings
- Up-to 40 Managed Network devices (Firewalls, Switches)

*Wireless and AP (covered)

Appendix B

Huber Advantage – Services Scope

Technical Account Manager (TAM) Services			
No.	Responsibility Description	Huber Advantage	Client
1.1	<i>Technical Services Briefing (TSB):</i> - Provide summary of Client's environment. - Conduct a periodic review of the TSB with a C-level representative of the Client to determine areas for improvement or change.	X	
1.1	<i>Architectural Services:</i> Design new solutions and upgrades to Client's existing environment based upon issues identified during the review of the TSB.	X	
2.1	<i>Budgetary Planning:</i> Provide assistance with Client's IT Planning and Budgeting process by making recommendations on changes to the environment and providing budgetary quotes for any proposed designs.	X	
3.1	<i>User and System Onboarding:</i> Document system build procedures for new systems.	X	
4.1	<i>Warranties & Maintenance:</i> Track Huber-facilitated maintenance contracts on Covered Devices and provide recommendations to Clients on renewals.	X	
Client Responsibilities			
1.6	<i>Technical Services Briefing:</i> At least one C-level individual will participate in a periodic review of the TSB to determine areas for improvement or change.		X
1.7	<i>Budgetary Planning:</i> Client agrees that at least one C-level individual will participate in all budgetary planning meetings.		X
1.8	<i>Software:</i> Client is responsible for any software audits requested by any software company. <i>In the event of an audit, assistance in responding would be a separate billable project.</i>		X
1.9	<i>Warranties & Maintenance:</i> Client is responsible for submitting all warranty registrations to the original manufacturer.		X
1.10	<i>Facility Maintenance:</i> - Client is responsible for maintaining environmental controls to ensure optimal performance of all Huber managed devices. - Client is responsible for all interior cabling (walls, ceilings, multi-floor drops, etc.)		X

Scope continued on next page.

Network Administration Services			
No.	Responsibility Description	Huber Advantage	Client
2.1	<i>Network Diagram:</i> Create and maintain a visual diagram of all core infrastructure and edge network device connections.	X	
2.2	<i>Network Device Firmware:</i> Perform firmware upgrades on a periodic basis.	X	
2.3	<i>User Management:</i> Provide authorized users access (VPN) to managed systems via a secure, brokered environment.	X	
2.4	<i>Miscellaneous Management:</i> Document all network information needed to support Client (passwords, vendor info, organizational procedures, etc.)	X	
2.5	<i>Configuration Backups:</i> Maintain a configuration backup of all network devices following any network configuration change. (Must adhere to Huber supported technologies)	X	
2.6	<i>Technology Checklist:</i> Perform an annual review of Client Network Infrastructure (firewalls, switches, routers, APs) against a best practices checklist.	X	
2.7	<i>Remote Basic Network Monitoring/Alerting/Response:</i> 24/7/365 fault monitoring of critical network devices and automated alerting. Fault monitoring entails a near real-time up/down status indicator on a device to ensure its availability to the network. This is a reactive process. Service Level Target: 1-hour response during normal business hours 4-hour response after-hours	X	
Client Responsibilities			
2.8	This section intentionally left blank.		

Scope continued on next page.

Huber Managed Cyber – Services Scope

Proactive Security Services			
No.	Responsibility Description	Huber	Client
1.1	<i>Monthly Security Briefing:</i> Monthly security briefing on Client's environment. This briefing will include verbal discussion of: - Security analytics, monitoring, and vulnerability remediation efforts - Recommendations on policies and procedures related to IT Security.	X	
1.2	<i>Quarterly Technical Services Briefing:</i> Quarterly security briefing on Client's environment. This briefing will include formal write-up describing: - Topics included within the Monthly Briefing - Overview of software operating within the Client's environment	X	
1.3	<i>Training:</i> - Provide all users with approximately 1 hour of web based security training - Conduct a 1 – 2 hour onsite training session annually (upon request)	X	
1.4	<i>DNS Services:</i> Deploy cloud based tool to block malicious web based destinations (malware) before a connection is established	X	
1.5	<i>DKIM/DMARC Services*:</i> - Provide recommendations and guidance to maintain existing DKIM and DMARC records. - DKIM = DomainKeys Identified Mail - DMARC = Domain-based Message Authentication, Reporting and Conformance *Assumes Client already has DKIM/DMARC in place. If not, implementation would be a billable project.	X	
Client Responsibilities			
1.6	<i>Security Briefing:</i> At least one C-level individual will participate in a monthly Security Briefing each year.		X
1.7	<i>Point of Contact:</i> Client is responsible for providing contact information (phone and email) for a designated POC to receive all alerts or other notifications.		X

Scope continued on next page.

Security Monitoring & Vulnerability Management			
No.	Responsibility Description	Huber	Client
2.1	<i>End User:</i> Perform a quarterly phishing expedition against Client end users.	X	
2.2	<i>Device & Account Management:</i> Provide ongoing monitoring of critical actions or changes, including: - Identify new devices added to restricted networks - Identify unauthorized logins or login attempts to restricted computers - User profiles added to VIP's business workstation for additional monitoring (e.g. Business Owner, Key Executive) - Identify newly installed software on locked down computers - Identify new user accounts granted administrative rights - Identify existing user accounts promoted to administrator authority	X	
2.3	<i>Dark Web:</i> - Configure Client's domain for Dark Web Monitoring. - Our Security Operations Center (SOC) will provide ongoing monitoring of the Dark Web for compromised accounts. - After Huber review, alerts will be sent to the Client Point-of-Contact via encrypted email of any compromised email addresses and related credentials.	X	
2.4	<i>Network & Server Log Management:</i> - Implement log management - Proactively monitor and analyze logs related to all covered firewalls and servers. - Notify Client Point-of-Contact of alerts electronically or via phone after initial review by Huber team	X	
2.5	<i>Vulnerability Management:</i> - Install and configure vulnerability scanner. - Perform internal vulnerability scans on a quarterly basis. Scans to be performed during business hours during the last week of the month. - Perform external vulnerability on up to 16 external IP addresses on a weekly (minimum) or continuous basis as necessary. - Research vulnerabilities identified on Client's network and develop an Action Plan to resolve them. (Remediation may entail additional expense.)	X	
Client Responsibilities			
2.6	<i>Device & Account Management:</i> Client is responsible for providing a list of all devices that require additional scrutiny (e.g. restricted, locked down, or VIP)		X
2.7	<i>Dark Web:</i> Client is responsible for providing: A list of all domains to be monitored		X
2.8	<i>Vulnerability Management:</i> Client is responsible for providing: - Credentials for accessing systems on the network. - A list of IP ranges or IP addresses to be scanned. - A preferred scanning window (Note: Time to scan depends on the size of the environment.) - Ensuring all systems are on the network at the time of the scan to maximize value		X
2.9	<i>Log Management:</i> Client is responsible for providing a list of all devices to be connected to a log management system.		X

End of Scope Section

Appendix C

Scope Additions/Modifications

VOIP Management

- Mitel Phone System: Total management of on-premises phone system. Daily support and maintenance of Mitel Phone System.



MASTER AGREEMENT

This Master Agreement ("Agreement") is entered into as of _____ ("Effective Date"), between

City of Osage Beach ("Client")

and

Huber & Associates, Inc. ("Huber")

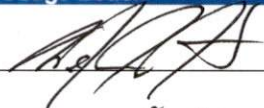
With its principal place of business at:
1000 City Parkway
Osage Beach, MO 65065
Telephone: (573) 302-2000

With its principal place of business at:
1400 Creek Trail Drive
Jefferson City, MO 65109
Telephone: (888) 634-5000

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the Effective Date.

City of Osage Beach

By:



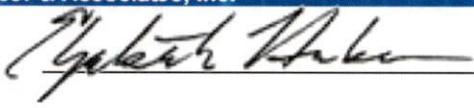
Michael Harrison
(type or print)

Title:

Mayor, Osage Beach

Huber & Associates, Inc.

By:



Elizabeth Huber
(type or print)

Title:

CEO



WHEREAS, Huber is an Information Technology Solutions Provider; and

WHEREAS, Client desires to retain Huber to provide information technology products and services; and

NOW THEREFORE, in consideration of this Agreement and other good and valuable consideration, the parties agree as follows:

1. ORDERS

- 1.1. **Orders.** Client may purchase (i) third party hardware, equipment, software licenses, software subscriptions, maintenance, support or other services (collectively the "Third Party Products"), (ii) installation, consulting, integration, managed services, and/or other services directly provided by Huber (collectively, the "Services") or software licenses, subscriptions or support services directly provided by Huber (collectively the "Software") under this Agreement. The specific Services, Software and Third Party Products purchased, licensed or otherwise provided pursuant to this Agreement will be set out in a separate Order agreed upon in writing by both parties during the term of this Agreement (each, an "Order").
- 1.2. **Submission and Acceptance of Orders.** Orders placed by Client will be effective when accepted in writing by Huber on the applicable Order. Client agrees that each Order placed with Huber shall be governed by this Agreement regardless of any preprinted or other terms on Client's order or the preprinted terms or other terms on the Order, unless it is noted on the Order that the new or different terms are an exception for that specific provision of the Agreement. In the event of any conflict or ambiguity between this Agreement and an Order, the terms of this Agreement shall control unless such Order specifically references the conflicting term in this Agreement. Huber may accept an order by shipping Products or commencing to perform Services. Orders will be governed by the terms of this Agreement even when they lack an express reference to the Agreement. When Huber accepts an Order, Huber may notify Client of Huber's estimated shipping, delivery and installation dates or service commencement dates applicable to the Order. Should Client request immediate support services where there isn't time to create an Order, or if Services are otherwise provided that are not documented through an Order, Client agrees to pay for all such services based on Huber's current general support payment terms and that all such services will be subject to the terms of this Agreement.
- 1.3. **Cancellations.** To the extent permitted by the applicable Order, Client may cancel accepted Orders subject to the restrictions and payment of the cancellation charges indicated in the applicable Order. Huber may cancel any or all of the Third Party Products in an Order if its manufacturer, licensor or vendor does not accept or cancels the applicable order from Huber. Third Party Product returns by Client are solely at the discretion of Huber which, if accepted, are subject to the written authorization of the manufacturer, licensor or vendor.
- 1.4. **Change Orders.** Any changes, additions, deletions or modifications to an executed Order may affect the schedule for the Services, Software, Third Party Products and/or associated fees. Any such changes or modifications to an Order of any nature shall be made in writing and be authorized by both parties prior to the commencement of any such changes, additions, deletions, or modifications to the Order. However, for any additional services or out of scope items that are not documented through a change order, such services or out of scope items will be at Huber's prevailing time-and-materials rates or other prevailing rates or costs and all such additional services or out of scope items will be subject to the terms of this Agreement.
- 1.5. **Delivery.** All shipping dates for the delivery of Third Party Products and all dates and timelines for the provision of Services and Software are approximate and are contingent upon Huber's prompt receipt of all necessary information and assistance from Client to properly process the Order and provide the Services or Software. Unless otherwise specified in an Order, legal title to hardware and equipment and all risk of loss thereto shall transfer to Client upon delivery to Client's location. Unless otherwise specified in an Order, the license of the software included in Third Party Products and all risk of loss thereto shall transfer to Client upon Huber's delivery of such software to Client. Client shall be responsible for all freight costs. Huber reserves the right to make partial shipments and Client will accept delivery and pay for the items delivered. All Software provided to Client is licensed and not sold to Client.
- 1.6. **Third Party Products.** If Client purchases any Third Party Products, then, as applicable, Client will comply with any third-party flow down terms and conditions, including but not limited to, any third-party end-user license agreement attached to the Order relating to such Third Party Products. Client acknowledges that Huber is not responsible for installation, maintenance, upgrading, enhancement, or error correction, of the Third Party Products or for any training or other services relating thereto unless specifically set forth in an



Order. If needed or applicable, Client is responsible for obtaining any such additional services and products under a separate agreement from Huber, the Third Party Product manufacturer, licensor or vendor or another qualified third party.

2. TERM

The term of this Agreement ("Term") shall begin on the Effective Date and remain in force until all Orders hereunder have expired or been terminated, or until this Agreement is terminated pursuant to the provisions hereof. The term each Order will commence on the date specified on the applicable Order and continue for the period identified therein unless terminated earlier in accordance with the provisions hereof or in such Order.

3. FEES AND PAYMENT TERMS

- 3.1. **Invoicing and Payment.** Huber will invoice Client all fees as provided in the applicable Order (the "Fees"). Unless the Order explicitly states it is a "fixed fee", Client will pay Huber on a time and materials basis for all Services and any dollar limit stated in an Order is only an estimate. Payment by Client will constitute acceptance of the applicable Third Party Products, Services and/or Software. Client will reimburse Huber for expenses as defined in the Order. Except to the extent that different terms are set forth in an Order, all undisputed Fees are due upon receipt of Huber's invoice. Client will pay all bank charges, taxes, duties, levies and other costs and commissions associated with any bank wire transfer or other means of payment.
- 3.2. **Late Charges.** Any overdue and unpaid portion of the Fees will bear interest, compounded at one and one-half percent (1.5%) per month or the maximum rate allowed by applicable law, whichever is less. Huber may suspend licenses and performance of Orders for which payment is overdue until the overdue amounts are paid in full. Client will reimburse Huber for reasonable attorneys' fees and any other costs associated with collecting delinquent payments.
- 3.3. **Taxes.** All Fees quoted and payable under the Order exclude taxes. Client will pay or reimburse Huber for all applicable sales, services and other taxes (excluding taxes on Huber's net income) levied upon the sale and/or license of Third Party Products, performance of Services and license or provision of Software under the Agreement unless Client is exempt and provides Huber with a valid tax exemption certificate prior to Huber's invoice date.

4. CONFIDENTIALITY

- 4.1. Either party (the "Disclosing Party") may from time to time disclose Confidential Information to the other party (the "Receiving Party"). "Confidential Information" is all nonpublic information concerning the business, employees, technology, and strategies of the Disclosing Party which is conveyed to the Receiving Party orally or in tangible electronic form and is either marked as "confidential" or which, due to the circumstances surrounding its disclosure or its nature or sensitivity, should have been understood by the Receiving Party as intended to be treated as "confidential" and subject to the undertakings of this Agreement. Confidential Information shall include the pricing and terms of Orders and terms of this Agreement.
- 4.2. Confidential Information provided under this Agreement by one party to another shall be used only for the purpose for which it was provided and to those employees and subcontractors of the Receiving Party with a "need to know" so long as such personnel have agreed to treat such Confidential Information under such terms at least as restrictive as the terms of this Agreement. Each party shall use the same degree of care to avoid disclosure or use of Confidential Information as it employs with respect to its own confidential and proprietary information, and in any event shall take all precautions that are reasonably necessary to protect the security of the other party's Confidential Information.
- 4.3. Confidential Information shall not include information which:
 - 4.3.1. Is previously known or in the possession of the Receiving Party;
 - 4.3.2. Is or subsequently becomes part of the public domain through no fault of the Receiving Party;
 - 4.3.3. Is subsequently disclosed by a third party not under any confidentiality obligation to the Disclosing Party;
 - 4.3.4. Is developed independently by the Receiving Party without reliance on the Disclosing Party's Confidential Information;
 - 4.3.5. Is otherwise approved by written authorization from the Disclosing Party; or

4.3.6. Is required to be disclosed pursuant to a valid order by a court or other governmental entity with jurisdiction, provided that Receiving Party provides the Disclosing Party with prompt written notice of such demand (prior to any scheduled disclosure) in order to permit Disclosing Party to challenge such disclosure or obtain a protective order at Disclosing Party's expense and only discloses such Confidential Information as the Receiving Party is required to do so.

4.4. Each party further agrees that within thirty (30) days of completion of the discussion or work associated with any particular Confidential Information or upon request of the Disclosing Party, the Receiving Party and its Affiliates will make commercially reasonable efforts to securely destroy or return all electronic or tangible items in their possession containing any of the Disclosing Party's Confidential Information without retaining copies of the items required to be destroyed or returned. Upon request by the Disclosing Party, the Receiving Party shall provide written certification of destruction of Confidential Information.

5. NON-SOLICITATION

During the term of this Agreement and for a period of one (1) year following the termination of this Agreement for any reason whatsoever, Client agrees not to solicit the employment of any Huber employees, contractors, or agents that provided Services, Software or Third Party Products to Client under this Agreement within the preceding one (1) year period without the express written permission of Huber.

6. RELATIONSHIP OF THE PARTIES; HUBER PERSONNEL

The parties enter into this Agreement as independent contractors and nothing within this Agreement shall be construed to create a joint venture, partnership, agency, or other employment relationship between the parties. All Huber employees who are assigned to perform services at any Client-owned or leased facility shall be considered to be an employee of Huber only and will not be considered an agent or employee of Client for any purpose. Huber will be responsible for any employment taxes or benefits, including workers compensation insurance, related to all personnel provided by Huber to perform Services. It is understood that from time to time, it may be necessary for Huber to replace an individual assigned to Client's Order. Client agrees that Huber has the right to remove any of its employees and subcontractors and replace said individuals with individuals capable of providing the same service upon notice to Client and with Client's prior approval, which approval will not be unreasonably withheld.

7. SERVICE DELIVERY

7.1. Huber shall perform Services set forth in an Order. Huber shall be responsible for monitoring project tasks, schedules, and resources, and providing status reports to Client. While it is the intent of this Agreement that the mutual convenience of the parties be served, it is understood that Huber shall have sole control over the manner and means involved in the completion and performance of the Services, and shall not be subject to the direction or supervision of Client with respect to the procedures followed in the performance of Services.

7.2. **Client Responsibilities.** In addition to any obligations and responsibilities described in an Order or elsewhere in this Agreement, Client shall have shared responsibility with Huber regarding the following:

7.2.1. Ensure that necessary business and application knowledge is available and conveyed from the Client's existing support team to Huber's support team.

7.2.2. Provide Huber's support team ready access to appropriate computing platforms, documentation (e.g., program source, copybooks, tables, subroutines) and personnel (i.e., end users and technical representatives) necessary to fully understand the current business systems and environments throughout the life of the engagement.

7.2.3. Provide all necessary data, information and other materials required by Huber to perform the Order, including but not limited to, any data, information or materials specifically identified in an Order (collectively the "Client Materials"). Client shall be responsible for ensuring that all such Client Materials are accurate and complete. Further, Client represents and warrants that it has the necessary rights, power and authority to transmit and grant the rights to use the Client Materials to Huber pursuant to this Agreement.

7.2.4. Provide office space and equipment for Huber's support team while working at Client facility.

7.2.5. Provide consent of any applicable third parties and external communications capability and/or access to Client work facility and system to enable Huber's support team to access the Client's information technology system for remote, after-hours or weekend services as required.



- 7.2.6. Assign an employee or representative to be present at the work facility for any after-hours or weekend services provided by Huber. In the event that Client declines or fails to assign an employee or representative to be present during such hours, Client waives any and all claims for any property damage or loss that occurs during such time that Huber's support team is at Client's work facility.
- 7.2.7. Except to the extent specifically set forth in the applicable Order, Client will not turn over to Huber any technical data that is controlled for export under the Export Administration Regulations or the International Traffic in Arms Regulations and will indemnify and hold harmless Huber from any claims, losses, or expenses related to Client's failure to notify Huber of the provision of such technical data.
- 7.2.8. Except to the extent specifically set forth in an Order, Client is responsible for the procurement and licensing of any third party software and any hardware or virtual servers. Client warrants that all software it provides to Huber for installation, configuration or use in any way has been legally obtained and is properly licensed. Client further warrants that it has legally purchased a sufficient number of copies of all software and that it has not violated any laws in obtaining the software. Client agrees to indemnify and hold harmless Huber for any installation, configuration or use of such software.
- 7.2.9. Client agrees to inform Huber in advance if the furnishing of the Third Party Products, Services or Software will be in an environment, which could pose a health or safety hazard to Huber's employees or subcontractors. It is Client's responsibility to furnish a safe and appropriate place to work, appropriate safety and hazardous materials training, and all tools and other materials, including protective devices, wearing apparel, instruments and/or other materials required for Huber's employees and subcontractors to perform their duties in compliance with all local, state and federal safety, health and environmental laws and regulations.
- 7.2.10. Provide passwords to Huber's support team as required to perform the services.

8. EXCLUSIVE WARRANTY; LIMITATIONS AND DISCLAIMERS

8.1. Warranties and Limitations.

- 8.1.1. **Services.** Specific warranties for Services are provided in the applicable Order. In the absence of a specific warranty in the applicable Order, Huber warrants that all Services will be provided using reasonable care and skill in a workmanlike manner consistent with the general standards and practices of the information technology industry in existence at the time the Services are being provided and in accordance with any specifications set forth in the Order.
- 8.1.2. **Software.** Huber warrants that the Software will operate substantially in conformance with the Documentation and Order for such Software for a period of ninety (90) days from the date of installation of such Software by Huber (or the first date on which Client has access to the Software if the Software is delivered by provision of access as compared to installation). "Documentation" means Huber's applicable user manuals, operator instructions, on-line manuals and help systems and other materials that explain the process of installation of the Software and the functions and use of the Software and specifications, and any revisions or modifications thereto, in printed or electronic form.
- 8.1.3. **Warranty Exclusions.** The warranties do not extend to any damages, malfunctions, or non-conformities caused by (i) Client's use of Services or Software in violation of the rights or license granted under the Agreement or in a manner inconsistent with the Documentation (with respect to the Software) or Order; (ii) use of non-Huber furnished equipment, software, or facilities with Software (except to the extent provided in the Documentation) or Services, (iii) Client's failure to follow Huber's installation, operation or maintenance instructions; (iv) Client's failure to permit Huber timely access, remote or otherwise, to Software or Deliverables; (v) failure to implement all new updates to Software or Deliverables provided by Huber; (vi) Software or Deliverables that have been serviced or modified by a party other than Huber or an authorized Huber service provider. Client's decision to acquire or use products from other parties is Client's sole responsibility, even if Huber helps Client identify, evaluate, or select them. Huber is not responsible for, and will not be liable for, the quality or performance of such products or their suppliers.

8.2. Remedies.

- 8.2.1. **Services.** FOR ANY BREACH OF THE WARRANTY SET FORTH IN SUBSECTION 8.1.1 ABOVE (INCLUDING ANY SPECIAL WARRANTY PROVIDED IN AN ORDER), CLIENT'S EXCLUSIVE REMEDY, AND HUBER'S ENTIRE LIABILITY, SHALL BE THE RE-PERFORMANCE OF THE SERVICES; PROVIDED, HOWEVER, THAT CLIENT MUST REPORT ANY DEFICIENCIES IN THE

SERVICES TO HUBER IN WRITING WITHIN THIRTY (30) DAYS OF COMPLETION OF THE SERVICES IN ORDER TO RECEIVE THE WARRANTY REMEDIES IDENTIFIED IN THIS SUBSECTION 8.2.1.

8.2.2. Software. FOR ANY BREACH OF THE WARRANTY SET FORTH IN SUBSECTION 8.1.2 ABOVE (INCLUDING ANY SPECIAL WARRANTY PROVIDED IN AN ORDER), CLIENT'S EXCLUSIVE REMEDY, AND HUBER'S ENTIRE LIABILITY, SHALL BE THE REPAIR OR REPLACEMENT OF THE SOFTWARE; PROVIDED, HOWEVER, THAT CLIENT MUST REPORT ANY DEFICIENCIES IN THE SOFTWARE TO HUBER IN WRITING WITHIN NINETY (90) DAYS OF INSTALLATION OR ACCESS TO THE SOFTWARE AS SET FORTH IN SECTION 8.1.2 IN ORDER TO RECEIVE THE WARRANTY REMEDIES IDENTIFIED IN THIS SUBSECTION 8.2.2.

8.2.3. Exclusive. THE WARRANTY AND REMEDIES SET FORTH IN SECTION 8 IS IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS EXPRESSED OR IMPLIED, ORAL OR WRITTEN, CONTRACTUAL OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

8.2.4. Third Party Products. ANY THIRD PARTY PRODUCTS ARE PROVIDED BY HUBER ON AN "AS IS" BASIS, NOT SUBJECT TO THE WARRANTIES CONTAINED IN THIS SECTION 8, AND CLIENT'S SOLE AND EXCLUSIVE RIGHTS AND REMEDIES WITH RESPECT TO ANY THIRD PARTY PRODUCTS ARE AGAINST THE THIRD-PARTY VENDOR OR LICENSOR.

9. INTELLECTUAL PROPERTY OWNERSHIP

- 9.1. Unless specified differently in an Order and agreed upon by the parties in writing, Huber shall retain rights, title and interest in the Services, Software, Deliverables and intellectual property provided or delivered in accordance with this Agreement. "Deliverables" means all deliverables that are identified as such in an Order, such as reports, computer programs, software, solutions, modifications or integrations as part of Huber's performance of the Services under this Agreement (for clarity, Deliverables do not include any Third Party Products or Software).
- 9.2. Client hereby acknowledges and agrees that Huber is in the business of providing information technology consulting, development and programming services and that Huber shall have the right to provide services that are the same or similar to the Services, Deliverables or Software provided to Client under this Agreement to third parties and shall retain ownership of and the right to use all methodologies, know how, processes, materials, technology, technical documentation, inventions, algorithms, software, architecture, logic, source files, source codes, engines or other backend and background elements, files and features incorporated into or utilized by any Deliverables (collectively, "Background Technology"). Client acknowledges and agrees that Huber shall retain ownership of any and all Background Technology, Software and all rights in the Services other than the rights transferred to Client in the Deliverables pursuant to Section 9.1 above, including any and all associated intellectual property rights. On condition of Client's full and complete payment of all amounts owed under an Order in accordance with this Agreement, Huber hereby grants to Client a non-exclusive, royalty-free, perpetual, irrevocable, worldwide license to use, reproduce, distribute, display and perform Huber's Background Technology to the extent incorporated into Deliverables provided hereunder for the purposes set out in the applicable Order.

10. LIMITATION OF LIABILITY

CLIENT AGREES THAT UNDER NO CIRCUMSTANCES, WHETHER ON CONTRACT, WARRANTY, TORT OR OTHERWISE, SHALL HUBER AND ITS VENDORS, LICENSORS OR SUBCONTRACTORS BE LIABLE TO CLIENT, OR ANY THIRD PARTY, FOR (1) ANY LIABILITY CLAIMS, LOSS, DAMAGES OR EXPENSE OF ANY KIND ARISING DIRECTLY OR INDIRECTLY OUT OF PRODUCTS AND SERVICES PROVIDED HEREIN FOR (2) ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED AND EVEN IF HUBER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR THE COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY OR SERVICES, AND CLIENT AGREES TO INDEMNIFY AND HOLD HUBER HARMLESS AGAINST SUCH LIABILITIES, CLAIMS, LOSSES, DAMAGES (CONSEQUENTIAL OR OTHERWISE) OR EXPENSES, OR ACTIONS IN RESPECT THEREOF, ASSERTED OR BROUGHT AGAINST HUBER BY OR IN RIGHT OF THIRD PARTIES (3) ANY PUNITIVE DAMAGES. FOR PURPOSES OF THIS AGREEMENT, INCIDENTAL OR CONSEQUENTIAL DAMAGES SHALL INCLUDE, BUT NOT BE LIMITED TO, LOSS OF ANTICIPATED REVENUES, INCOME, PROFITS OR SAVINGS; LOSS OF OR DAMAGE TO BUSINESS REPUTATION OR GOOD WILL; LOSS OF CUSTOMERS; LOSS OF BUSINESS OR FINANCIAL OPPORTUNITY; OR ANY OTHER INDIRECT OR SPECIAL DAMAGES OF ANY KIND CATEGORIZED AS CONSEQUENTIAL OR INCIDENTAL DAMAGES

UNDER THE APPLICABLE LAWS. IN NO EVENT WILL THE LIABILITY OF HUBER AND ITS VENDORS, LICENSORS OR SUBCONTRACTORS FOR DAMAGES UNDER THIS AGREEMENT EXCEED AN AMOUNT EQUAL TO THE CLIENT'S DIRECT DAMAGES NOT TO EXCEED THE FEE PAID BY CLIENT TO HUBER DURING THE 12-MONTH PERIOD PRIOR TO THE CLAIM FOR SUCH APPLICABLE THIRD PARTY PRODUCTS, SERVICES OR SOFTWARE TO WHICH THE CLAIM RELATES.

11. INDEMNIFICATION

Each party shall indemnify, defend and hold harmless the other party, its employees, principals (partners, shareholders, or holders of an ownership interest, as the case may be), and agents, from and against any third party claims, demands, loss, damage or expense relating to bodily injury or death of any person, or damage to real and/or tangible personal property directly caused by the negligence or willful misconduct of the indemnifying party, its personnel or agents in connection with provision of the Third Party Products, Services and Software hereunder. To the extent that such claim arises from the concurrent conduct of Client, Huber, and/or any third party, it is expressly agreed that Huber's liability shall be limited by the terms and provisions of Section 8 and Section 10 herein and that, with respect to any remaining obligations to pay any third party claims, demands, losses, damages, or expenses that are not limited by the terms and provisions of Section 8 and Section 10 herein, each party's obligation of indemnity under this section shall be effective only to the extent of each party's pro rata share of liability. To receive the foregoing indemnities, the party seeking indemnification must promptly notify the other in writing of a claim or suit and provide reasonable cooperation and full authority to defend or settle the claim or suit. The indemnifying party shall have no obligation to indemnify the indemnified party under any settlement made without the indemnifying party's written consent.

Huber agrees to defend at its own expense any action brought against Client to the extent that it is based on a claim that any Services, Deliverables or Software furnished by Huber under this Agreement infringes a United States patent, copyright, or trademark, and will pay any costs and damages finally awarded against Client in any such actions which are attributable to any such claim. Huber's obligation under the preceding sentence is subject to the conditions that (i) Client promptly notifies Huber in writing of any such claim, and (ii) Huber has sole control of such defense and all negotiations for any settlement or compromise. Huber shall have no obligation to indemnify, defend or hold harmless Client from any claim of infringement caused by (i) use of the Services, Deliverables or Software by Client in combination with any other products or services in a way not authorized by Huber, if the infringement would not have occurred but for such combination, (ii) any alteration, change, or modification of the Services, Deliverables or Software by Client not authorized by Huber, if the infringement would not have occurred but for such alteration, change, or modification, (iii) Client's failure to install or have installed changes, revisions or updates to covered Services, Deliverables or Software as instructed by Huber, (iv) Huber's compliance with Client's specifications, designs or instructions, and/or (v) any third party products. If Client's right to use any Services, Deliverables or Software provided hereunder is, or in Huber's opinion is likely to be, enjoined, then Huber may, at its sole option and expense: (i) procure for Client the right to continue using the Services, Deliverables or Software under the terms of this Agreement free of the infringement claim; (ii) replace or modify the Services, Deliverables or Software to avoid the claim, provided that substantially the same functionality is provided by the replacement or modified Services, Deliverables or Software; or (iii) terminate its obligations and Client's rights hereunder with respect to such Services, Deliverables or Software, and to the extent that Client is enjoined from using the Services, Deliverables or Software as a result of the infringement claim or impending infringement claim, reimburse Client for the fees actually paid by Client to Huber for the affected Services and Deliverables or reimburse Client for the fees actually paid by Client to Huber for the affected Software to the extent the fees paid were for a period subsequent to the date on which Client was enjoined from use of the Software.

12. TERMINATION

12.1. Termination without Cause. Either party shall have the option to terminate this Agreement without cause by providing thirty (30) calendar days' written notice to the other party; provided, however that any Order may only be terminated without cause if the Order specifically allows for termination without cause. Accordingly, termination of this Agreement without cause will not terminate any then outstanding Order, and this Agreement will remain in place for the term of any outstanding Orders.

12.2. Termination with Cause. If either party believes that the other party has failed in any material respect to perform its obligations under this Agreement (including any Orders), then that party may provide written notice to the other party's authorized representative describing the alleged failure in reasonable detail. If the alleged failure relates to a failure to pay any sum due and owing under this Agreement or if Client makes an unauthorized solicitation of a Huber employee under the provisions of Section 5 herein, the breaching party shall have ten (10) business days after notice of such failure to cure the breach. If the breaching party fails

to cure such breaches within ten (10) business days, then the non-breaching party may immediately terminate this Agreement and any then outstanding Order(s), in whole or in part, for cause by providing written notice to the authorized representative of the breaching party. With respect to all other defaults, if the breaching party does not, within thirty (30) calendar days after receiving such written notice, either (a) cure the material failure or (b) if the breach is not one that can reasonably be cured within thirty (30) calendar days, then the non-breaching party may terminate this Agreement and any then existing Orders, in whole or in part, for cause by providing written notice to the authorized representative of the breaching party.

12.3. Termination for Bankruptcy. Either party shall have the right to immediately terminate this Agreement, by providing written notice to the other party's authorized representative, in the event that (i) the other party becomes insolvent, enters into receivership, is the subject of a voluntary or involuntary bankruptcy proceeding, or makes an assignment for the benefit of creditors; or (ii) a substantial part of the other party's property becomes subject to any levy, seizure, assignment or sale for or by any creditor or government agency.

12.4. Excusable Delays. Each party hereto shall be excused from performance hereunder for any period and to the extent that it is prevented from providing any products, services or software pursuant hereto in whole or in part, as a result of delays caused by the other party or an act of God, acts or omissions of third parties, or other cause beyond such party's reasonable control, including and without limitation, failures or fluctuations in electric power, heat, light, air conditioning or telecommunication equipment, and such nonperformance shall not be a default hereunder or a ground for termination hereof. Huber's time of performance shall be extended, if and to the extent reasonably necessary, in the event: (i) that Client fails to submit information, instructions, approvals, or any other required element in the prescribed form or in accordance with the agreed upon schedules; (ii) of a special request by Client or any governmental agency authorized to regulate, supervise, or impact Huber's normal processing schedule; (iii) that Client fails to provide any equipment, software, premises or performance called for by in this Agreement or Order, and the same is necessary for Huber's performance hereunder. Huber will notify Client of the estimated impact on its processing schedule, if any.

12.5. Continuation. Huber will continue to provide Third Party Products, perform Services and license or provide Software during any cure period set forth in this Section 12 unless otherwise mutually agreed upon by the parties in writing. In the event that Client provides the notice of termination and directs Huber not to perform through the notice period, Client agrees to pay Huber an amount equal to the amount normally due to Huber for the notice period.

12.6. Payments Due. The termination of this Agreement for any reason shall not release either party from the obligation to make payment of all amounts then or thereafter due and payable. Upon termination by either party, Client will pay Huber for all Third Party Products, Services and Software provided and charges and expenses reasonably incurred by Huber in connection with the services provided under this Agreement through the date of termination.

13. MISCELLANEOUS CLAUSES

13.1. Subcontracts/Assignments. Either party may delegate any or all of their duties to subcontractors, subsidiaries or parent or affiliated companies, provided that both parties shall remain liable for their respective obligations hereunder and for the actions of such related parties. Neither party may assign or otherwise transfer its rights under this Agreement except with the prior, written consent of the other party; except, however, either party may assign this Agreement to a purchaser of all of the stock, the entire business or substantially all of the assets of the related business unit of such party who expressly assumes all obligations and liabilities of such party hereunder.

13.2. Governing Law. This Agreement shall be governed by and construed and interpreted in accordance with the substantive laws of the State of Missouri.

13.3. Export and Re-Export. Client agrees not to export, directly or indirectly, any Third Party Products, Services, Deliverables or Software without first obtaining any required export licenses or other governmental approvals. Without limiting the foregoing, Client, on behalf of itself and its subsidiaries and affiliates, agrees that it will not export, re-export, transfer or divert any Third Party Product, Services, Deliverables or Software to any country to which such exports or re-exports are restricted or embargoed under United States export control laws and regulations, or to any national or resident of such restricted or embargoed countries without first obtaining all export licenses and approvals required by the United States government.



- 13.4. **Survival of Obligations.** Termination or cancellation of this Agreement for any reason, or completion of performance under any Order, shall not relieve either party of any previously accrued obligations or of any obligations which by their nature are intended to survive such termination, cancellation or completion. Obligations which survive shall include, but not be limited to, obligations in connection with Payment, Warranties, Limitation of Liability, Confidential Information, and Indemnification.
- 13.5. **Severability.** If any provision of this Agreement is held to be unenforceable, the remaining provisions shall continue in full force and effect. The parties shall in good faith negotiate a mutually acceptable and enforceable substitute for the unenforceable provision, which substitute shall be as consistent as possible with the original intent of the parties.
- 13.6. **No Waiver.** The failure by either party to enforce any of the provisions of this Agreement shall not be deemed a waiver of such provisions, or any subsequent breach thereof.
- 13.7. **Notices.** Any notices or other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given and delivered if delivered personally, mailed via registered or certified mail (return receipt requested and postage prepaid), given by facsimile (confirmed by certification of receipt) or sent by courier (confirmed by receipt) addressed to the following designated parties.

If to the Client:

Company Name

Attn:

Street Address

City, State, Zip

If to Huber:

Huber & Associates, Inc.
Michael Huber
1400 Edgewood Drive
Jefferson City, MO 65109

- 13.8. **Successors and Third-party Beneficiaries.** This Agreement shall inure to the benefit of Huber and Client and any permitted successors or assigns of Huber and Client. No third party shall have any rights hereunder.
- 13.9. **Entire Agreement.** With respect to its subject matter, this Agreement (and any agreed upon Orders) constitutes the entire understanding of the parties, superseding all prior agreements, understandings, negotiations and discussions between the parties, whether written or oral, and there are no other understandings, representations, warranties, or commitments with respect thereto. This Agreement may be amended only by an instrument in writing executed by the parties hereto. Any written work order, purchase order or other communication submitted by Client shall not amend the terms of this Agreement. This Agreement may be signed in one or more counterparts, each of which when exchanged will be deemed to be an original, binding upon the parties as if a single document had been signed by all, and all of when taken together will constitute the same agreement. Any true and correct copy of this Agreement made by customary, reliable means (e.g. photocopy or facsimile) shall be treated as an original.