

**Managed Print Services Contract
City of Waukesha – Impact Networking, LLC**

This Contract is by and between the City of Waukesha, a Wisconsin municipal corporation, referred to herein as the City; and Impact Networking, LLC, 13875 Boulton Boulevard, Lake Forest, Illinois 60045, referred to herein as the Contractor. Together, the City and Contractor are referred to as the Parties.

Recitals

The City published a Request for Proposals, referred to as the RFP, for technical services in managing the City's printer-copier-scanner-fax machine fleet.

The RFP provided that the scope of work in the winning bidder's proposal would be incorporated into a formal contract for execution by the bidder and the City.

The Contractor was selected as the winning bidder.

Now, therefore, the City and the Contractor agree and contract as follows:

1. **Applicability.** The Contractor shall perform and provide the managed print services described in the attached Schedules 1 through 4, which are incorporated by reference into this Contract. The services described in the Schedules are referred to herein as the Work. This Contract shall control all subsequent work orders, purchase orders, agreements, and contracts entered into between the Parties, and all such subsequent documents shall be incorporated into this Contract by reference.
2. **Fees and Payment Terms.** The City shall pay to Contractor the fees, and upon the payment terms, shown in the Schedules.
3. **Adding Machines to Contract.** The Parties acknowledge that certain machines owned by the City are currently under a managed print services with Ricoh, though a State of Wisconsin VendorNet contract, and will come off that contract as their terms expire. Contractor agrees that these machines will be added to Schedule 1, and the image charges and Maintenance Charges shown in Schedule 1 will apply to those added machines. The Base Amount may be recalculated as necessary to account for the added machines.
4. **Amendment of Schedule 1, Section 3.** The second sentence of Schedule 1, section 3 is deleted in its entirety and replaced with the following: "If maintenance is made necessary because of any of the above-listed occurrences or other work not covered under the remedial maintenance obligation, then Impact shall notify Customer and provide an estimate of the cost of such maintenance. Customer shall then have the option of accepting or refusing Impact's proposal for the maintenance. If Customer elects to refuse the proposal and replaces the machine or has the machine repaired by another vendor, the replacement machine shall be added to the machines covered by this Agreement, or the repaired machine shall remain covered by this Agreement."
5. **Amendment of Schedule 1, Section 8.** Schedule 1 section 8 is deleted in its entirety and replaced with the following:
 8. **Adjustment of Maintenance Charges.** After the first 12 months of the Term of this Agreement, and at the end of each subsequent 12-month period during the Term, Maintenance Charges shall be subject to change in accordance with the current volume, current prices, and equipment age; however, any increase in the Maintenance Charge shall be limited to no more than 3% of the then-current Maintenance Charge.
6. **City Is Exempt from Sales Taxes.** The City is exempt from state excise, sales, and use taxes. Invoices to the City shall not add sales, excise, or use taxes. Sales tax exemption certificates will be provided to Contractor on request.

7. **Term.** The Term of this Contract shall commence on the last date of its execution by the Parties, and shall terminate on the date 5 years from the last date of execution by the Parties. There shall be no automatic renewal, and Contractor shall have the right to terminate this Contract early only upon breach of this Contract by the City.
8. **Standard of Work.** Contractor will perform the Work according to generally-accepted industry practices and the highest standards of the professions of the individual employees performing the Work for Contractor.
9. **Ownership of Work Product.** All materials produced in the performance of the Work shall be the sole property of the City, and shall be kept confidential and not disclosed to any third party without the prior written permission of the City.
10. **Changes.** This Contract, including the Scope of Work and fees, can only be amended by the written, mutual agreement of the Parties.
11. **Indemnification.** Contractor shall indemnify and hold the City harmless from any and all third-party claims, demands, causes of action, lawsuits, judgments, penalties, or other liabilities of any kind, including reasonable attorney fees and court costs, to the extent caused by: (1) Contractor's acts or omissions in the performance of the Work; (2) Contractor's misappropriation or improper use of intellectual property; or (3) Contractor's failure to pay its subcontractors or suppliers despite having received payment from the City.
12. **Insurance.** Contractor shall maintain insurance of the following kinds and for not less than the following limits, at Contractor's sole expense, at all times during the performance of the Work. Policies shall be occurrence, and not claims-made, policies. Contractor shall obtain an endorsement making the City an additional insured and loss payee, and Contractor's insurance shall be primary, not excess, and non-contributory. All policies shall be from insurers licensed to issue such policies in Wisconsin. Upon the execution of this Contract, Contractor shall deliver a certificate of insurance to City showing that all requirements of this section are met.
 - a. Commercial general liability, including products-completed operations, \$1,000,000 per occurrence, \$2,000,000 aggregate per project.
 - b. Automobile liability, \$1,000,000 bodily injury, \$1,000,000 property damage.
 - c. Excess liability-umbrella, \$5,000,000.
 - d. Worker compensation, statutory requirements.
13. **Limitation of Liability.** Contractor shall not be liable for consequential and incidental damages arising from its performance of the Work. There shall be no other limitations of liability.
14. **Record Keeping.** Contractor shall keep all documents and records generated in the performance of the Work for no less than 7 years after completion of the Work, and shall make them available to the City at the City's request. Contractor acknowledges that such documents and records may be subject to Wisconsin's Open Records Law.
15. **No Smoking.** The City is a smoke-free environment. Contractor shall ensure its employees and sub-contractors will not smoke or use tobacco products, and will not use electronic cigarettes, while on City property.
16. **No Illegal Drug Use.** The City is a illegal-drug-free environment. Contractor shall ensure its employees and sub-contractors will not possess, use, or be under the influence of any illegal drug or controlled substance while on City property or while performing any Work.

17. **Cooperation by City.** The City shall cooperate with the Contractor in the performance of the Work, and shall respond timely to all reasonable requests for information and access.
18. **Parties Are Independent Contractors.** Nothing in this Contract shall be construed to create any relationship between the Parties other than independent contractors. Unless specifically provided in this Contract, the Parties are not agents for one another, have no authority to bind the other to contracts, and have no vicarious liability for the other's acts or omissions.
19. **Governmental Immunities and Notice Requirement Preserved.** Nothing in this Contract shall be construed to be a waiver or modification of the governmental immunities or notice requirements imposed by Wis. Stats. §893.80 or any other law.
20. **Permits and Licenses.** Contractor shall be responsible, at Contractor's expense, for obtaining all permits and licenses required for the performance of the Work unless expressly agreed by the City.
21. **Assignment Prohibited.** This Contract, and the Contractor's responsibility to perform the Work under this Contract, may not be assigned by the Contractor without the City's written consent.
22. **Notices.** All notices required by this Contract, and all other communications between the Parties, shall be addressed as follows:

To the City: Attention: Chris Pofahl
 City of Waukesha
 201 Delafield Street
 Waukesha WI 53188

To Contractor: Alex Kusters
 Impact Networking, LLC
 12530 West Burleigh Road
 Brookfield WI 53005
 262-309-5485
 akusters@impactnetworking.com

23. **Corporate Authorization.** The individuals executing this Contract on behalf of the Contractor warrant and represent that they are duly authorized to bind the Contractor to this Contract. Contractor warrants and represents that the execution of this Contract is not prohibited by the Contractor's articles of incorporation, by-laws, operating agreement, or other internal operating orders, or by any applicable law, regulation or court order. Contractor shall provide proof upon request.
24. **Assistance of Counsel, Voluntary Contract.** The Contractor acknowledges that it has either had the assistance of legal counsel in the negotiation, review and execution of this Contract, or has voluntarily waived the opportunity to do so; that it has read and understood each of this Contract's terms, conditions and provisions, and their effects; and that it has executed this Contract freely and not under conditions of duress.
25. **Adequacy of Consideration.** The Parties acknowledge that the consideration expressed in this Contract is adequate and sufficient to make the obligations contained in this Contract binding upon the Parties.
26. **Costs of Enforcement.** The Parties agree that in the event legal action is necessary to enforce any term or condition of this Contract, then the breaching Party will pay the non-breaching Party's costs incurred in such legal action, including actual attorney fees. If a judgment is taken, then costs of enforcement will be added to the judgment.

- 27. Severability.** If any term of this Contract is held unenforceable by a court having jurisdiction, then to the extent the unenforceable term can be severed from the remainder of this Contract without affecting the enforceability of the remainder of this Contract or substantially frustrating its purpose, it will be so severed, and the remainder of this Contract will remain in effect and enforceable.
- 28. Survival and Parties Bound.** Unless specifically limited in this Contract, any term, condition or provision of this Contract will survive the execution of this Contract or any stated time periods, to the extent necessary for their performance. This Contract is binding upon, and inures to the benefit of, the Parties' successors, assigns, heirs, executors, trustees and personal representatives.
- 29. Governing Law and Jurisdiction.** This Contract will be construed and enforced according to the laws of Wisconsin. If a lawsuit arises out of this Contract, it shall be filed in the state Circuit Court for Waukesha County, Wisconsin. The Parties consent to personal and subject-matter jurisdiction in Wisconsin, and waive all jurisdictional defenses.
- 30. Integration, Conflicts Among Contract Documents.** This Contract, including the incorporated Schedules 1 through 4, constitute the entire agreement of the Parties. All other agreements and understandings of the parties with respect to the subject matter expressed in this Contract are unenforceable. If there are any conflicts or inconsistencies between the terms and conditions of this Contract and those of Schedules 1 through 4, then the terms of this Contract shall supersede the terms of Schedules 1 through 4 and shall control. This specifically includes, but is not limited to, the following provisions in Schedules 1 through 4:
- a. Schedule 1, section 3, which is amended.
 - b. Schedule 1, section 8, which is replaced.
 - c. Schedule 1, sections 19, 25, and 26, which are deleted in their entirety.
 - d. Schedule 2, section 7.
 - e. Schedule 2, section 10, which is deleted in its entirety.
 - f. Schedule 3, section 7.
 - g. Schedule 3, section 10, which is deleted in its entirety.
 - h. Schedule 4, "Limitation of Damages," "Governing Law and Fees," and "Choice of Venue."

City of Waukesha

By Shawn N. Reilly, Mayor
Date: _____

Attested by Gina L. Kozlik, City Clerk
Date: _____

To certify that funds are provided for payment:

Richard L. Abbott, Director of Finance
Date: _____

Impact Networking, LLC

By (print name) _____
Title: _____
Date: _____

By (print name) _____
Title: _____
Date: _____

Maintenance Agreement

Bill to Location

City of Waukesha
COMPANY NAME

Chris Profahl
CONTACT

201 Delafield St
ADDRESS

Waukesha WI 53188
CITY STATE ZIP

cpofahl@waukesha-wi.gov
EMAIL

(262) 524-3565
PHONE FAX

Agreement Type Selection

- Basic Maintenance Agreement
- MPS Basic Agreement
Includes auto meters for networked devices.
- MPS Platinum Agreement
Includes MPS Basic plus auto toner fulfillment and proactive service for properly reporting networked devices.

Each Agreement includes:

- 3 hour response time guaranteed with state-of-the-art call system.
- Emergency calls available 7 days a week / 24 hours a day.
- Full line factory trained technicians.
- All parts replaced at no charge (unless otherwise noted.)
- Proactive preventative maintenance, including 100% labor and parts.

Agreement includes 8.5"x11" and 11"x17" paper
PHT01 - Premium High Tech paper supplied per contracted volume.

Billing Interval Selection

Base Amount Billing:

- Annual Semi-Annual Quarterly Monthly

Excess Image Billing:

- Semi-Annual Quarterly Monthly

Device(s) or Group(s) Covered

	Base Amount	Image Allowance		Excess Image Charge	
		B&W	COLOR	B&W	COLOR
Group A		56,708	21,124	\$ 0.00520	\$ 0.02720
A3 Devices (See Equipment Schedule)					
Group B		34,023	2,755	\$ 0.00860	\$ 0.04490
A4 Devices (See Equipment Schedule)					
Total Payment Amount:	1408.32				

Notes/Special Instructions

The term of this Agreement is 60 months from the effective date. Impact agrees to furnish the Customer in accordance with the terms and conditions of this Agreement. This contract is for 60 months(s) or the stated amount of copies, whichever comes first. Any copies above the stated amount will be billed at the Excess Image Charge. Contract includes all supplies except paper and staples, unless Paper Plus Maintenance Agreement is selected. All contracts that include supplies are based on manufacturers specified yield at 5% print or copy coverage. Any additional supplies beyond this specification will be charged to the customer at normal supply rates. Freight for delivery of supplies and parts is charged to the client on all agreements.

Contract Effective Dates: From INSTALL To 60 MONTHS

Agreement: Please return with advanced payment in full. This contract is legally binding upon signature and/or purchase order. No service will be performed until payment is received. This agreement is non-cancellable for the term specified, except as provided herein. The additional terms and conditions on the reverse side of this page hereof are incorporated in and made part of this agreement. Only the Impact Networking, LLC CEO or President is authorized to change, alter, or amend the terms or conditions of this agreement.

Impact Authorized Signature _____ Date _____

Customer Authorized Signature _____ Date _____

Printed Name and Title _____

Printed Name and Title _____

Maintenance Agreement

- 1. SCOPE OF SERVICES:** The charges established by this Agreement include payment for maintenance by Impact Networking, LLC (here- after referred to as "Impact") (during normal business hours): inspection, adjustments, parts replacement, drums and cleaning material required for the proper operation as determined by Impact. Paper and staples must be separately purchased by customer. This Agreement covers both the labor and the material for adjustments, repairs and replacements of parts as required under normal use of the equipment except as hereinafter provided. Damage to the equipment or its parts arising out of misuse, abuse, negligence, incorrect power and/or outlet, or causes beyond Impact's control are not covered. In addition, Impact may terminate this Agreement in the event the equipment is modified, damaged, altered or serviced by personnel other than those employed by Impact.
- 2. LABOR PERFORMED:** Labor performed during a service call includes lubrication and cleaning of the equipment and adjustment, repair or replacement of parts. All parts necessary for the normal maintenance of the equipment and subject to the general scope of coverage, will be furnished free of charge during a service call included in the maintenance service provided by this Agreement, unless otherwise noted.
- 3. SERVICE LIMITATIONS:** Customer agrees Impact will not be required to make adjustments, repairs or replacements made necessary resulting from (i) unauthorized third parties performing any maintenance, repair or replacement, (ii) Customer modifying, relocating, damaging (including without limitation, unavoidable accidents), abusing or misusing the Equipment (including without limitation, the spilling of toner or other substance in the machine), and the breaking of lids, hinges, cassettes, etc., (iii) unauthorized Equipment alteration and tampering, or interconnection with non-compatible Equipment, (iv) obsolete Equipment or components deemed beyond repair in the sole judgment of Impact, (v) placing the Equipment in an area that does not conform to Impact space, electrical and environmental requirements (including without limitation, excessive dust, chemical residues, abnormal high or low temperatures), (vi) telephone or electrical power failure, (vii) strikes, accidents, embargoes, or war, (viii) Acts of God, lightning or other incidents of excess voltage or power surges, or (ix) Customer using toner, drum, processing units, ink, film, etc., from any source other than a service provider authorized by Impact. If maintenance is made necessary resulting from any of the above listed occurrences or other work not covered under the remedial maintenance obligation, at Impact's election, Impact may either (a) provide such maintenance and bill to Customer at Impact's then current rates for labor and parts (which shall be due and payable in full upon receipt of invoice) or (b) terminate this Agreement. Customer agrees that Impact will not be required to make adjustments, repairs, or replacements if Impact is not provided reasonable access to the Equipment.
- 4. ADVANCE INSPECTION:** Impact reserves the right to inspect all equipment to be covered under this Agreement to determine its mechanical condition. Equipment that is identified as requiring immediate repair will be identified to Customer. Customer, at its option, can elect to have said unit repaired at the then current hourly service labor rate plus parts or may elect to have the unit excluded from the Agreement.
- 5. REMEDIAL MAINTENANCE:** During the term of this Agreement, Impact agrees to perform the maintenance and repair that will keep the Equipment in good working order and condition, normal wear and tear excepted. If Impact is notified by Customer during the term of this Agreement that the equipment is not in good working condition, Impact will, during Impact's established normal service hours, make necessary adjustments and repairs including replacement of parts (if parts are included as part of this Agreement.) If parts are not included in this Agreement, Impact will promptly provide a quote for the appropriate part(s). Impact's normal service hours are 8:00 a.m. to 5:00p.m. Monday through Friday, excluding holidays. Impact may from time to time adjust these hours as may be required in the course of business, at which time the customer will be advised. Customer agrees to pay for all travel and labor time for service calls after Impact's normal service hours, on weekends and on holidays at overtime rates in effect at the time the service call is made. Impact provides 24/7 service by calling 888-752-0052. Applicable rates will be given at time of call. Service at times other than Impact's established normal service hours may be furnished on an "as available basis" at published rates then in effect. Replacement parts may have been used and/or reconditioned. Parts that have been replaced will remain the property of Impact.
- 6. RECONDITIONING:** When, in its sole discretion, Impact determines a shop reconditioning is necessary to keep the equipment in working condition, Impact will submit to Customer an estimate of needed repairs and the cost thereof, which will be in addition to any other charges payable under this Agreement, refunding the unused portion of the maintenance charge. Thereafter, service will be available by Impact on a per call basis at Impact's published rates.
- 7. CUSTOMER RESPONSIBILITY:** Customer will be responsible for daily care and cleaning of the top glass, dusting Equipment, replenishing toner, replacing disposal tank, clearing jams, etc., (where applicable). Customer also agrees to provide suitable electrical service and maintain proper environmental conditions.
- 8. AUTOMATIC RENEWAL OR TERMINATION:** This Agreement shall become effective upon Customer signature or Purchase Order Number and shall continue until the end of the agreed copy volume or time, whichever occurs first, unless canceled by Impact or if Customer breaches any of its obligations hereunder or otherwise to Impact. Unless otherwise indicated, this is an annual contract. This Agreement shall be renewed automatically unless Customer notifies Impact, in writing, not less than ninety (90) days prior to the renewal date. Impact reserves the right to cancel this contract at its discretion upon five (5) days written notice. You agree that after the first twelve (12) months of the Term (or any extension or renewal) of this Agreement, and at the end of each following twelve (12) month period thereafter, the Maintenance Charges are subject to change in accordance with current volume, current prices and equipment age.
- 9. CHARGES:** The initial charge for maintenance under this Agreement shall be the amount set forth on the front page of this Agreement. The Customer agrees to pay all additional charges for maintenance provided hereunder 10 days from the date of invoice for such charges. A late payment fee of 1.5% per month or the maximum rate permitted by law, whichever is less, shall be charged on all overdue amounts from the date of invoice until paid. The Customer understands that alterations, attachments or specification changes may require an increase in maintenance charges and agrees to pay such charges promptly when due.
- 10. SUPPLIES:** Toner-inclusive contracts are based on manufacturer supply consumption rates. Impact will determine and deliver supplies in accordance with agreed upon usage. Use of covered supply products above the expected usage may result in additional charges. Toner may be OEM original or non-OEM at the discretion of the Service Provider.
- 11. PAPER INCLUDED:** If "Agreement includes 8.5"x11" and 11"x17" paper" is selected, Impact will provide PHT01 - Premium High Tech Paper in accordance with the contracted Base Image Allowance over the term of this Agreement. If the allotted volume of paper has been exhausted before the term of this Agreement ends, the Customer may sign an Amended Agreement for an increased paper supply to cover the remainder of the contract term. In the event that this Agreement is terminated, Impact may bill the customer for any excessive paper consumption above the Base Image Allowance.
- 12. PERFORMANCE OF EQUIPMENT AND USE OF OUTSIDE SUPPLIES:** The equipment Impact sells is designed to give excellent performance with Impact supplies, including paper, developer, toner and fuser oil. If the Customer uses supplies other than the supplies specifically manufactured for the use in the equipment that is covered and such supplies are defective or not acceptable for use in the equipment, and they cause service problems or abnormally frequent service calls, or damage the equipment, then Impact may, at its option, terminate this Agreement and refund the unused portion of the maintenance charges. In that event, the Customer will be offered service on a "per call" basis at published rates, or Impact may, at its option, decline to make a service call. Impact may also decline to service the equipment for the purpose of converting the equipment to use supplies of a different manufacturer other than those supplies then being used. It is not a condition of this Agreement, however, that the Customer use only Impact authorized supplies.
- 13. METER READINGS:** Customer agrees to provide Impact with accurate meter readings based on the billing term from the front of this Agreement, or if mutually agreed upon, to provide Impact with timely access to all Equipment so that Impact may obtain meter readings as required. If accurate meter readings are not provided, or if timely access is not provided, Impact reserves the right to estimate the meter reading from previous meter readings.
- 14. EARLY CARTRIDGE EXCHANGE:** Should it be determined that toner supplies, provided by Impact, are exchanged at a percentage of 15+% or higher on a consistent basis (to be determined by Impact Networking, LLC) the customer will incur a charge for the following toner needed OR an account review must be held to determine a price escalation to cover the additional charges. The early exchange of toner cartridges/units incurs additional costs to Impact that must then be assumed by the Customer. Initial contract pricing is based upon the use of cartridges supplied by Impact Networking, LLC to a level of 7% and below, which the Customer agrees to by entering into this Agreement.
- 15. DEFECTIVE SUPPLY RETURN POLICY:** In the event of a defective supply, the customer will notify Impact Networking and receive instructions on the proper return of the defective unit. Impact Networking will supply the prepaid means by which to return the item. It is the Customer's responsibility to ensure the defective item is returned following the instructions and return label provided within 5 business days of receipt of the replacement supply. If the product is not returned within the stated time period, or at least shown as shipped via Tracking number, the customer will be charged full retail value of the provided replacement supply.
- 16. PRINTER REPLACEMENT DUE TO VALUE OF REPAIR:** Should it be determined that a printer repair will exceed 125% of the then-current value of the device, as determined by Impact Networking, LLC, the device will be considered un-repairable and be replaced/excluded for coverage. Replacement devices may be provided by Impact Networking, LLC at a percentage discount from retail to be determined by contractual value.
- 17. NO WARRANTIES, EXPRESS OR IMPLIED:** IMPACT MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE. IMPACT SHALL NOT BE LIABLE FOR DELAYS IN MAKING REPAIRS, OR FOR SPECIAL OR CONSEQUENTIAL DAMAGES CAUSED BY ANY REASON.
- 18. LIABILITY LIMITATION:** Impact's total liability is limited to repair and maintenance under this Agreement. Impact will not be held liable to Customer or any other party for any personal injury or indirect, consequential damage, including, but not limited to, loss of use, revenue or profit. Impact will not be liable for any delay or failure to perform its obligations due to any cause beyond its reasonable control, including without limitation, performing services at a location deemed by Impact as hazardous to health and safety, Acts of God or government, labor difficulties or failure of improper transportation, telephone or power. In no event shall Impact be liable for loss of data resulting in delays in supplying service, repair of, or attempts to repair the Equipment by Customer or by agents, representatives, or employees of Impact.
- 19. INDEMNITY:** With respect to, arising from, or in connection with this Agreement, or from manufacture, maintenance, repair or use of any Equipment, Customer agrees to indemnify and hold harmless Impact and its agents, representatives, and employees from and against any and all claims, liabilities, damages, demands, cost and expenses of every kind and nature (including reasonable attorney's fees) arising from any injury or damage to any person, property, or business, excluding, however, any of the foregoing resulting solely from the negligence or misconduct of Impact or its agents, representatives or employees.
- 20. RELOCATION OF EQUIPMENT:** Customer agrees to keep the Equipment at the installation address and shall not move it from that location without prior written consent of Impact, which shall not be unreasonably withheld. Customer shall be responsible for all costs associated with relocation. If the Equipment is moved to a new location, Impact shall have the right to charge a new rate for the new location and Customer agrees to pay the difference between the old rate and the new rate. Customer agrees that it shall not move any Equipment that is subject to this Agreement, or any subsequent agreement between Impact and Customer, beyond Impact's service zones. If the Equipment is moved beyond Impact's service zones, Impact may elect to cancel this Agreement and will refund the unused portion of the maintenance charge.
- 21. CUSTOMER UPGRADE OF EQUIPMENT:** If the Customer upgrades its equipment covered by this Agreement to other Impact products, Impact will credit the unused portion of the Agreement towards a new equipment maintenance covering the new equipment at the published price in effect at the time of the upgrade for a one year period.
- 22. DEFAULT:** Customer shall be in default under this Agreement if Customer: (i) fails to make any payment to Impact or its agent within ten (10) days of when due or (ii) breaches any other term or condition included in this Agreement and Customer fails to cure any such breach within ten (10) days. In the event of a default, Impact may, in addition to other remedies, (i) refuse to service the Equipment until payment in full, including any late payment fees, are made; (ii) declare any and all sums (including penalties) which are due under the terms of this Agreement to be immediately due, (iii) furnish service on a C.O.D. "per call" basis at published rates; (iv) terminate this Agreement without advance notice; and/or (v) exercise any and all other remedies to which it may be entitled. The Customer agrees to pay Impact for all costs and expenses, including reasonable attorney's fees, incurred by Impact in establishing or enforcing its right hereunder.
- 23. TAXES:** Customer shall be responsible for all sales tax, use tax or other taxes (including without limitations personal property taxes accessible on the Equipment) and fees charged relative to this Agreement. Customer agrees to reimburse Impact for all amounts paid or payable by Impact in discharge of the foregoing taxes. Customer shall not be responsible for taxes based on Impact's gross or net income.
- 24. NOTICES:** Notices required under this Agreement shall be written and sent to Impact Networking, LLC at 13875 West Boulton Boulevard, Lake Forest, IL 60045 and to the Customer at the "bill to address" identified on the front side of this Agreement. All notice will be effective upon date of postmark.
- 25. JURISDICTION:** This Agreement shall be interpreted, enforced, governed and construed exclusively according to the laws of the State of Illinois.
- 26. FORUM AND VENUE:** The Parties agree that any dispute arising from or in connection with this Agreement or related to any matter which is the subject of this Agreement shall be subject to the exclusive jurisdiction of the State and/or Federal Courts of Illinois. In the event of any claim regarding a dispute arising from or in connection with this Agreement or related to any matter which is the subject of this Agreement that is brought in State Court, the Circuit Court of Cook County, Illinois shall have exclusive jurisdiction over such dispute. In the event of any claim regarding a dispute arising from or in connection with this Agreement or related to any matter which is the subject of this Agreement that is brought in Federal Court, the United States District Court for the Northern District of Illinois shall have exclusive jurisdiction over such dispute.
- 27. ATTORNEYS FEES AND LITIGATION COSTS:** In the event of a claim or litigation arising from or relating to the subject matter of this Agreement, and if Impact Networking prevails in such claim or litigation, the Customer/buyer/lessee shall reimburse Impact Networking, LLC for all attorney's fees and costs resulting therefrom.
- 28. ASSIGNMENT:** This contract is for the sole benefit of the Customer whose name appears on the front hereof and cannot be assigned by the Customer to any further owners of the covered Equipment.
- 29. CONFIDENTIALITY CLAUSE:** Impact recognizes that it must conduct its activities in a manner designed to protect any information concerning Customer, its affiliates or clients (such information hereinafter referred to collectively as "Customer Information") from improper use or disclosure. Impact agrees to use its best efforts to treat Customer Information on a confidential basis. Impact agrees not to disclose any Customer Information to any person, firm or corporation except to Impact employees or holder of Owner's interest who have a need to know such Customer Information to perform the services contemplated hereunder without Customer's prior written consent or unless subject to court order or subpoena.
- 30. APPROVAL REQUIREMENT:** This Agreement shall not be binding on Impact until approved by the President of Impact Networking, LLC.
- 31. SEVERABILITY:** If any provision, clause or section of this Agreement is adjudicated by a court of competent jurisdiction to be illegal, void, invalid or unenforceable, provided that the fundamental terms and conditions of this Agreement remain legal and enforceable, all remaining provisions, clauses and sections shall remain in full force and effect.
- 32. ENTIRE AGREEMENT:** This document constitutes the entire Agreement between the Parties and supersedes all prior agreements, proposals and communications, whether written or oral, concerning the subject matter of this Agreement. Impact shall not be bound by any modification or waiver of the Agreement unless agreed to in writing. Any such writing must be approved and executed by the President of Impact Networking, LLC.



Point of Contact List

Accounts Payable

Name _____
Title _____
Address _____
Phone _____
Email _____

Confirmation of Supply Orders

Name _____
Title _____
Address _____
Phone _____
Email _____

IT Department

Name _____
Title _____
Address _____
Phone _____
Email _____

Solutions

Name _____
Title _____
Address _____
Phone _____
Email _____

Meter Reads

Name _____
Title _____
Address _____
Phone _____
Email _____

Proactive Service Contact

Dept. _____
Name _____
Title _____
Address _____
Phone _____
Email _____

Other

Dept. _____
Name _____
Title _____
Address _____
Phone _____
Email _____



Equipment Schedule

Customer:

Location Name	Department	User	Make/Model	Serial	IP Address	Auto Meter
City Garage			Ricoh Aficio Mp C4502			Yes
City Hall			RICOH Aficio MP C4502			Yes
Police Department - Dispatch Breakroom			Ricoh Mp 2501Sp			Yes
Transit Main - Main Copy			Ricoh Mp 2501Sp			Yes
Police Department - Bur ID Room			Ricoh Mp C2003			Yes
City Garage - Stockroom			Ricoh Mp C2003			Yes
South Street Parking			Ricoh Mp C2003			Yes
City Hall - Assessors Room 208			Ricoh Mp C4503			Yes
City Hall - Coty Attorney Room 206			Ricoh Mp C4503			Yes
City Hall - Comm Dev Back 200			Ricoh Mp C4503			Yes
Engineering - Main			Ricoh Mp C4503			Yes
Cemetary			Ricoh Mp C4503			Yes
City Hall - HR Room 205			Ricoh Mp C5503			Yes
City Hall - Clerk's Office Gina			Ricoh Mp C5503			Yes
Parks & Rec - Copy Room			Ricoh Mp C5503			Yes
Police Dept - Back Copy Room			Ricoh Mp C6004			Yes
Parks & Rec - Production Machine			Ricoh Pro C5100s			Yes
Library - Main			Lexmark E250dn			Yes
City Hall - Comm Dev/Planning 200			Lexmark E462dtn			Yes
City Hall - Clerk's Office			Ricoh Aficio Sp 4100N			Yes

City Hall - Finance Room 111				Hp Enterprise Laserjet 600 M602			Yes
Engineering - Fred				Ricoh Aficio Sp 4100N			Yes
Parks & Rec - Receipt Printer				Ricoh Sp C440dn			Yes
Parks & Rec - Director's Office				HP LaserJet Managed E50045			Yes
Parks & Rec - Maintenance Group				Hp Laserjet 2420			Yes
Police Dept - Admin Assistant				Lexmark T520			Yes
Police Dept - 2nd Shift Detectives				HP Color LaserJet Managed E57540			Yes
Police Department - Evidence Locker Room				HP LaserJet Managed E50045			Yes
Police Department - Jail				Lexmark Ms810dn			Yes
Police Department - Jail Computer				HP LaserJet Managed E50045			Yes
FD 1 - Battalion Chief				Ricoh Sp 4510Dn			Yes
FD1 - Dispatch Printer				Xerox Phaser 3320			Yes
FD 1 - Bay Area				Lexmark E462dtn			Yes
FD 1 - Administrative Assistant				HP Color LaserJet Managed E55040			Yes
Transit Main - Desk				Ricoh Aficio Sp 4100N			Yes
City Garage - Sign Room				Ricoh Sp C252sf			Yes
Clean Water - Pretreatment Office				HP LaserJet Managed E50045			Yes
Transit Badger St - Traci				Lexmark E360dn			Yes
Transit Badger St - Carrie				Lexmark E360dn			Yes
Transit Badger St - Dispatch Room				Ricoh Aficio Sp 4100N			Yes
Transit Badger St - Maintenance Office				Lexmark E360dn			Yes
FD 5 - Bay				Lexmark X642e			Yes
FD 4 - Lt. Office				Ricoh Aficio Sp 3510Sf			Yes
FD 4 - Run Printer				Lexmark T650			Yes

Sales Order

Invoice to:

City of Waukesha

COMPANY NAME

Chris Pofahl

CONTACT

201 Delafield Street

ADDRESS

Waukesha / WI / 53188

CITY / STATE / ZIP

(262) 524-3565

PHONE

FAX

cpofahl@waukesha-wi.us

EMAIL

Ship to:

City of Waukesha

COMPANY NAME

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CONTACT

201 Delafield St

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All Purchases are 50% down, 50% upon delivery Purchase Lease

Equipment Information

Quantity	Product Number	Description	Unit Cost	Amount
1		PaperCut MF Professional 700 Users		
31		Ricoh ESA Embedded licenses, Configuration & Training		

No terms or conditions, express or implied, are authorized unless they appear on "original" of this order. This order includes the terms and conditions appearing hereon and on the reverse side hereof, and buyer agrees to be bound thereby. No modifications or additions thereto shall be binding upon Impact unless expressly consented to in writing by the president of Impact Networking LLC. All prices in effect for 30 days from Impact authorized signature date.

Subtotal	\$28,661.22
Tax	EXEMPT
Freight	WAIVED
Total	\$28,661.22

Notes

Authorization

IMPACT AUTHORIZED SIGNATURE

CUSTOMER AUTHORIZED SIGNATURE

PRINTED NAME

DATE

PRINTED NAME

DATE

For Office Use Only

CUSTOMER NUMBER

ORDER NUMBER

DATE ORDERED

DATE REQUIRED

SHIP VIA

REP



Sales Order Terms and Conditions

1. This order shall not be binding on Impact Networking, LLC until approved by a duly authorized representative of Impact Networking, LLC.
2. Delivery to the place of shipment specified herein shall constitute delivery to Buyer. All risks of loss or damage in transit to the place of shipment specified herein shall be borne by Impact.
3. Impact Networking, LLC reserves the right to make delivery in installments. All such installments shall be separately invoiced and paid for when due, without regard to subsequent deliveries. Delay in delivery of any installment shall not relieve Buyer of its obligation to accept remaining installments.
4. Terms of payment for each shipment are 50% with order 50% on delivery. Buyer agrees to pay Impact Networking, LLC for all costs and expenses, including attorney fees, incurred by Impact Networking, LLC in establishing or enforcing its rights hereunder.
5. Impact Networking, LLC reserves the right at any time to revoke any credit extended to Buyer because of Buyer's failure to pay for any goods when due or for any other reason deemed good and sufficient by Impact.
6. Impact Networking, LLC shall not be liable for failure to deliver or delays in delivery occasioned by causes beyond Impact's control including without limitation strikes, lockouts, other labor difficulties, fires, embargoes, war or other outbreak of hostilities, inability to obtain equipment, supplies or shipping space, machinery breakdowns, delays of carriers or suppliers, governmental acts and regulations, and other causes beyond Impact's control.
7. Impact Networking, LLC warrants that all goods covered by this order when delivered to Buyer will be of merchantable quality and free from defects in workmanship and material for a period of 30 days from delivery under normal use and conditions. Impact's obligation hereunder is expressly limited to the repair or replacement (at Impact Networking, LLC's election) of such defective parts as are returned to Impact, freight prepaid, within the warranty period and which are proven to be defective by Impact. If not repaired or replaced by Impact, Impact Networking, LLC's liability shall be limited to the stated selling price of such returned parts which are defective. This warranty does not extend to any goods which have been subject to misuse, neglect or accident, nor does it extend to any goods which have been repaired or altered other than by Impact Networking, LLC. Other repairs not under warranty will be at such cost as Impact Networking, LLC may from time to time generally establish. ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, OR ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE EXCLUDED. IMPACT SHALL NOT BE LIABLE FOR SPECIAL OR CONSEQUENTIAL DAMAGES CAUSED BY ANY REASON.
8. All claims of Buyer relating to the goods covered by this order shall be deemed waived unless made in writing and delivered to Impact within ten days after receipt of goods by Buyer.
9. In the event of a claim or litigation relating to the subject matter of this Agreement, in the event that Impact Networking, LLC prevails, the customer/buyer/lessee shall reimburse Impact Networking, LLC for all attorney fees and costs resulting therefrom.
10. This Agreement shall be governed by and construed exclusively according to the internal laws of the State of Illinois.
11. This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, proposals and communications, oral or written, concerning the subject matter of the Agreement. Buyer represents and warrants that no representation or warranty of any kind has been made by Impact except as specifically set forth in this Agreement. Impact Networking, LLC shall not be bound by any modification or waiver of this Agreement unless agreed to in writing by the president of Impact Networking, LLC.

Sales Order

Invoice to:

City of Waukesha
COMPANY NAME
Chris Pofahl
CONTACT
201 Delafield Street
ADDRESS
Waukesha / WI / 53188
CITY / STATE / ZIP
(262) 524-3565
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EMAIL

All Purchases are 50% down, 50% upon delivery Purchase Lease

Equipment Information

Quantity	Product Number	Description	Unit Cost	Amount
7		HP LaserJet Managed E50045dw		
2		HP LaserJet Managed E55040dw		
1		HP LaserJet Managed E57540dn		
1		HP Laserjet Enterprise M750dn		

No terms or conditions, express or implied, are authorized unless they appear on "original" of this order. This order includes the terms and conditions appearing hereon and on the reverse side hereof, and buyer agrees to be bound thereby. No modifications or additions thereto shall be binding upon Impact unless expressly consented to in writing by the president of Impact Networking LLC. All prices in effect for 30 days from Impact authorized signature date.

Subtotal	\$10,875.82
Tax	EXEMPT
Freight	WAIVED
Total	\$10,875.82

Notes

Authorization

IMPACT AUTHORIZED SIGNATURE _____ CUSTOMER AUTHORIZED SIGNATURE _____
 PRINTED NAME _____ DATE _____ PRINTED NAME _____ DATE _____

For Office Use Only

CUSTOMER NUMBER _____ ORDER NUMBER _____ DATE ORDERED _____ DATE REQUIRED _____ SHIP VIA _____ REP _____



Sales Order Terms and Conditions

1. This order shall not be binding on Impact Networking, LLC until approved by a duly authorized representative of Impact Networking, LLC.
2. Delivery to the place of shipment specified herein shall constitute delivery to Buyer. All risks of loss or damage in transit to the place of shipment specified herein shall be borne by Impact.
3. Impact Networking, LLC reserves the right to make delivery in installments. All such installments shall be separately invoiced and paid for when due, without regard to subsequent deliveries. Delay in delivery of any installment shall not relieve Buyer of its obligation to accept remaining installments.
4. Terms of payment for each shipment are 50% with order 50% on delivery. Buyer agrees to pay Impact Networking, LLC for all costs and expenses, including attorney fees, incurred by Impact Networking, LLC in establishing or enforcing its rights hereunder.
5. Impact Networking, LLC reserves the right at any time to revoke any credit extended to Buyer because of Buyer's failure to pay for any goods when due or for any other reason deemed good and sufficient by Impact.
6. Impact Networking, LLC shall not be liable for failure to deliver or delays in delivery occasioned by causes beyond Impact's control including without limitation strikes, lockouts, other labor difficulties, fires, embargoes, war or other outbreak of hostilities, inability to obtain equipment, supplies or shipping space, machinery breakdowns, delays of carriers or suppliers, governmental acts and regulations, and other causes beyond Impact's control.
7. Impact Networking, LLC warrants that all goods covered by this order when delivered to Buyer will be of merchantable quality and free from defects in workmanship and material for a period of 30 days from delivery under normal use and conditions. Impact's obligation hereunder is expressly limited to the repair or replacement (at Impact Networking, LLC's election) of such defective parts as are returned to Impact, freight prepaid, within the warranty period and which are proven to be defective by Impact. If not repaired or replaced by Impact, Impact Networking, LLC's liability shall be limited to the stated selling price of such returned parts which are defective. This warranty does not extend to any goods which have been subject to misuse, neglect or accident, nor does it extend to any goods which have been repaired or altered other than by Impact Networking, LLC. Other repairs not under warranty will be at such cost as Impact Networking, LLC may from time to time generally establish. ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, OR ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE EXCLUDED. IMPACT SHALL NOT BE LIABLE FOR SPECIAL OR CONSEQUENTIAL DAMAGES CAUSED BY ANY REASON.
8. All claims of Buyer relating to the goods covered by this order shall be deemed waived unless made in writing and delivered to Impact within ten days after receipt of goods by Buyer.
9. In the event of a claim or litigation relating to the subject matter of this Agreement, in the event that Impact Networking, LLC prevails, the customer/buyer/lessee shall reimburse Impact Networking, LLC for all attorney fees and costs resulting therefrom.
10. This Agreement shall be governed by and construed exclusively according to the internal laws of the State of Illinois.
11. This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, proposals and communications, oral or written, concerning the subject matter of the Agreement. Buyer represents and warrants that no representation or warranty of any kind has been made by Impact except as specifically set forth in this Agreement. Impact Networking, LLC shall not be bound by any modification or waiver of this Agreement unless agreed to in writing by the president of Impact Networking, LLC.

Software Maintenance and Upgrade Agreement (SMUA)

Customer Information

City of Waukesha
COMPANY NAME

Chris Pofahl
CONTACT

201 Delafield St
ADDRESS

Waukesha / WI / 53188
CITY / STATE / ZIP

(262) 524-3565
PHONE FAX

cpofahl@waukesha-wi.gov
EMAIL

Phone support available 8am to 5pm Monday through Friday CST, excluding Holidays
Please call 1-877-520-0070 or go to www.ImpactNetworking.com/Support

Solution Location

City of Waukesha
COMPANY NAME

Chris Pofahl
CONTACT

201 Delafield St
ADDRESS

Waukesha / WI / 53188
CITY / STATE / ZIP

(262) 524-3565
PHONE FAX

cpofahl@waukesha-wi.gov
EMAIL

All agreements billed annually.
Invoices are sent roughly 90 days in advance in order to avoid lapse of coverage from Impact and from the software developer.

Support Agreement Details

	COST	DETAILS
<input type="checkbox"/> DOCUWARE		
<input type="checkbox"/> KOFAX		
<input type="checkbox"/> SMARTSEARCH		
<input type="checkbox"/> PLANETPRESS		
<input type="checkbox"/> AUTOSTORE		
<input checked="" type="checkbox"/> OTHER	3855.74	PaperCut Professional 700 Users. Year 1 included in purchase. Year 2+ Optional
<input type="checkbox"/> SUBSCRIPTION		<small>LIMIT</small> <small>OVERAGE</small>

Notes

Agreement

The term of this Agreement is 5 years from the effective date and will auto-renew according to the terms and conditions on the back of this agreement. Impact agrees to furnish the Customer in accordance with the terms and conditions of this agreement and Statement of Work # _____. Any additional services beyond Statement of Work # _____ will be charged to the customer at normal service rates.

Please return with payment in full. This contract is legally binding upon signature, and or purchase order. No service will be performed until payment is received. This agreement is non-cancellable for the term specified herein, except as provided herein. The additional terms and conditions on the reverse side hereof are incorporated in and made part of this agreement, no one is authorized to change, alter, or amend the terms or conditions of this agreement unless agreed to in writing by the president of Impact Networking. Freight is charged to the client on all agreements, whether they include supplies or not. All prices in effect for 30 days from Impact representative signature date.

CUSTOMER AUTHORIZED SIGNATURE

IMPACT AUTHORIZED SIGNATURE

NAME DATE

NAME DATE



Software Maintenance and Upgrade Agreement

SOFTWARE UPGRADES

This agreement ("the Agreement") between Impact Networking, LLC including, but not limited to Impact Acquisitions, LLC. and Impact Indiana, LLC. ("Impact") and Client (as listed on the front of this document) is for software upgrades and support of software itemized on the front of this document and becomes effective on the date of software procurement. For so long as Client continues to pay Impact service/maintenance fees for software as itemized on the executed Purchase Schedule, Sales Contract or Lease Agreement between Impact and Client, or until such time as this Agreement is otherwise canceled by either party pursuant to the terms of this Agreement, Impact via its software manufacturer partners shall provide updates, upgrades and new versions of the software to Client, as they are available for general release and at the discretion of Impact. The decision to perform a software upgrade shall be at the sole discretion of Impact. Any attempt to perform upgrades without the written consent or approval of Impact or its authorized agents may render any support contracts for said software and any of its components null and void at Impact's sole discretion. Upgrades are included but necessary PS time may be chargeable if upgrades are not necessary in order to solve open support items.

MAINTENANCE

Impact shall provide reasonable maintenance to Client for as long as Client continues to pay Impact pursuant to this Agreement, or until such time as this Agreement is otherwise canceled by either party pursuant to the terms of this Agreement. Maintenance is defined as any assistance in troubleshooting or correcting any performance issue or instances directly related to software or solution failure provided by Impact. Impact shall not be held liable for any product failure that is a result of unintended use or altering of the original intended use of the software solution without the written consent of Impact. Maintenance does not include expansion, in any form, of the original solution as described in the SOW or Proposal. Examples of expansion include but is not limited to additional file cabinets/archives, new user installations, workflow expansion, new employee setup, new scanning configuration, etc.

SERVICES PROVIDED

This Agreement is designed to provide services based on a fixed cost on an annual basis. This does not mean that other costs may not be incurred.

COVERAGE UNDER THIS AGREEMENT

TELEPHONE SUPPORT

The hours of operation for Impact are 8:00 AM to 5:00 PM, CST, (Monday through Friday), excluding holidays. The Client shall appoint two individuals within its organization to serve as the primary contacts between Impact and Client to receive support through the telephone support center. Impact will make all reasonable efforts to provide phone support services within 2 hours from the time the Client makes the initial request. Customer must call the number listed on front of contact for support.

REMOTE DIAGNOSTICS

Prior to an on-site response, personnel from Impact may attempt to resolve any issue via remote-access, web-based software. In the event that this is necessary, Client agrees to provide any assistance necessary in diagnosing and resolving any issues. Impact shall not be held liable for any software or network failures during these remote sessions. By signing this agreement, the customer authorizes Impact to utilize remote diagnostic services in order to solve necessary support items.

ON-SITE RESPONSE

If Impact personnel are unable to resolve issues via telephone/remote support, an on-site visit to the Client location may be required. In the event that an on-site visit is required, Client agrees to provide Impact personnel with any resources necessary to resolve any open issue in a timely manner. An on site visit will incur hourly charges as deemed necessary by Impact and are described in the section below titled Service Hours and Fees.

SERVICE HOURS AND FEES

Hourly fee for services not covered or for on-site support pursuant to the Agreement: \$255.00

Business Hours (8:00 a.m. – 5:00 p.m.)

Non-Business Hours (5:01 p.m. – 10:00 p.m.) billed at 1.5 x the normal rate.

Non-Business Hours (10:01 p.m. – 7:59 a.m.) billed at 2 x the normal rate.

Travel time will be charged per visit and may vary depending on distance to customer from local Impact office.

EXCLUSIONS

All efforts will be made to resolve any issues within a reasonable time. Because of the complexity of diagnosing and resolving software solutions, trial and error elimination procedures may need to be made in order to pinpoint the exact causes of potential issues. Third party vendors may need to be consulted during the process of diagnosing and resolving any solution issues. Due to these factors, no guarantee of repair time under this Agreement can be made.

No representative of Impact is authorized to give a binding completion time for any service performed under this Agreement, and any representation of a completion time will be considered only an estimate. Impact is not responsible for third party vendor costs (including costs incurred by customer's third party IT staff). Servers provided by Impact include only the manufacturers' support. Warranty and support information will be delivered to customer. This agreement does not include any extension of said warranty and any server or PC provided is excluded from this agreement.

Data backup is the sole responsibility of the customer. Impact is not responsible for any data backup procedure or the verification of backup procedure provided by the customer. This agreement does not cover any backup of described solution. In the event a restoration is necessary from viable backup means, time and support will incur extra charges as described in the Service Hours and Fees under "Hourly fee for services not covered". Impact will not be held liable for any missing, corrupt, or lost information as a result of data loss in any form.

LIMITED WARRANTY

Impact warrants that all work performed under this Agreement will be performed in a competent manner. IMPACT MAKES NO OTHER WARRANTY, EITHER EXPRESS OR IMPLIED, FOR ANY SERVICES PERFORMED OR PROVIDED UNDER THIS AGREEMENT. IMPACT MAKES NO GUARANTEES THAT ANY SOFTWARE UPGRADES OR ENHANCEMENTS WILL IMPROVE UPON ANY ORIGINAL SOFTWARE SOLUTION IMPLEMENTATIONS.

LIMITATION OF DAMAGES

- Impact shall not be liable to Client for any actual, consequential, resulting or incidental damages or loss of profits arising from a breach of this Agreement or arising out of any relationship established by the Agreement.
- Impact shall not be liable for any damages caused by any delay in furnishing services. The sole and exclusive remedy of the Client for any breach of any covenant or representation or warranty by Impact, express or implied, including any warranties of merchantability or fitness, is a recovery of the fees paid to Impact by Client.
- Performances under or pursuant to this Agreement shall be limited to Impact's obligation to provide a replacement component and/or for installation services for such components. In no event shall Impact's liability exceed the actual consideration paid by Client for the component or service in question.
- Impact cannot guarantee against the following: (1) Problems with the software or hardware that were unknown to it prior to installation. (2) A virus. No company providing virus protection guarantees 100% protection. If it is a new virus that has not been provided with a fix by the antivirus company, it could affect your software. (3) Equipment failure, whether or not the equipment was provided by Impact. (4) Problems that are caused by operator or company error such as an over heated server room or improper care of equipment. (5) Act of God such as flood, power surges or fire. **Force Majeure – Neither party will be responsible for delays or failures or performance caused by event beyond its control ("Force Majeure"), including but not limited to fire, flood, other disasters, war, strike or labor unrest.**

TERMS

This contract will be valid for the term stated on the front of this agreement from the submission of the signed agreement. At the discretion of Impact, this contract will automatically renew for a period of one year. A corresponding invoice shall be issued for the renewal of this Agreement when the associated cost is above and beyond any normal payments agreed upon at the inception of the software solution. The annual cost of this Agreement may increase without prior notice to Client.

CANCELLATION

This Agreement shall become effective upon customer signature or Purchase Order Number and shall continue until the end of the agreed time, unless canceled by Impact or if Customer breaches its obligation hereunder or otherwise to Impact. If not canceled this agreement shall be automatically self-renewing unless prior notice of termination is given in writing by either party not less than ninety days prior to any renewal date. Renewal prices are subject to change.

GOVERNING LAW AND FEES

This Agreement will be governed by, construed and enforced in accordance with Illinois law. In the event of a claim or litigation relating to the subject matter of this Agreement, in the event that Impact Networking prevails, the customer/buyer/lessee shall reimburse Impact Networking, LLC for all attorney fees and costs resulting therefrom.

CHOICE OF VENUE

If there is any lawsuit filed with respect to this Agreement, or any service or component provided under this Agreement, the parties agree that any such lawsuit must be filed and adjudicated in the Circuit Court of Cook County, Illinois.