FULLY-MANAGED SERVICE AGREEMENT

THIS MANAGED SERVICE AGREEMENT (this "Agreement") dated this ___1st___ day of ___July,___
___2018___ BETWEEN:

Town of Elsmere 11 Poplar Ave Elsmere, DE 19805 (the "Customer") **OF THE FIRST PART**	AND	Delaware Micro-Computer 1155-D East Lebanon Rd Dover, DE 19901 (the "Service Provider") **OF THE SECOND PART**

BACKGROUND:

A. The Customer is of the opinion that the Service Provider has the necessary qualifications, experience and abilities to provide services to the Customer.

B. The Service Provider is agreeable to providing such services to the Customer on the terms and conditions set out in this Agreement.

C. The Customer and Service Provider agree that this agreement shall supersede all current and former agreements between the Customer and Service Provider, effective upon both the Customer and Service Provider executing this Agreement.

IN CONSIDERATION OF the matters described above and of the mutual benefits and obligations set forth in this Agreement, the receipt and sufficiency of which consideration is hereby acknowledged, the parties to this Agreement agree as follows:

Services Provided

1. The Customer hereby agrees to engage the Service Provider to provide the Customer with IT Services listed within this document and attached appendices, as well as other services as the Customer and the Service Provider may agree upon (the "Services"). The Service Provider hereby agrees to provide such Services to the Customer in accordance with this Agreement, and its Appendices.

Term and Termination

2. The Agreement shall be for a period of 3 year(s) and shall commence on the agreement date. Customer shall have the option to extend this agreement for an additional 3 year(s) by giving the Service Provider a 30-day written notice prior to the expiration of the agreement.

3. Customer acknowledges that the Services provided under this Agreement may be discounted from current Service rates. If written notice is not provided 30 days prior to the expiration of the Agreement term, all Services will be billed at current non-discounted rates upon the expiration of the Agreement's term, and the Agreement will continue on a Month to Month basis. The requirement of 30 days' written notice of termination will apply to all Month to Month extensions of the Agreement.

4. Client agrees that all hardware, software, and intellectual property provided by Service Provider without written transfer of ownership will remain the property of the Service Provider. Systems Management Software Licensing is the property of the Service Provider. Systems Management

Customer Initials: _____

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Software will be uninstalled from the Customer's computers if the Agreement should be terminated by either party.

5. Upon termination of the agreement, the Client agrees to allow the Service Provider access to all property and equipment to ensure the timely removal of the Service Provider's hardware, software, and intellectual property. Upon written termination of the agreement and payment of all Agreement related fees, the Service Provider will provide the Client with Passwords and other administrative codes required to manage the environment.

6. Upon the termination of this Agreement or reduction in the monthly commitment (or any portion thereof greater than 10%) prior to the completion of the entire term, the Customer shall pay to the Service Provider an amount equal to the original commitment amount, up to $100,000.00, which shall be due and payable within 10 business days after such termination.

Performance and Liability

7. The parties agree to do everything necessary to ensure that the terms of this Agreement take effect.

8. In no event shall the Service Provider, the Service Provider's employees, or subcontractors be held liable for indirect, special, incidental, or consequential damages arising under this contract, including but not limited to loss of profits or revenue, loss of use of equipment, data loss, costs of substitute equipment, or other costs. Service Provider or its suppliers and subcontractors shall not be liable for any indirect, incidental, consequential, punitive, economic or property damages whatsoever (including any damages for loss of business profits, business interruption, loss of data or any other monetary loss) arising out of this Agreement.

9. Customer agrees that the Service Provider's time is valuable, and therefore agrees to grant the Service Provider prompt and unimpeded access to all real-estate where covered equipment housed as necessary to perform the work required under the Agreement. In such circumstances where the Client is unable to provide such access, the Client agrees to compensate the Service Provider for any time that the Service Provider's employees are waiting for access.

10. Customer grants the Service Provider, employees, and subcontractors of the Service Provider authorization to view any data within the regular routine of the repair or system improvement. Customer also authorizes Service Provider to reasonably delete, change, and/or rewrite any necessary information to complete the system repair or improvement that is consistent with the standards and practices in the industry.

Compensation

11. For the services rendered by the Service Provider as required by this Agreement, the Customer will pay to the Service Provider compensation as reflected in Appendix "B" for the first 12 months of the agreement. The monthly compensation amount for each succeeding 12-month period shall be increased 3.0 percent per annum of the previous 12-month compensation amount.

12. Compensation will be paid via automatic ACH debit or automatic Credit Card billing (+3% surcharge), whichever method the Customer prefers. Customers with established payment history may be eligible for net 10 billing; but will be required to keep ACH information on file.

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13. The Customer cedes to the Service Provider the right to withdraw funds using the ACH or Credit Card information on file if payment is not made within the payment terms, or immediately upon the Customer's request to terminate this agreement.

14. This Agreement will be invoiced on or near the 1st of the month being invoiced. Service, including but not limited to Anti-Virus, Backups and Network Accessibility, will be suspended if payment is not received within 10 days following date due.

15. Invoice delivery method will be via email. Paper invoices will be subject to a processing charge.

16. The Customer is entitled to deduct from the Service Provider's compensation any applicable deductions and remittances as required by law.

Additional Compensation

17. In addition to the above compensation, the Service Provider will be entitled to the following compensation for performing the Service(s): Resolution of issues deemed not to be covered under the contract will be billed in accordance with the rates listed in Appendix "B"

Payment Penalties

18. In the event that the Customer does not comply with the rates, amounts, or dates of pay provided in this Agreement, a late payment penalty will be charged as follows: The Customer will pay an additional $10 for each day that the Customer is late paying the compensation under this Agreement, after a 10-day grace period.

19. Should the Customer exceed the 10-day grace period more than 2 (two) times during the term of this Agreement, the Customer will be required to enroll in auto-ACH Debit or auto-Credit Card billing as their default form of payment for the remainder of the Term.

Minimum Standards and Best Practices

20. For the mutual benefit of the Service Provider and the Customer, the Customer agrees to either comply with the following stipulations, or sign a letter of acknowledgement for Best Practices that have not been met:

    i.   Customer will perform and document no less than annual employee cyber security training for all employees, contractors, and persons who are granted network access.

    ii. Customer will maintain a paid subscription for support on all mission-critical software applications.

    iii. Customer will maintain a current warranty on all mission critical hardware (Servers, Routers, Firewalls, Wireless Networking Equipment, etc.)

    iv. All Operating systems must be current and Vendor Supported. All Server and Workstation Software must be Genuine, Licensed, and under current Vendor-Support Agreement.

    v.   Customer will adhere to industry best practices, including but not limited to content filtering, anti-virus/anti-malware software deployment, backup management and disaster recovery planning, and a properly maintained security schema.

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vi. The environment must have a currently licensed, Vendor-Supported Hardware Unified Threat Management (UTM) Firewall between the Internal Network and the Internet.

vii. All wireless data traffic in the environment must be securely encrypted.

viii. Customer will maintain industry standard Lifecycle Management policy. All equipment must be newer than (60) months old or under manufacturer warranty or manufacturer maintenance agreement.

Confidentiality of Service

21. Service Provider and its agents will not use or disclose sensitive Client information except as necessary to or consistent with providing the agreed upon services and will protect against unauthorized use.

22. In order to fulfill the Service Provider's duties and responsibilities of maintaining network security and confidentiality, administrative passwords may be retained by the Service Provider and not released to the Client or other third parties.

23. Upon the termination of the service agreement and payment of all sums due to the Service Provider, passwords and other administrative codes will be released to the Client or others at the Client's written direction.

Compliance

24. Customer acknowledges that it is the sole responsibility of the Customer to disclose to the Service Provider that the Customer's line of business is subject to any specific compliance regulations. Customer further acknowledges that the Services provided may aid in, but do not solely create a condition of industry compliance in any way.

Independent Engagement / Non-Hire

25. Client acknowledges that the Service Provider is involved in a highly strategic and competitive business. Client further acknowledges that the Client would gain substantial benefit and that Service Provider would be deprived of such benefit, if the Client were to directly hire any personnel employed by Service Provider.

26. Neither party shall, without the prior written consent of the other party, solicit the employment of the other party's personnel during the term of this Agreement and for a period of two (2) years following expiration of this Agreement. Both parties agree that damages resulting from a breach by either party of this provision would be impracticable and that it would be extremely difficult to ascertain the actual amount of damages. Therefore, in the event the either party violates this provision, the violating party shall immediately pay the harmed party an amount equal $50,000.00 per employee who is offered employment by the violating party, as liquidated damages. The harmed party shall have the option to terminate this Agreement without further notice or liability to the violating party. The amount of the liquidated damages reflected herein is not intended as a penalty and is reasonably calculated based upon the projected costs that an organization would incur to identify, recruit, hire and train suitable replacements for quality personnel.

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Third-Party Vendors

27. Customer authorizes Service Provider to contact third-party vendors on behalf of the Customer. If required by the Third-Party, the Customer will contact the Vendor and authorize the Service Provider to make changes on behalf of the Customer.

Jurisdiction and Venue of Enforcement

28. This agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Delaware. Jurisdiction and venue shall exclusively lie in the County of Kent, City of Dover. It constitutes the entire Agreement between the Client and the Service Provider for monitoring/maintenance/service of all equipment covered under the Agreement. This agreement can be modified by a signed written Addendum by both parties.

29. If any collection action, litigated or otherwise, is necessary to enforce the terms of this agreement, the Service Provider shall be entitled to reasonable attorneys' fees and costs in addition to any other relief to which it may be entitled.

30. If any provision in this agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

31. Service Provider is not responsible for failure to render services due to circumstances beyond its control including, but not limited to, acts of God.

32. Service Location(s) covered under this agreement will be limited to:

11 Poplar Ave
Elsmere, DE 19805
– And –
220 New Road
Elsmere, DE 19805

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Response Times

*Target problem acknowledgement for all priority levels is 1 hour.

The following table shows the targeted response times for each priority level:

TROUBLE	PRIORITY	Response time
Service not available (all users and functions unavailable).	1	Remote Support Within 1 business hour
Significant degradation of service (large number of users or business critical functions affected).	2	Remote Support Within 2 business hours
Limited degradation of service (limited number of users or functions affected, business process can continue).	3	Remote Support Within 1 business day
Small service degradation (business process can continue, but users are inconvenienced).	4	Remote Support Within 2 business days

On-site Engineer Scheduling

The following details and describes estimated time frame for onsite scheduling of an engineer:

MANAGED SERVICE PLAN	Time
Fully Managed	One Business Day
Monitored	Two Business Days

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Customer Initials: _____

Service Providers Initials: _AF_

Appendix B

Service Levels:	Managed	Monitored
IT Management		
Technology Planning	Quarterly	Annually
Budget Forecasting	Annually	Annually
Asset Management of network devices, servers, and workstations	Ongoing	Quarterly
Vendor Management for third party hardware and software	Ongoing	---
Hardware Software Warranty Reviews	Quarterly	Annually
Document software and hardware changes	Ongoing	---
Installation of new hardware and software	Ongoing	---
Manage Network Devices, Printers, and Smartphone's	Ongoing	---
Server/Workstation Maintenance		
Backup, Event Log, Performance, and Service Monitoring	Ongoing	Ongoing
Monitor hard drive free space on servers and workstations	Ongoing	Ongoing
Monitor Select Network Devices	Ongoing	Ongoing
Automatic Application Updates (Flash, Reader, Java, Chrome, Firefox)	Ongoing	Ongoing
Server/Workstation Patch Management	Ongoing	Ongoing
Office 365 mailbox management (Where applicable)	As Needed	---
SQL server management	As Needed	---
Scheduled after hours server and workstation maintenance	As Needed	---
Troubleshoot file and network errors (deleted files, corrupted files, etc.)	As Needed	---
Offsite Server Backup (2 TB Storage)	Included	A 'la Carte
Support		
Remote Monitoring (Predictive Failures & Outages)	24x7	8x5
Unlimited Email Helpdesk Support (Weekdays 8:30-5:30)	Included	---
Unlimited remote Helpdesk Support (Weekdays 8:30-5:30)	Included	---
Unlimited on-site Support after Remote (Weekdays 8:30-5:30)	Included	---
Security		
Policy Development	As Needed	---
Active Directory Management	Ongoing	---
Firewall Monitoring	Ongoing	---
Virus Protection Management	Ongoing	---
Spyware Monitoring and Removal	Ongoing	---
Basic Content Filtering (Block Social Media, Streaming Services, etc. for all users)	Ongoing	---

** 8x5 hours are 9:00 AM - 5:00 PM EST. Monday – Friday.

Customer Initials: _____ Service Providers Initials: AF

Point of Contact Information:

The persons specified on this form are authorized to make decisions, including those which may incur additional costs for services rendered by Delaware Micro-Computer. This list supersedes any previous authorizations.

Contact 1:

Contact Name: _John Giles_   Phone Number: _302 668 7055_

Email Address: _JGiles @townofelsmere.com_   Mobile Phone: _↑_

Contact 2:

Contact Name: _Valarie Strzempa_   Phone Number: _(302) 998-2215_

Email Address: _VStrzempa @ townofelsmere.com_   Mobile Phone: _____

Contact 3:

Contact Name: _Diana Reed_   Phone Number: _(302) 998-2215_

Email Address: _Diana.Reed @ townof elsmere.com_   Mobile Phone: _____

Contact 4:

Contact Name: _____   Phone Number: _____

Email Address: _____   Mobile Phone: _____

Acceptance:

IN WITNESS WHEREOF the parties have duly executed this Service Agreement in its entirety on this _21st_ day of _June_____, 2017.

SIGNED, SEALED AND DELIVERED in the presence of:

_____   _Town of Elsmere_   _06-21-18_
Authorized Signature   Customer   Date

_____   _Alex J Farling_   _6/7/18_
Authorized Signature   Service Provider   Date