

RESOLUTION 2015- 22

A RESOLUTION AUTHORIZING AND APPROVING THE EXECUTION OF A CONTRACT WITH FIREPROOF FOR DOCUMENT AND RECORD STORAGE AND RETRIEVAL SERVICES AND DECLARING AN EMERGENCY

WHEREAS, The Village of Minerva Park wishes to utilize Fireproof to provide electronic document storage and retrieval services ("EDSR Services"); and

WHEREAS, Fireproof is an authorized provider of EDSR Services using the offsite remote data storage system of Digitech Systems an electronic data storage provider ("EDSP") utilizing the EDSP's ImageSilo system (the "System").

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF MINERVA PARK, OHIO, THAT:

Section 1. The Mayor and Fiscal Officer are hereby authorized and directed to enter into the contract with Fireproof substantially similar to the contract attached hereto as Exhibit A and incorporated herein by reference.

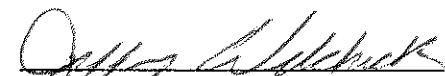
Section 2. The cost of the electronic document storage and retrieval services shall not exceed \$4,500 per year, for the period of June 8, 2015 through June 7, 2015.

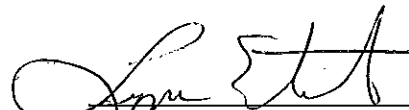
Section 3. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements of the laws of the State of Ohio.

Section 4. Council declares this to be an emergency measure necessary for the health, safety and welfare of the residents of Minerva Park, such emergency arising out of the immediate need to close 2014 and remit all appropriate funds to the Village, the State of Ohio, and others. WHEREFORE, this Resolution shall take effect and shall be in force immediately upon passage by Council.

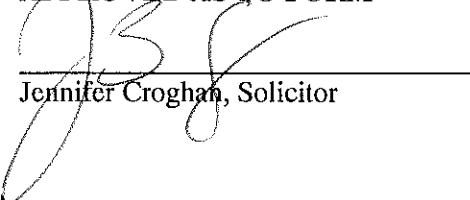
First Reading: June 8, 2015
Second Reading: Waived
Third Reading: Waived
Passed: June 8, 2015

ATTESTS


Jeffrey Wilcheck, Fiscal Officer


Lynn Eisentrout, Mayor

APPROVED AS TO FORM


Jennifer Croghan, Solicitor

ELECTRONIC DOCUMENT STORAGE AND RETRIEVAL SERVICES AGREEMENT

This Electronic Document Storage and Retrieval Services Agreement ("Agreement") is made and entered into by and between **Fireproof**, an Ohio corporation whose address is P.O. Box 1150, Grove City, OH 43123 and **VILLAGE OF MINERVA PARK** whose address is **2829 MINERVA LAKE ROAD COLUMBUS, OH 43231** ("Customer") and the Effective Date is this 8th day of June, 2015.

WHEREAS Customer wishes to utilize Fireproof to provide electronic document storage and retrieval services ("EDSR Services") to Customer;

WHEREAS Fireproof is an authorized provider of EDSR Services using the offsite remote data storage system of **Digitech Systems** an electronic data storage provider ("EDSP") utilizing the EDSP's **ImageSilo** system (the "System");

WHEREAS Fireproof agrees to provide Customer with such EDSR Services utilizing the EDSP'S System;

NOW, THEREFORE, in consideration of the mutual agreements of the parties, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Fireproof and Customer hereby agree as follows:

1. Electronic Document Storage and Retrieval Services.

1.1. **EDSR Services.** During the term of this Agreement, Fireproof agrees to provide Customer EDSR Services utilizing EDSP's **ImageSilo** System. The specific EDSR Services to be provided under this Agreement more fully described on Exhibit A attached hereto and incorporated herein by reference. The EDSR Services will be provided on a computer server owned, operated or accessible by EDSP (the "Server") and will allow Customer to electronically store Customer's data and access and retrieve such data stored on the System via the Internet.

1.2. **Acceptable Use Policy.** If the EDSP has promulgated a policy governing acceptable use of the System ("Use Policy"), Customer agrees to comply with such Use Policy. Customer will be provided with the URL address where any such Use Policy can be accessed. If applicable, the EDSP reserves the right to amend the Use Policy from time to time, effective upon posting the revised Use Policy on line and providing notice to Customer by e-mail to Customer's last known e-mail address contained in the records of Fireproof to the effect that changes in the Use Policy have been instituted. In the event Customer is in material violation of the Use Policy, Fireproof reserves the right to suspend the EDSR Services to Customer and/or terminate this Agreement effective immediately upon written notice to Customer.

1.3. **Customer Representations.** Customer warrants and represents to Fireproof that: (a) Customer has the power and authority to enter into and perform Customer's obligations under this Agreement; (b) Customer shall comply with all provisions of this Agreement, including those contained in Section 1.4; and (c) the undersigned representative of Customer is authorized to execute and deliver this Agreement on behalf of Customer.

1.4. **Prohibited Uses.** Customer shall be solely responsible for any and all acts and omissions that occur under any account or password issued to Customer to access the System, and Customer shall not engage in any unacceptable use of the EDSR Services, which includes dissemination or transmission (or establishment of links with the EDSP therefor) of Customer records, data, or other material received by Fireproof and/or EDSP from Customer by reason of the fact that such material may be determined to be abusive, obscene, pornographic, defamatory, harassing, grossly offensive, vulgar, threatening or malicious; dissemination or transmission of faxes, graphics, software or other material that actually or potentially infringes the copyright, trademark, patent, trade secret or other intellectual property right of any person; interference, disruption or attempt to gain unauthorized access to other accounts of Fireproof or EDSP or any other computer network; dissemination or transmission of computer viruses, trojan horses, worms, or any other malicious code or program; or engaging in any other activity reasonably considered by Fireproof to conflict with the spirit and intent of this Agreement and the EDSR Services.

2. Use of the EDSP System

2.1. **Reservation of Ownership.** Neither EDSP nor Fireproof transfers any right, title or interest in or to the System or its documentation ("System Documentation") except the limited use rights expressly granted in this Agreement. Customer acknowledges that EDSP and the System Documentation shall remain the exclusive property of the EDSP and that the EDSP System Documentation contains unique and valuable proprietary trade secrets and rights. EDSP shall have and retain any and all rights to any trademarks, service marks or other intellectual property rights related to the System and the System Documentation. Fireproof shall indemnify and save Customer harmless from any and all liability resulting from any violation or alleged violation by Fireproof of any intellectual property rights of the EDSP with respect to the System and the System Documentation.

2.2. **Modifications.** Customer shall not alter, modify, translate, reverse engineer, decompile, disassemble or adapt the System or the System Documentation, or prepare any derivative works of the System or the System Documentation. In the event that Customer shall violate the provisions of this Section 2.2, the EDSP shall exclusively own all right, title and interest in and to any modifications and derivative works prepared by Customer, its agents or representatives or other persons hired by Customer or for Customer's benefit.

3. **Customer Responsibilities.** Except as expressly set forth in this Agreement, Customer shall be responsible for (a) the conversion of all documents to electronic form that are to be stored in connection with the EDSR Services provided by this Agreement; (b) providing, maintaining and ensuring compatibility of all hardware, software, electrical and other physical requirements with the System and the EDSR Services for Customer's use of the EDSR Services and the System, including, without limitation, telecommunications and digital transmission connections and links, routers, local area network servers, virus software, firewalls, server and Customer's internet connectivity and the internet browser (the "Customer Browser") and any other equipment required to access the System and use the EDSR Services; and (c) any security measures which are Customer's obligation under Section 8 of this Agreement.

4. **Fees and Expenses.** Customer shall pay the fees, expenses and charges ("Fees and Expenses") for the EDSR Services set forth on Exhibit A attached hereto and incorporated herein by reference. All Fees and Expenses applicable to Customer for the EDSR Services shall be paid to Fireproof as they become due and payable under this Agreement. Fireproof reserves the right to modify or amend its fees from time to time for the EDSR Services provided hereunder, provided that any price increases shall not take effect with respect to this Agreement until at least sixty (60) days' prior written notice of such increases is given to Customer.

4.1. **Access Charges.** Customer shall, on a monthly basis, pay an amount for accessing and retrieving individual pages of data from the System ("Access Charges"), as set forth on Exhibit A.

4.2. **Storage Charge.** The "Storage Charge" is a monthly charge determined by the electronic volume of storage used by Customer's data. The Storage Charge is in addition to the Access Charge. The Storage Charge shall continue to be payable (i) during any period there is a suspension of EDSR Services by Fireproof as permitted under Section 4.6 of this Agreement, or (ii) following termination of this Agreement for the period during which Customer remains in noncompliance with the provisions of Subsection 12.2.1 of this Agreement.

4.3. **Server Surcharge Fee.** In order to maintain system-wide stored document access capacity for all users of the EDSR Services System, Customer agrees not to use the EDSR Services or access the Server to upload electronic documents during any non-access period requested by EDSP. If Customer shall upload electronic documents to the Server during any such non-access period, Fireproof shall be entitled to charge Customer a "Server Surcharge Fee" that reasonably compensates Fireproof for any damages or losses resulting from Customer's use of the Server during a non-access period, including any reimbursements or amounts paid or credited to other customers of Fireproof by reason of Fireproof's inability to meet its obligations to those customers as a result of customer's usage of the EDSR Services in violation of this Section 4.3.

4.4. **Additional Charges.** The Customer agrees to pay any applicable additional charges set forth on Exhibit A.

4.5. **Taxes and Access Charges.** All amounts payable to Fireproof by Customer are exclusive of sales, use, commercial use, value-added, excise and other similar taxes, which shall be paid by the Customer, but shall not include Fireproof's franchise or commercial use tax or any other taxes based on Fireproof's net income. Customer shall be responsible for any local telephone company access charges and applicable taxes.

4.6. **Invoicing.** Fireproof shall furnish Customer with a monthly invoice, stating the amounts due to Fireproof for EDSR Services provided under this Agreement. Payment of each invoice shall be due within 30 days of receipt, unless otherwise agreed in writing by Fireproof. Fireproof may charge a late payment fee at a rate equal to 1.5% per month or the highest rate permitted by law, whichever is less, on any outstanding balance that is past due and not the subject of a good faith dispute by Customer. If Fireproof does not receive payment within 60 days of the date when due, Fireproof, in its sole discretion, may cease providing EDSR Services to customer until such time as Fireproof and Customer have agreed upon arrangements for payment and recommencement of EDSR Services, including security for future payments which may become due.

5. **Access.** EDSP shall use commercially reasonable efforts to make the EDSR Services available for use by Customer 24 hours a day, 7 days per week, 365 days per year (with the exception for scheduled maintenance and non-access downtime). The foregoing times of operation may be modified to provide for (a) regularly scheduled maintenance, (b) maintenance required as a result of matters beyond EDSP's reasonable control or (c) any other events beyond EDSP's reasonable control. EDSP shall not be responsible for any unavailability of EDSR Services resulting from any problems connected with Customer-ordered telephone company circuits, Customer applications, equipment or facilities or acts or omissions of Customer. EDSP will perform maintenance on its EDSP system as it determines reasonably necessary to maintain the continuous operation of the EDSR Services. Customer acknowledges and agrees to periodically scheduled maintenance downtime periods. Notice of scheduled maintenance will be provided by e-mail to Customer's designated point of contact at least 48 hours prior to such maintenance being performed. EDSP will use reasonable efforts to conduct routine scheduled maintenance during off-peak or low traffic periods.

6. **Service Level Guarantee, Remedy and Limitation of Damages.**

6.1. **Service Level.** Subject to the provisions of Section 5 and Sections 6.2 and 14 of this Agreement, Fireproof guarantees and represents that while this Agreement remains in effect, the System will be available for deposit and retrieval of documents in connection with the EDSR Services at least 99.9% of the time during each discrete 24-hour consecutive period. Fireproof may supplement its service level guarantee from time-to-time, provided that, no supplement shall reduce the obligations of Fireproof under this Section 6.1, unless a written amendment to this Agreement to such effect shall have been mutually executed by the parties.

6.2. **Remedy.** The sole and exclusive remedy of Customer for a breach of Fireproof's obligation contained in Section 6.1 shall be limited to a rebate credit to Customer's account with Fireproof for a pro rata share (as determined below) of the Access Charge and Storage Charges paid by Customer for the calendar month in which such breach(es) shall have occurred ("Customer Charges"). For each cumulative hour or fraction thereof within each discrete 24-hour consecutive period within such calendar month the System shall not be available as required by Section 6.1 ("System Unavailability Period"), upon request by Customer, Customer's account shall be credited with an amount equal to a daily prorated share of the Customer Charges for such month; provided that, in no case shall such credit exceed a maximum credit equal to (i) such prorated Customer Charges for any such 24-hour period or (ii) for any month, the Customer Charges for such month during which the EDSR Services were unavailable. Upon the request of Customer, Fireproof will calculate the System Unavailability Period for any calendar month during the term of this Agreement and process Customer's claim for the rebate credit related thereto; provided that, (a) Customer shall have filed a trouble ticket with Fireproof's customer support department within 5 days following the date each such System Unavailability Period is asserted by Customer to have occurred; and (b) such request is made to Fireproof within 45 days following the calendar month to which such System Availability Period claim relates.

6.3. **Disclaimer.** FIREPROOF DOES NOT WARRANT THAT THE EDSP SYSTEM OR THAT ACCESS TO FIREPROOF'S EDSR SERVICES AND THE EDSP SYSTEM WILL BE UNINTERRUPTED AT ALL TIMES OR ERROR FREE, THAT ALL DEFICIENCIES, ERRORS, DEFECTS OR NONCONFORMITIES WILL BE CORRECTED OR THAT EDSP OR THE EDSR SERVICES WILL MEET CUSTOMER'S SPECIFIC REQUIREMENTS SUBJECT TO THE REPRESENTATIONS CONTAINED IN SECTION 5. FRC MAKES NO REPRESENTATIONS OR WARRANTIES ABOUT THE SUITABILITY OF THE EDSR SERVICES FOR ANY PURPOSE. EXCEPT AS EXPRESSLY PROVIDED OTHERWISE IN THIS SECTION 6. THE EDSR SERVICES ARE PROVIDED "AS IS" AND FIREPROOF MAKES NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE EDSR SERVICES FURNISHED TO CUSTOMER OR OTHER SERVICES CONTEMPLATED BY THIS AGREEMENT.

6.4. **Consequential Damages.** FIREPROOF SHALL NOT BE LIABLE TO CUSTOMER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR COVER DAMAGES (EVEN IF FIREPROOF HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES) ARISING FROM THE PERFORMANCE, ATTEMPTED PERFORMANCE OR NONPERFORMANCE OF THE EDSP SYSTEM OR THE EDSR SERVICES FURNISHED HEREUNDER, INCLUDING, BUT NOT LIMITED TO DAMAGES RESULTING FROM THE USE OF OR INABILITY TO USE THE EDSP SYSTEM DELAY OF DELIVERY OR COMPLETION OF EDSR SERVICES, INACCURACY OR MISREPRESENTATION OF DATA, OR LOSS OF PROFITS, DATA, BUSINESS OR GOODWILL.

6.5. **Limitation of Liability.** FIREPROOF'S TOTAL LIABILITY TO CUSTOMER FOR ANY AND ALL CLAIMS, WHETHER IN AN ACTION IN CONTRACT OR IN TORT, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE OR STRICT LIABILITY, FOR ANY LOSS OR INJURY ARISING OUT OF, CONNECTED WITH OR RESULTING FROM FIREPROOF'S PERFORMANCE OR BREACH OF THIS AGREEMENT OR THE USE, PERFORMANCE OR NONPERFORMANCE OF THE EDSP SYSTEM OR THE EDSR SERVICES PROVIDED HEREUNDER, OR ANY PART THEREOF, SHALL NOT EXCEED THE TOTAL AMOUNT OF THE FEES PAID BY CUSTOMER TO FIREPROOF DURING THE PRIOR 3-MONTH PERIOD (OR PORTION THEREOF IF THIS AGREEMENT HAS BEEN IN EFFECT LESS THAN 3 MONTHS) FOR THE EDSR SERVICES THAT CAUSE THE LOSS OR INJURY OR ARE THE SUBJECT MATTER OF THE CLAIM OR CAUSE OF ACTION.

7. **Indemnification.** ~~Customer shall defend, indemnify, protect and hold Fireproof, the EDSP, and their respective affiliates, shareholders, directors, officers, employees and agents, harmless from and against any liabilities, actions, losses, costs, expenses (including reasonable attorneys fees and costs) or claims incurred by any of them as a result of (a) any use or misuse of the EDSP System or the EDSR Services provided to Customer hereunder (whether by Customer or any person under Customer's direction and control), including any resulting from any third-party claim or allegation arising out of or relating to Customer's use of the EDSR Services (including any actual or alleged violation of the Use Policy, (b) any claims arising out of Customer's use of any third-party's equipment or software with the EDSP System or the EDSR Services based on the alleged infringement or misappropriation of any intellectual or other property rights of any such third party or (c) Customer's conduct of its business and operations, including use of the EDSR Services, except in the case solely due to the gross negligence or willful misconduct of Fireproof.~~

8. **Security Measures.** Fireproof and Customer shall implement and maintain reasonable security procedures relating to Customer's access to the EDSP System. Customer shall be responsible for administering the procedures relating to the assignment and administration of all identification codes and passwords authorizing access to the EDSP System on behalf of or for the benefit of Customer and its authorized users, and Customer shall be responsible for taking appropriate security measures relating to such identification codes and passwords. Customer shall require all users (internal and external) to agree to abide by the Use Policy prior to authorizing access to the EDSP System and issuing identification codes and passwords.

9. **Disaster Recovery and Data Backup.** Subject to the force majeure provisions of Section 14 of this Agreement, during the term of this Agreement Fireproof agrees to maintain and continue to maintain disaster recovery capabilities that will enable Fireproof to recover from a disaster and provide EDSR Services to the Customer within a commercially reasonable time after the disaster. Customer acknowledges that Fireproof's disaster recovery capabilities do not include a backup of Customer data stored with the EDSP. While Customer's lost, damaged, or destroyed data may be recoverable from the EDSP for an additional charge; Fireproof recommends that Customer maintain a secure, offsite backup of its data independent of the EDSP. At Customer's request, Fireproof will maintain a secure back up of Customer's data for an additional charge.

10. Confidentiality.

10.1. **Confidential Information.** During the term of this Agreement, a party may provide another party with certain confidential and proprietary information ("Confidential Information"). Confidential Information may include a party's trade secrets, information relating to a party's business operations, EDSR Services, products, research, development, customers, finances, marketing plans and strategy, pricing strategy or confidential health information, and shall include any source code, design specifications, drawings and data flow analyses. Notwithstanding the foregoing, the term "Confidential Information" shall not include information that (a) is publicly known at the time of its disclosure, (b) is lawfully received by the receiving party from a third-party not under an obligation of confidentiality to the disclosing party, (c) is published or otherwise made known to the public by the disclosing party, or (d) was generated independently by the receiving party before disclosure by the disclosing party. Each party shall exercise at least the same degree of care to protect the confidentiality of the other party's Confidential Information which such party exercises to protect the confidentiality of such party's own similar Confidential Information, which shall not be less than the industry standard. As long as a party meets this standard of care, such party shall have no additional obligations or liability regarding confidentiality.

10.2. **Non-Disclosure.** No party, unless required by law or judicial process, shall disclose any of the other party's Confidential Information to any person, or permit any person to use, examine, or reproduce such Confidential Information, unless such Confidential Information has become public knowledge through means other than breach of this Agreement. If Customer does not maintain the confidentiality of Fireproof's Confidential Information, Fireproof may suspend the EDSR Services. A party shall be entitled to obtain injunctive relief for any continuing violation of this Section 10 in addition to any other remedy or relief to which such party may be entitled.

11. **Term.** This Agreement shall commence as of the Effective Date and shall continue, subject to either party's ability to terminate this Agreement as provided herein.

12. Termination.

12.1. **General.** Notwithstanding the provisions of Section 11, either party may terminate this Agreement upon at least thirty (30) days written notice to the other party.

12.2. **Obligations Upon Termination.** Upon termination of this Agreement:

12.2.1. **Data.** Customer shall remove or deactivate all data stored on the EDSP System. The Storage Charge shall remain applicable so long as Customer has not complied with this Subsection 12.2.1.

12.2.2. **Unpaid Amounts.** Customer shall pay Fireproof all unpaid Fees and Expenses up to and including the date of termination.

12.2.3. **Access.** Access to the EDSP System, other than in order to comply with provisions of Subsection 12.2.1 of this Agreement shall terminate automatically and Customer shall immediately cease accessing or attempting to access the EDSP System.

12.2.4. **Certification.** Within five (5) business days following the date of termination of this Agreement and by written request by Fireproof, Customer shall certify in writing to Fireproof that all identification codes and passwords of Customer necessary to access the EDSP System have been terminated or deactivated.

12.2.5. **Survival.** A party's obligations shall cease except for those remaining or required to be performed following such termination.

13. **Written Notices.**

13.1. **General.** All notices to be sent regarding the terms of this Agreement, relating to disputes, non-renewal or termination shall either be sent by registered or certified mail, return receipt requested, or delivered personally, as applicable, to Fireproof, or the appointed representative of the Customer at their respective addresses on the signature page of this Agreement or to the address established by written notice pursuant to this Section 13.1.

13.2. **Operational Notices.** Notwithstanding Section 13.1, any notices from Fireproof with regard to operational matters concerning the EDSP System or the EDSR Services provided pursuant to this Agreement (such as notices regarding maintenance downtime) may be sent via e-mail. Such notices shall be deemed effective at the time that they are sent; however, due to the nature of e-mail, Fireproof cannot assure the timely delivery of such notices. Customer shall be responsible for keeping Fireproof informed of any change in Customer's e-mail address to which notices may be sent by e-mail as permitted by this Agreement, and notice to Customer's last-known e-mail address contained in the records of Fireproof shall be considered as complying with the requirements of any e-mail notice provision contained in this Agreement.

14. **Force Majeure.** In no event shall either party be liable for delay in the performance of the EDSR Services or for any damages suffered by the other party when such delay or nonperformance is due to causes beyond that party's reasonable control, including, but not limited to, Acts of God, fire strikes, floods, power outages, communication failures, epidemics, quarantine restrictions, war, insurrection or riot, civil or military authority, compliance with priority orders or preference rating issued by any federal, state or other governmental authority, freight embargoes, car shortages, wrecks, delays in transportation, unusually severe weather (including lightning strikes), interruptions in service or inability to obtain necessary labor or materials.

15. **Governing Law.** This Agreement and performance hereunder shall be governed by and construed in accordance with the substantive laws of Ohio without reference to its conflict of laws rules. In the event Customer initiates the action, Customer consents to jurisdiction and venue in any federal court located in Columbus, Ohio and waives all objections thereto.

16. **Severability and Interpretation.** If any provision, in whole or in part, of this Agreement or the Use Policy is held invalid or unenforceable for any reason, such determination shall not affect the validity of the remaining provisions of this Agreement or the Use Policy, and the parties shall substitute for the invalid or unenforceable provision a valid and enforceable provision which closely approximates the intent and economic effect of such invalid or unenforceable provision. Neither this Agreement nor any schedule, addendum, exhibit or the Use Policy shall be interpreted in favor of or against a party because such party or its counsel drafted this Agreement or such schedule, addendum, exhibit or Use Policy. No course of dealing, usage, custom of trade or communication between the parties shall modify or alter any of the rights, responsibilities, or obligations of the parties under this Agreement. The headings and captions in this Agreement are included for convenience and ease of reference only, and shall be disregarded in interpreting or construing any provision of this Agreement. The use of any gender shall include any gender and the use of the singular form shall include the plural form and vice-versa.

17. **Independent Contractors.** The parties and their respective personnel are and shall be independent contractors, and no party by virtue of this Agreement shall have any right, power or authority to act or create any obligation express or implied, on behalf of the other party.

18. **Assignment.** Neither party may assign its rights or delegate its obligations under this Agreement without the other party's prior written consent (which consent shall not be unreasonably withheld or unduly delayed); provided that, such consent shall not be required in the case of an assignment or delegation (by agreement, operation of law or otherwise) in connection with (i) a merger, consolidation or sale of all or substantially all of a party's assets, or (ii) in the case of Fireproof, an assignment of rights and sums due Fireproof under this Agreement in connection with third-party financing secured by a security interest or hypothecation, encumbrance or pledge of Fireproof's assets. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties and their respective personal representatives, successors and assigns.

19. **Waiver.** No waiver or modification of any right, term, condition, or obligation under this Agreement or the Use Policy or any breach hereof or thereof, shall be effective unless granted in writing by the waiving party. No failure to exercise or delay in exercising any right under this Agreement by a party shall operate as a waiver of such right, except as expressly provided in Section 16 of this Agreement.

20. **Complete Agreement.** This Agreement, including any schedules, exhibits, and the Use Policy, constitutes the entire agreement between the parties and supersedes any prior agreement or understanding. This Agreement shall not be modified or amended unless in writing and signed by each party.

FIREPROOF
By: _____

Michael E. James
Please print name
Title: _____ CEO Date: _____

VILLAGE OF MINERVA PARK
By: _____

Lynn Eisenbraun
Please print name
Title: _____ Mayor Date: 6/8/15

FIREPROOF
P.O. Box 1150
Grove City, OH 43123
(614) 299-2122

Renewal:
IV101

DOCUMENT CAPTURE SERVICES/STORAGE AGREEMENT

This Agreement is made this 8th day of June, 2015, by and between **FIREPROOF**, P.O. Box 1150, Grove City, Ohio 43123 (hereinafter referred to as "Company"), and **VILLAGE OF MINERVA PARK** whose mailing address is 2829 MINERVA LAKE ROAD COLUMBUS, OH 43231 (hereinafter referred to as "Client").

Company agrees to provide document capture services to Client on the terms and conditions set forth in this Agreement and the attached "Exhibit A" Master Price List. For purposes of this Agreement, "document capture" shall mean the conversion of data from hard copy records to an electronic format delivered to an online repository, or an appropriate medium defined by customer requirements and according to the agreed upon schedule for delivery.

- DOCUMENT CAPTURE SERVICES** - Company shall provide document capture services in a secured area, reasonably designed to prevent loss or damage from environmental or any other cause, and shall provide captured images and associated indexes according to the agreed upon schedule for delivery.
- BAILMENT/DUTY OF CARE OF CLIENT'S RECORDS** - Company and Client agree that all records to be captured shall be held by Company under bailment and Company shall exert reasonable care with respect to the custody, protection and release of such records. Upon the completion of the document capture services, Client's hard copy records shall, at Client's option, either be returned to Client, stored by Company under the terms of this agreement, or destroyed by Company under a separate destruction agreement.
- PROHIBITED DEPOSITS** - Client agrees that it shall not tender materials for deposit with Company which contain highly flammable, toxic, explosive, radioactive or infectious substances, any material which emanates a discernible odor or aroma, any organic material which may attract vermin or insects, or any narcotics or other illegal or unsafe substances. Company reserves the right to open and inspect deposits when tendered for storage, or when Company reasonably believes that a deposit contains prohibited substances as described herein.
- DOCUMENT CAPTURE/STORAGE CHARGES AND PAYMENTS** - In consideration of Company's document capture services, Client agrees to pay Company the charges as set forth in Exhibit A attached hereto and incorporated herein by reference. Company agrees not to modify the charges set forth in Exhibit A as applicable to Client for a period of one (1) year from the date of signing this Agreement. Thereafter, Company reserves the right to modify its charges from time to time, upon thirty (30) days written notice to Client. Document capture charges are billed monthly and are due and payable within thirty (30) days of receipt of each invoice.
- RETENTION OF CLIENT'S IMAGES AND INDEXES ON COMPANY'S SERVERS** - Company will retain Client's images and index information on its production system during the period of the project completion and for such additional time as may be necessary to ensure Client acceptance. Client will have ninety (90) days from project delivery to inform Company of any outstanding issues (illegible images, incorrect indices, etc.). In the absence of any such notice Company will reserve the right to remove all such information from its servers and destroy it.

Company may retain the information for a longer period at Client's request and after payment of required charges, if any.

- STANDARD MAXIMUM VALUATION OF RECORDS** - Company and Client hereby agree and establish that the standard maximum valuation of records entrusted to Company for document capture, and the maximum valuation of the electronically captured documents and indexes shall be as follows:

Two Dollars (\$ 2.00) per container, tape or cartridge.

- OPTION ADDITIONAL VALUATION** - Company and Client establish and agree that in addition to the Standard Maximum Valuation set forth in Section 6 of this Agreement, the records of Client, under this Agreement, shall have the following additional valuation.

N/A (\$) per Container (insert "N/A" if not applicable)

Such additional valuation shall not be applicable to this Agreement unless both Company and Client have agreed upon and inserted an amount of excess valuation on the line provided above, and have initialed and dated this Section 7 on the appropriate line below.

Company _____ Date _____ Client _____ Date _____

In consideration for the assignment of additional valuation to Client's records, Client agrees to pay an additional fee as set forth in Exhibit A. Such additional fee shall be paid at the time of the normal monthly billing cycle as provided in Section 4 of this Agreement.

- ACCESS TO AND RELEASE OF RECORDS** - Due to the confidential nature of the Records of Client and other customers of the Company, Company shall restrict access to Client's Records to authorized representatives of Client, who may examine such Records in designated areas of Company's premises. With the exception of circumstances described in Section 12 of this Agreement, or any other disclosure required by law or regulation, Company shall not disclose or deliver Client's Records to any person or other entity unless specifically directed to do so in writing by Client. Company shall not be liable for any delay in granting access or delivery of Records caused by Company's verification of the authorized status of a person or entity requesting access to same. Company may restrict or refuse access to, and or removal of, deposits for non-payment of storage & service charges as described in Section 14 herein.
- INCIDENTAL TRANSPORTATION** - As part of its services provided hereunder, Company may, from time to time, deliver Client's Records to Client upon its request. Company and Client agree that such delivery is incidental to Company's storage and maintenance function, and Company shall be deemed a contract or common carrier, and the liability provisions of Section 13 hereof shall apply to any such ancillary transportation services.
- SUBCONTRACTOR SERVICES** - Company shall be permitted to engage one or more subcontractors to perform all or a portion of the services specified under this Agreement, provided that the services provided by such subcontractor are in full compliance with the terms and conditions of this Agreement. Company shall use reasonable care in selecting a subcontractor, and in monitoring its services hereunder. All valuations of deposits and limitations of liability applicable to Company under this Agreement shall be equally applicable to any subcontractor performing services hereunder and shall not be in addition thereto.
- NO CONSEQUENTIAL DAMAGES** - Company shall not be liable to Client for any special, indirect, incidental, consequential, exemplary, punitive or cover damages (even if Company has been advised of the possibility of such damages) arising from the performance, attempted performance or nonperformance of Company or the services furnished hereunder, including, but not limited to, damages resulting from the delay of delivery or completion of services, inaccuracy or misrepresentation of data, or loss of profits, data, business or goodwill.


12. **LEGAL PROCESS** - Company shall not be liable to Client or any third party for disclosure of or the seizure, attachment, garnishment or subpoena of Client's records pursuant to civil or criminal legal process issued against Client, its employees, or its agents, which direct Company to hold, disclose, turn over, or surrender such records pursuant to such legal process. In the event the Company is directed to disclose, surrender or grant access to any records of Client pursuant to legal process, Company shall notify Client with reasonable promptness of its receipt of such legal process, unless such notification is prohibited by law.
13. **INDEMNIFICATION** - Client shall defend, indemnify and hold harmless Company, its shareholders, directors, officers, employees and agents from and against any and all claims, charges, liability, actions, losses, costs, expenses (including reasonable attorney's fees), suffered or incurred by Company as a result of Company's possession, dissemination or transmission of Client records, data, or other material received from Client by reason of the fact that such material may be determined to be abusive, vulgar, threatening or malicious; that such data infringes the copyright, trademark, patent, trade secret, or other intellectual property right of any person; or that such data may contain, disseminate, or transmit viruses, Trojan horses, or other malicious codes or programs.
14. **NON-PAYMENT OF SERVICE CHARGES** - If Client fails to pay service charges of Company for a period of thirty (30) days after they become due, Company shall have the following rights: a) termination of this Agreement until all outstanding charges are paid in full; b) to charge Client interest on all unpaid balances at the rate of one and one-half (1-1/2%) percent per month until paid.
15. **DESTRUCTION OF UNCLAIMED DEPOSITS** - If Client fails to pay the storage, service or delivery charges provided under this Agreement for a period in excess of ninety (90) days, and Client refuses to accept redelivery of the Records, or Company is unable to determine a suitable location for such redelivery, the Company shall provide written notice by U.S. mail to the Client's last known address of the Company's right to destroy the Deposits after the expiration of thirty (30) days from the mailing of the notice. After the expiration of the notice period, Company shall be authorized within its sole discretion to destroy the Records, without liability to the Client, or any party claiming through Client.
16. **LIEN** - Company shall have a lien upon all records of Client or on proceeds thereof in its possession for charges and advances hereunder for document capture services and expenses for preservation of said records, or reasonably incurred by law. In addition, Company shall have, and may exercise, all rights granted to a warehouse under the Uniform Commercial Code as adopted by the state of Ohio. Any expenses incurred in the cost of collecting arrears, including reasonable attorneys' fees, shall be added to the charges owed to Company under this Agreement.
17. **TERM OF AGREEMENT** - This Agreement shall have a term of one (1) year and shall automatically be renewed for successive terms of one (1) year, unless either party provides written notice of at least thirty (30) days prior to the expiration of the then existing term.
18. **NOTIFICATION** - Except as otherwise specifically provided in this Agreement, any notification to either party under this Agreement shall be deemed complete upon mailing to the other party by ordinary United States mail, postage prepaid, to the address set forth above, until written notice of a change of address is received.
19. **NON-SOLICITATION** - During the term of this Agreement, and for a period of one (1) year after its termination, Client agrees not to solicit the employment or employ any employee of Company without the express consent of Company.
20. **WAIVER** - Failure to insist on strict compliance with any of the terms, covenants or conditions of this Agreement shall not be deemed as a waiver of that term, covenant or condition, nor shall any waiver or relinquishment of any right, or power, constitute a waiver or relinquishment of any such right or power for all or any other terms of this Agreement.
21. **TERMS OF AGREEMENT TO CONTROL** - In the event of a conflict between the terms of this Agreement and any schedules or exhibits or addenda hereto, the terms of this Agreement shall control.
22. **MODIFICATION** - This Agreement contains the entire agreement of the parties and may not be modified or amended except in a writing signed by both parties.
23. **OHIO LAW** - This Agreement shall be construed in accordance with the laws of the State of Ohio. Any legal proceeding concerning this Agreement shall be heard by a court sitting and venue in Franklin County, Ohio. Both parties agree to submit to the jurisdiction of such Court.

This Agreement shall be effective on the date first written above.

FIREPROOF
 By: _____

 Michael E. James
 Please print name

Title: CEO Date: _____

VILLAGE OF MINERVA PARK
 By: 

 Lynn Eisentrout
 Please print name

Title: Mayor Date: 6/8/15

ADENDUM TO FIREPROOF AGREEMENTS

ELECTRONIC DOCUMENT STORAGE AND RETRIEVAL SERVICES AGREEMENT

Add the following:

10.3. Fireproof acknowledges that Customer is a public entity and therefore considers all information, documents and other materials that may be subject to 10.1 and 10.2 non-confidential and/or non-proprietary in nature and therefore subject to public disclosure under the Ohio Public Records Laws except as specifically exempted by those laws (O.R.C. Chapter 149). If information provided by Fireproof is considered a trade secret or proprietary information, Fireproof should clearly mark said information as proprietary. Customer will notify Fireproof within two business days if such information is requested, but cannot, however, guarantee confidentiality of any proprietary information or otherwise sensitive information. Upon notification from the Village to Fireproof of the request, it is Fireproof's sole responsibility to take the necessary steps to protect any trade secret or proprietary information. Blanket marking of all information or documents as "proprietary" or "trade secret" will not protect the information and is not acceptable.

Add the following:

17. It is fully understood and agreed that Fireproof nor its personnel as an independent contractor shall at any time, or for any purpose, be considered as agents, servants, or employees of the Customer, or as public employees for the purpose of Ohio Public Employees Retirement Systems benefits.

DOCUMENT CAPTURE SERVICES/STORAGE AGREEMENT

Add the following:

17. Subject to appropriation of funds by Council, this Agreement shall have a term year of one (1) year.

FIREPROOF
By: _____
Michael E. James
CEO Date: _____

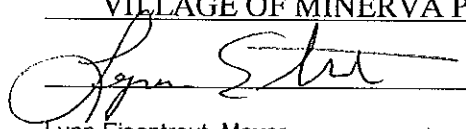
VILLAGE OF MINERVA PARK

Lynn Eisentrout, Mayor
Mayor Date: 6/8/15



Exhibit A – VILLAGE OF MINERVA PARK

STORAGE AND SERVICES		
Storage	Unit	Price
Hardcopy storage - 0.5 cu.ft.	Per ctn. / per mth.	\$0.17
Hardcopy storage - 1.0 cu.ft.	Per ctn. / per mth.	\$0.33
Hardcopy storage – 1.5 cu.ft.	Per ctn. / per mth.	\$0.49
Hardcopy storage – 2.0 cu.ft.	Per ctn. / per mth.	\$0.66
Hardcopy storage - 2.0+ cu.ft.	Per ctn. / per mth.	\$0.83
Hardcopy storage - Pallet	Per ctn. / per mth.	\$14.50
Services	Unit	Price
Hardcopy Activity		
Inventory	Per carton / file	\$1.85
Retrieval/Refile	Per carton	\$1.90
	Per file	\$2.40
Rush Retrieval	Per carton	\$3.80
	Per file	\$4.80
Research Fee	Per file	\$4.60
Rush Research Fee	Per file	\$6.80
Permanent Removal – <i>This fee does not include retrieval fees</i>	Per item	\$2.95
ImageSilo Activity		
Document Prep	Per hour	\$20.00
Scan – Index (3 key fields) – Publish	Per image	\$0.12
Additional CDs	Per CD	\$25.00
ImageSilo Storage	Per gigabyte /mth	\$25.00
Professional Services	Per hour	\$150.00
Transportation / Labor Rates		
Standard delivery or pickup (1-10 cartons) - <i>Request made before 10:00 a.m. for delivery same day</i>	Flat-fee per round trip within Franklin Co.	\$22.00
Standard delivery or pickup (add'l cartons) per box	Per carton	\$1.50
Rush Delivery Service (within 90 minutes)	Flat-fee per round trip within Franklin Co.	\$52.00
Emergency / After-hours Delivery (weekends, holidays & evenings M-F)	Flat-fee per round trip within Franklin Co.	\$115.00
Non-Standard Delivery – 1 st Person	Per hour	\$52.00
Non-Standard Delivery – Each add'l person	Per hour	\$35.00
Special Handling	Per hour	\$35.00
Destruction		
Hardcopy Destruction: verification, shredding, certification <i>Per written authorization only. This fee does not include permanent removal or retrieval fees. Mobile shredding subject to minimum fee.</i>	Per pound – bulk	\$0.12
	Per pound – mobile	\$0.20
Receptacles / Cabinets - Paper Destruction	Per container / per switch	Per quote
Office and Administrative Services		
Postage		Current rate
Scan on Demand – up to 100 pages <i>Requests are completed within 24 business hours</i>	Per request	\$14.95
	Per page	\$0.05
Scan on Demand – over 100 pages		
Photo Copies	Per page	\$0.35
Handling Fee	Per item	\$4.50
Data Entry	Per line	\$0.45
Indexing (for up to 3 fields)	Per file	\$0.45
Indexing (over 3 fields)		Per quote
	Per hour	\$35.00
Reporting	Web Reports	FREE OF CHARGE
WEB Access to Account	Per month	FREE OF CHARGE
WEB Setup/Maintenance	Per month	FREE OF CHARGE

- Monthly minimum storage account rate is \$ 0.00
- Services not listed above reflect standard rates.
- Hourly rates are calculated on the ¼ hour.
- Rates are effective: July 1 2015.