

RESOLUTION NO. 12-19
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER John Palcher ON THE 18th
DAY OF FEBRUARY, 2019.

**RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO
A MANAGED SERVICES AGREEMENT FOR PROFESSIONAL IT
CONSULTING SERVICES WITH THE GREENTREE GROUP FOR
BACK TO BUSINESS I.T.**

WHEREAS, the City of Centerville is desirous of obtaining professional IT consulting services to assist the City with the City's computer, network and all IT services; and

WHEREAS, the City desires to seek assistance in assisting in the carrying out managed services, crucial services, enterprise services and vendor care advocacy for the City with regards to all of the City's IT requirements; and

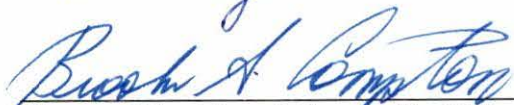
WHEREAS, The Greentree Group for Back to Business I.T. (BTBIT) has unique knowledge of such services and a demonstrated ability to assist in accomplishing the objectives of the City;

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE
CITY OF CENTERVILLE, MONTGOMERY COUNTY, OHIO, AS FOLLOWS:**

Section 1. The City hereby agrees to enter into a Managed Services Agreement with The Greentree Group for BTBIT, and the City Manager is hereby authorized to execute the Agreement with The Greentree Group for BTBIT in a form substantially similar to the Agreement attached hereto as Exhibit "A" and incorporated herein on behalf of the City of Centerville.

Section 2. This Resolution shall be in full force and effect at the earliest date allowed by law.

PASSED THIS 18th day of February, 2019.



Mayor of the City of Centerville Ohio

ATTEST:

Carin R. Andrews
Clerk of Council
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Resolution No. 12-19, passed by the Council of the City of Centerville, Ohio on the 18th day of February, 2019.

Carin R. Andrews
Clerk of the Council

Approved as to form, consistency
with existing ordinances, the
charter & constitutional provisions
Department of Law
Scott A. Liberman
Municipal Attorney



Managed Services Agreement



This agreement is between The City of Centerville ("Client") with principal offices at _____ and The Greentree Group ("Greentree") for Back To Business I.T. (BTBIT) managed services. Services are provided at different levels to support various business sizes and needs. The information below reflects requirements for the Client's computer and network environment and a chart showing the levels of service offered.

Managed Services Information: Back To Business IT offers two managed services packages, Crucial and Enterprise.

Crucial Services includes the following monitored items for systems with agents:

- Access to ticket portal
- Antivirus monitoring and maintenance,
- Backup monitoring and verification,
- Monitor office connectivity to the Internet
- Patch management – Microsoft updates
- System monitoring and notifications

Enterprise Services includes all system-related services except for disaster recovery and Line of Business applications for systems with agents.

Vendor Care Advocate is a service that includes assistance, quoting and proposals for the following items:

- Antivirus
- Backups
- Hardware - servers, desktops/laptops and network equipment
- Internet Service Provider
- Network Peripherals

Suitability of Client's Existing Environment: Depending on the chosen level of support, the existing computer and network environment must maintain the standards below to utilize Greentree's managed services.

1. Servers must be running Microsoft Windows 2008 Server or later and have latest Microsoft service packs and critical updates.
2. All Desktop PC's and laptops covered in Enterprise Service must be running Microsoft Windows 8.1 or later and have current Microsoft service packs and critical updates.
3. All server and desktop software must be genuine, licensed and vendor-supported.
4. The environment must have a current, licensed, vendor-supported, server-based antivirus solution protecting servers, desktops, laptops and email.
5. The environment must have a currently licensed vendor-supported, server-based backup solution capable of being monitored and sent notifications.
6. The environment must have a current and licensed vendor-supported firewall between the internal network and the Internet.
7. All wireless data traffic in the environment must be securely encrypted.
8. There must be an outside static IP address assigned to network devices allowing RDP or VPN access.

Level of Support & Pricing: The Client agrees to accept Enterprise/Full Help Desk service. The table below reflects monthly pricing for the service level based on quantities and costs. The effective date for this service is February 7, 2019. Greentree guarantees unit pricing for one year from the effective date. However, monthly charges will reflect any changes to the quantity of items. Client agrees to pay equivalent of first month payment for initial setup and onboarding.

This agreement established the baseline agreement between BTBIT and the customer. As the term of the agreement progresses, the Client invoice will reflect all active agents within the Client environment during the billing month. BTBIT reserves the right to bill according to our software counts.

Greentree will not be responsible for changes made to servers, configurations, or peripherals by the Client without the knowledge and concurrence of Greentree. Any assistance provided by Greentree to resolve problems or to return a device to its originally approved configuration due to changes made by the Client will be chargeable at a time-and-materials (T&M) rate. Once assigned, desktop services are not transferrable without Greentree's consent.

ITEM	UNIT PRICE	Qty	TENDED PRICE
First Server	Enterprise \$315.25	1	Enterprise \$315.25
<i>Additional</i>			
Virtual host/appliance	\$121.25	5	\$606.25
Additional Server	\$266.75	28	\$7,469.00
Network	\$24.25	20	\$485.00
Printer	\$9.70	78	\$756.60
3rd Party Advocate	\$97.00	1	\$97.00
Desktop			
Complete Help Desk Support	\$38.80	153	\$5,936.40
Users	\$4.85	164	\$795.40
TOTAL			\$16,461

Greentree will provide remote Help Desk and vendor management service between 8:00 am – 5:00 pm Monday through Friday, excluding Federal Holidays. Any service not covered under this agreement will be billed on a T&M basis as follows:

Monday – Friday, 8AM-5PM: \$86.06 /hour

Monday – Friday, 5:01PM to 9PM: \$149.93 /hour

After 9PM, Weekends (Sat & Sun), and Federal Holidays: \$199.90/hour

Billing/Invoicing Instructions:

Client Billing Email: (if email invoicing is authorized)	
Client Billing Address:	Street: _____ State/Zip _____

Terms & Conditions

Applicability, Modifications & Termination: These terms and conditions apply to all products sold and services performed by Greentree for Client, and, without limiting the foregoing, are incorporated by reference into any quotation, invoice, or any other sales document issued by Greentree. Any additional or different terms or conditions proposed by Client are objected to and are hereby rejected. Client hereby assents to and shall be bound by each and every term and condition set forth herein, notwithstanding and irrespective of any terms and conditions in Client’s purchase order or other purchase documents (whenever issued) which may be different than or inconsistent with those stated herein. This agreement contains the entire understanding governing the business relations that exist between Greentree and Client with respect to the products and services sold and delivered and, except as expressly provided herein, no modification or amendment of this agreement will be binding on either party unless in writing and signed by an authorized representative or officer of each party. Neither party may assign nor transfer its interest herein without the prior written consent of the other party. Either party upon ninety 90 day written notice may terminate this agreement for any reason or no reason. In lieu of termination being effective ninety 90 days after such notice, Client may immediately terminate service by paying Greentree 3 months of monthly invoice (in addition to amounts then owed for services provided prior to termination). If either party terminates this agreement, Greentree will assist the Client in the orderly termination of services, including timely transfer of the services to another designated provider. The Client agrees to pay Greentree the costs of rendering such assistance on a time and materials basis at Greentree’s then standard rates.

Provision of Materials, Responsibility for Equipment: Client agrees to timely furnish, at its own expense, all personnel, all necessary computer hardware, software and related materials and appropriate and safe work spaces (when necessary) for purposes of Greentree performing the services. Client will also provide Greentree with access to all information, passwords and facilities requested by Greentree that are necessary for Greentree to perform the services. Access may be denied for any reason at any time, however if access to information, passwords or facilities is denied, Client understands that Greentree may be unable to perform the services adequately and if such a situation should exist, Greentree will be held harmless. Any timetable for services is dependent on timely receipt from Client of all necessary items and authorizations to be supplied by it. In the event of delay in delivery of any such item by Client, any estimated completion date will be deferred for a period equal to the time lost by reason of the delay. Client shall provide a suitable working environment for any equipment located at Client’s facilities. Such includes, but is not limited to, the appropriate temperature, static electricity and humidity controls and properly conditioned electrical supply for each piece of equipment. Client bears the risk of loss of any equipment located at Client’s facilities. Client acknowledges that from time to time 1) Greentree may identify additional items that need to be purchased by Client, and 2) changes in Client’s system may be required in order for Greentree to meet Client’s requirements. In connection therewith, Client agrees to work in good faith with Greentree to effectuate such purchases or changes. Client shall be responsible for the quality, completeness and workmanship of any item or service furnished by it and for ensuring that the materials provided do not infringe or violate the rights of any third party. Client will maintain adequate backup for all data and other items furnished. If Greentree is required to install, replicate or manage any third party software as part of the services, all such third party software shall be properly licensed by Client.

Proprietary Information: Greentree acknowledges that some or all of the information, provided by its Client may be proprietary information that includes trade secrets and the disclosure of such may be detrimental to the Client. Greentree agrees to keep all such proprietary information confidential and not disclose any such information to anyone not a party to this agreement, without the express written consent of the Client. The Client recognizes that certain methods, processes, procedures, documents, systems, databases and plans that Greentree uses are the intellectual property of The Greentree Group. Subject to Ohio’s Public Records law, the Client further agrees to keep the business affairs, property, method of operation, or other proprietary information of Greentree confidential. Neither party shall be liable for disclosure or use of information which: 1) is or becomes publicly known through no wrongful act of it, 2) becomes known or available for use without restriction from a third party and without breach of this paragraph by it, 3) becomes part of the public domain without breach by it, 4) is disclosed with the prior written approval of the other party, 5) becomes available to a third party from the other party on an unrestricted basis, or 6) is required to be disclosed by law, regulation, governmental proceeding, court order or similar process or otherwise, provided, to the extent legally permitted, at least 10 days prior written notice is given to the other party before such disclosure so as to allow that party to seek a protective order or other relief.

Warranty; Limitations of Liability and Remedies: Greentree’s services will be provided to the Client in a professional manner in accordance with industry standards. For any breach of the foregoing warranty, Greentree will exercise commercially reasonable efforts to re-perform any non-conforming services. If Greentree concludes that conformance is impracticable, then Greentree will refund all fees paid by Client to Greentree hereunder allocable to such non-conforming services. The express remedies set forth in this paragraph will constitute Client’s exclusive remedies, and Greentree’s sole obligation and liability, for any claim that a service or deliverable provided hereunder does not conform to the warranty or is otherwise defective, or that the services were performed improperly. Greentree shall not be responsible for

impairments to the services caused by acts within the control of Client or its employees, agents, contractors, suppliers or licensors/licensees, the interoperability of Client applications, or other cause reasonably within Client's control and not reasonably related to services provided under this agreement. Without limiting the foregoing, in any of the following events, Greentree is not responsible for financial or physical damages to the Client's software, systems, or equipment: 1) if the Client does not maintain the equipment as required by Greentree or the Client loses its media by alteration or corruption; 2) the Client fails to timely report problems within its systems that are unknown to Greentree; or 3) the Client requires services beyond the scope of Greentree's managed service level. **EXCEPT FOR THE WARRANTY IN THIS PARAGRAPH, WHICH IS A LIMITED WARRANTY AND THE ONLY WARRANTY PROVIDED TO CLIENT, THE SERVICES AND DELIVERABLES ARE PROVIDED STRICTLY "AS IS". GREENTREE MAKES NO ADDITIONAL WARRANTIES, EXPRESS OR IMPLIED, ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, OR STATUTORY, AS TO THE DELIVERABLES OR SERVICES PROVIDED HEREUNDER, OR ANY MATTER WHATSOEVER. GREENTREE DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. GREENTREE DOES NOT WARRANT THAT THE SERVICES OR ANY DELIVERABLES WILL MEET ANY CLIENT REQUIREMENTS NOT SET FORTH IN THIS AGREEMENT, THAT ANY DELIVERABLES WILL OPERATE IN THE COMBINATIONS THAT CLIENT MAY SELECT FOR USE, THAT THE OPERATION OF ANY DELIVERABLES OR CLIENT'S SYSTEM WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ALL ERRORS WILL BE CORRECTED. GREENTREE IS NOT LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES OF ANY KIND. GREENTREE'S LIABILITY TO CLIENT ON ACCOUNT OF ANY ACTS OR OMISSIONS RELATING TO THIS AGREEMENT SHALL BE LIMITED TO PROVEN DIRECT DAMAGES IN AN AGGREGATE AMOUNT NOT TO EXCEED THE LESSER OF \$1,000 OR THE AMOUNTS PAID BY CLIENT FOR ANY SERVICES DURING THE THREE MONTH PERIOD PRECEDING THE INCIDENT GIVING RISE TO THE CLAIM FOR DAMAGES, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, WARRANTY, STRICT LIABILITY OR TORT.** Client acknowledges and agrees that the fees charged by Greentree in this agreement reflect the overall allocation of risk between the parties, including by means of the provisions for limitation of liability and exclusive remedies described in this agreement. Such provisions form an essential basis of the bargain between the parties and a modification of such provisions would affect substantially the fees charged by Greentree hereunder. In consideration of such fees, Client agrees to such allocation of risk and hereby waives any and all rights, through equitable relief or otherwise, to subsequently seek a modification of such provisions or allocation of risk.

No Warranty on Third Party Materials and Equipment: Greentree does not warrant any third party software, applications, equipment or other materials in use by the Client nor does it warrant any third party software, applications, equipment or other materials Greentree may recommend and/or purchase for the Client. Warranties for third party items are provided by the manufacturers thereof and not by Greentree. The only recourse the Client shall have with respect to third party software, applications, equipment or other materials is the third party's/manufacture's warranty.

Force Majeure: Greentree shall not be held responsible for any delay or failure of performance hereunder caused by acts of God, poor weather conditions, power outages, war, riot, terrorism, fire, explosion, flood, strike, lock-out, injunction, governmental law or regulations, or any other cause beyond the control of Greentree.

Recruitment for Employment: Each party agrees not to directly or indirectly solicit for employment or employ or retain as an independent contractor or consultant, or provide any information or assistance to any person or entity for the purpose of enabling any person or entity to directly or indirectly solicit for employment or employ or retain as an independent contractor or consultant, any employee or independent contractor of the other party without written permission from the other party for a period of one year after the date of the last invoice for services rendered hereunder. Further, each party agrees not to encourage any such person to resign.

Invoicing & Payment: Invoices for services and/or expenses incurred by Greentree or for products provided to the Client will be submitted on a monthly basis. The fees and other charges provided for in this agreement are exclusive of any applicable sales and other taxes. Client will be responsible for all such taxes. Payment is due within 30 days of receipt of invoice by the Client. Invoices paid after 30 days shall bear interest at the rate of 18% per annum. Services may be suspended and/or Greentree may terminate this agreement immediately if payment is not received within 15 days following due date. Client shall be obligated to pay Greentree for all services and products and the full invoice shall be paid by Client regardless of any disputes or controversies and Client is not permitted to withhold payment or offset any payment against claims of Client which are disputed by Greentree. Any check or remittance received from or for the account of Client may be accepted and applied by Greentree against any indebtedness or obligation owed by Client, without prejudice to discharge or accord and satisfaction of the remainder of any such indebtedness or obligation, regardless of any condition, provision, statement, legend, notation, document or writing appearing on, referring to or accompanying such check or remittance. Client agrees to reimburse any sums expended by Greentree, including but not limited to, attorneys' fees, collection fees and any other expenses incurred by Greentree in collection of payment for any amount due to Greentree under this agreement.

Other Services: Client may order, and Greentree may agree to provide, additional services not covered by this agreement at Greentree's then standard rates. If Client computers/systems do not meet minimum eligibility requirements to be eligible for the services as noted in this agreement, Greentree may provide services necessary at its then standard rates to achieve eligibility of the equipment. All billing shall be done based on actual client agents active in Client environment active during the billing month.

Miscellaneous: This agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without regard to conflict of laws principles. The parties hereby consent to the exclusive jurisdiction and venue of the courts located in Montgomery County, Ohio with respect to any disputes arising relating to this agreement. In the event any provision of this agreement shall be deemed to be invalid or unenforceable by a court of competent jurisdiction, the court is authorized to reform said provision to be enforceable and the

remainder of this agreement shall continue in full force and effect. The headings contained in these terms and conditions are inserted for convenience only and in no way define, limit, or extend the scope or intent of any provision herein. Failure of either party to insist on performance of any provision of this agreement shall not be construed as a waiver of such and shall not affect the right of either party thereafter to enforce each and every term, condition or requirement hereof. This agreement is an agreement between the parties and confers no rights upon any of the parties' employees, agents, contractors or customers, or upon any other person or entity. In executing this agreement, Greentree is not forfeiting its contractual claims against client.

Authorized Client Name & Title

Authorized Signature Date

Client Point of Contact (if different than above)

Municipal Attorney, Scott Liberman, Esp.

Authorized Signature



Greentree's Representative Name

Authorized Signature Date



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937.490.5500

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